

Agenda for a hearing by Commissioners of the Regulatory Subcommittee of Waikato District Council to be held in the Council Chambers, District Office, 15 Galileo Street, Ngaruawahia on **FRIDAY, 19 FEBRUARY 2021** commencing at **9.30am**.

*Information and recommendations are included in the reports to assist the Panel in the decision making process and may not constitute Council's decision or policy until considered by the Panel.*

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GJ Ion  
**CHIEF EXECUTIVE**

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### **Open Meeting**

<b>To</b>	Regulatory Subcommittee
<b>From</b>	Gavin Ion Chief Executive
<b>Date</b>	19 February 2021
<b>Prepared by</b>	Lynette Wainwright Committee Secretary
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	GOV1316
<b>Report Title</b>	Confirmation of Minutes

### **1. EXECUTIVE SUMMARY**

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To confirm the minutes of the Regulatory Subcommittee meeting held on Thursday, 16 September 2020.

### **2. RECOMMENDATION**

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**THAT the minutes of the meeting of the Regulatory Subcommittee held on Thursday, 16 September 2020 be confirmed as a true and correct record of that meeting.**

### **3. ATTACHMENTS**

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- A REGSUB Minutes – 16 September 2020
- B REGSUB Decision – 16 September 2020

**MINUTES** of a hearing by Commissioners of the Regulatory Subcommittee of the Waikato District Council held in the Council Chambers, District Office, 15 Galileo Street, Ngaruawahia on **THURSDAY, 16 SEPTEMBER 2020** commencing at **9.08am**.

**Present:**

Cr NMD Smith (Chairperson)  
Cr C Eyre  
Cr J Gibb

**Attending:**

Ms H Edwards (Objector)

Mrs S Bourke (Community Safety Manager)  
Ms K Ridling (Senior Solicitor)  
Ms T Oakes (Animal Control Team Leader)  
Ms A Davis (Animal Control Officer)  
Ms J Newell (Animal Control Officer)  
Mrs LM Wainwright (Committee Secretary)

**APOLOGIES**

There were no apologies.

**CONFIRMATION OF MINUTES**

**Resolved: (Crs Gibb/Eyre)**

**THAT** the hearing minutes of:

- a. a meeting of the Regulatory Subcommittee held on Thursday, 28 November 2019 (Mark Dias), and
- b. a meeting of the Regulatory Subcommittee held on Thursday, 24 July 2020 (Joseph Bridgeman),

**be confirmed as a true and correct record of that meeting.**

**CARRIED**

**HE2009/01**

**HEARING**

Objection to Dangerous Classification – Hayley Maree Edwards

Dog ID: 151240 & 151239

Name ID: 157968

Property ID: 2003992

CRM ID: DOGS2532/20

The Animal Control Team Leader advised the hearing panel that there had been confusion between Council and Ms Edwards on the start time of the hearing and advised as follows:

- Council contacted Ms Edwards by email on Tuesday, 15 September at 12.10pm advising that the hearing would commence on Wednesday, 16 September at 1.00pm (document 1).
- Council further contacted Ms Edwards by email on Tuesday, 15 September at 5.31pm apologising for the error in the commencement time and confirming that the hearing would commence at 9.00am as per the agenda delivered to Ms Edwards (document 2).
- Ms Edwards responded by email on Tuesday, 15 September at 5.43pm that she was unable to attend the hearing at 9.00am (document 3).
- Council responded by email to Ms Edwards on Tuesday, 15 September at 9.19pm advising that direction would be sought from the Hearing Subcommittee (document 4).
- Ms Edwards responded on Tuesday, 15 September at 9.40pm that she had changed an appointment to enable her to attend the hearing at 1.00pm (document 5).
- Council responded to Ms Edwards on Tuesday, 15 September at 10.01pm advising that the hearing is set for 9.00am on Wednesday (document 6).
- Ms Edwards responded on Tuesday, 15 September at 10.14pm advising that 1.00pm suited her for the hearing (document 7).

The hearing adjourned at 9.13am and resumed at 9.26am.

Following consideration of the email chain between Council and Ms Edwards, the hearing would adjourn and Council would contact Ms Edwards advising that the hearing would resume at 1.00pm.

The hearing adjourned 9.34am and resumed at 1.00pm.

**Present:**

Cr NMD Smith (Chairperson)  
 Cr C Eyre  
 Cr J Gibb

**Attending:**

His Worship the Mayor, Mr AM Sanson  
 Mrs S O’Gorman (General Manager Customer Support)  
 Ms K Ridling (Senior Solicitor)  
 Ms T Oakes (Animal Control Team Leader)  
 Ms A Davis (Animal Control Officer)  
 Ms J Newell (Animal Control Officer)  
 Mrs LM Wainwright (Committee Secretary)

Ms H Edwards (Objector)

**HEARING OF THE OBJECTION**

Ms Edwards addressed the hearing as follows:

- The dogs were kept behind a latched gate and it is unknown how the dogs escaped. To remedy the dogs escaping, the fence had been tightened and a padlock put on the gate. Only members of the family had access through the gate.
- There are other dogs on Hartis Street that are dangerous and are similar looking to the dogs owned by Ms Edwards.
- Ms Edwards had been advised that Council would be applying to a Judge to have the dogs destroyed. Commissioner Smith clarified for Ms Edwards that a dangerous classification did not require the dogs to be destroyed.
- Ms Edwards advised the panel that there had been issues with the complainants prior to this incident.
- The owner of the dog that had been attacked, had not heard the incident happen but the complainants that lived further away had heard the attack.
- The dogs had been neutered and microchipped.
- The dogs had escaped from the property before but were now contained.

The Animal Control Team Leader gave a summary of the events (document 11) and noted the following:

- Ms Edwards had been granted an extension to Friday, 18 September 2020 to register “Klouws” and “Meelah”. Ms Edwards had been notified of this extension.

The panel requested clarification as to the exact location where the incident happened.

ACO Newell took an affirmation before responding to the panel and noted as follows:

- The attack took place on the front lawn of 31 Hartis Street, Huntly.
- The witnesses live at 32 Hartis Street, Huntly and had doors and windows open on the day of the attack.
- Mr Amy, witness to the attack, had chased “Klouws” and “Meelah” back onto their property but could not confirm whether the gate was open or closed.
- No reports had been received by Council that “Klouws” and “Meelah” had been seen jumping over the fence or gate.
- Both witnesses had signed the Witness Statement. Their statements had been taken in separate locations in their home.
- The attack took place at 8.30am. Mrs Amy placed the complaint at 8.35am. The officers attended approximately 15 minutes later and left Ms Edwards’ property at 9.11am. Witness statements had been taken at 9.19am.

The meeting adjourned at 1.56pm and resumed at 2.06pm.

### **RIGHT OF REPLY**

The objector gave her right of reply and advised the panel that there are other dogs that wander in, and close to, Hartis Street, Huntly.

Commissioner Smith advised that the panel would deliberate as to whether the dangerous classification would be upheld. A decision would be available within two weeks of the hearing.

The hearing adjourned at 2.14pm and the decision reserved.

### **DELIBERATIONS**

The Commissioners undertook deliberations on all evidence presented.





**IN THE MATTER** of the Dog Control Act 1996

**AND**

**IN THE MATTER** of an objection against the classification of a dog as menacing pursuant to section 31(3) of the Dog Control Act 1996.

**BETWEEN** **Hayley Maree EDWARDS**

Objector

**AND** **Waikato District Council**

Respondent

**BEFORE THE WAIKATO DISTRICT COUNCIL REGULATORY SUBCOMMITTEE.**

Chairperson Cr Noel Smith  
Members Cr Carolyn Eyre  
Cr Janet Gibb

**HEARING** at Ngaruawahia on 16 September 2020

**APPEARANCES:**

Ms H Edwards, Objector (dog owner)  
Ms T Oakes, Team Leader, Animal Control Officer, Waikato District Council  
Ms A Davis, Animal Control Officer, Waikato District Council  
Ms J Newall, Animal Control Officer, Waikato District Council  
Ms K Ridling, Solicitor, Waikato District Council

**DECISION**

**Pursuant to Section 31(4) of the Dog Control Act 1996 the Regulatory Subcommittee rescinds the classification of the dogs, known as 'Klouws' and 'Meelah', as dangerous dogs.**

## **Introduction:**

[1] On 19 March 2020 an incident was reported to Waikato District Council Animal Control Officers that two black dogs had attacked a small white dog at the premises of 31 Hartis Ave, Huntly. Animal Control staff attended shortly after the incident was reported, and as a result of interaction with two dogs at 32 Hartis Ave, Huntly and subsequently the dog's owner, Ms Hayley Edwards, the dogs 'Meelah' and 'Klouws' were seized. They were subsequently classified as dangerous dogs on 18 June 2020. Ms Edwards objected to the classification which necessitated a hearing before the Council's Regulatory Subcommittee (the Committee).

[2] The Committee was presented with a Council agenda which contained, amongst other correspondence, a copy of the complaint, extracts of legislation, Animal Control Officers statements – both sworn (containing witness statements) and unsworn, a copy of two dangerous dog classification notifications to Ms Edwards, her written objection and photos taken by Animal Control Officers as well as other associated documents. The Committee notes from the photos provided that the premises at 32 Hartis Ave is both fenced and gated. The Committee further notes that the property of 31 Hartis Ave has no roadside fencing and no apparent ability for any dog to be confined to that property. The Committee also noted that we were not provided with any photographic evidence of the seized dogs in the agenda or during the hearing.

[3] The two witnesses, Mr Christopher Amy and Mrs Karen Amy, were not present at the hearing to give evidence or provide the Committee with the opportunity to clarify any aspect of their witness statements.

[4] The witness statements outlined that two black dogs had been seen attacking a small white dog at 31 Hartis Ave, Huntly at 8.20am on the morning of 19 March 2020. A witness had run about 100m from his property and confronted the two black dogs. As a result the dogs were seen to run into the driveway of 32 Hartis Ave, Huntly.

## **HEARING:**

### **Objector – Ms Edwards**

[5] At the commencement of the hearing the Chairperson outlined how the hearing would take place. Some time was spent ensuring that Ms Edwards had a full understanding of the hearing processes.

[6] Ms Edwards explained that the first she knew of an incident involving dogs was when she was awoken by the noise being made by her dogs and the Animal Control Officers. She made the observation that the Animal Control Officers had had to come through a latched gate to enter her property. Ms Edwards asserted that her dogs were not involved as they could not leave the section and were locked in.

[7] Ms Edwards spoke of her interaction with the Animal Control Officers and of being threatened with the destruction of her dogs if she did not surrender them to the Animal Control Officers. She spoke of having previous interaction with the witnesses and told the Committee that both she and the witnesses did not get along as neighbours prior to the 19<sup>th</sup> of March 2020.

[8] Ms Edwards told of being given five minutes to surrender her dogs which she eventually did via a third party at the premises.

[9] Following the seizure of her dogs Ms Edwards outlined her discussions with Ms Tracey Oakes, Animal Control Team Leader, Waikato District Council. She noted she had taken on board Ms Oakes advice and she had the height of a driveway gate raised as well as installing a padlock on that gate to prevent the gate been opened and left open. She confirmed that her dogs had been outside her property once as outlined on page 48 of the agenda however since then the dogs had been kept inside the property at all times. Ms Edwards produced a photo of the gate showing the newly installed padlock. She also produced two photos showing two dogs wandering outside her property. One was described as a black dog that looks the same as her own dogs. The second a tan or brown dog was of a similar shape to her dogs but a different colour. She stated that there had been many instances of stray dogs wandering in her neighbourhood and she was concerned that her dogs were being blamed when they weren't responsible for the attack on 19 March.

#### **Animal Control Officers:**

[10] Ms Tracey Oakes, Animal Control Team Leader, read a statement to the hearing outlining the background to the incident on 19 March 2020 and spoke of her interaction and advice to Ms Edwards regarding improved security at her premises at 32 Hartis Ave, Huntly. Ms Oakes referred the Committee to the witness statements taken by the Animal Control Officers, the photographs of 31 and 32 Hartis Ave, Huntly and that both witnesses claimed to recognise the two dogs as coming from 32 Hartis Ave, Huntly.

[11] Ms Joanne Newell, Animal Control Officer then read a statement, included in the agenda, to the hearing outlining attending at 32 Hartis Ave, Huntly, locating two dogs believed to have been involved in the reported incident, her interactions with the owner Ms Edwards and the seizure and impounding of the two dogs, 'Klouws' and 'Meelah'. She went on to discuss the taking of a witness statement from Mr Amy. Both Ms Newell and Ms Amanda Davis (Animal Control Officer) then responded to questions from the Committee and one from Ms Edwards that was put via the Chairperson. Both Ms Newell and Ms Davis relied heavily on the witness statements taken from Mr & Mrs Amy.

**Right of Reply:**

[12] Ms Edwards referred to the photos she had produced in evidence and stated that, “*The black dog was about the same size as my dogs*”. She went on to expand on her earlier comments about wandering dogs and stated that the photos of the dogs she had produced were similar to two dogs that had attacked another dog on her street earlier in the year.

[13] Ms Edwards again asserted the dogs involved in the attack on 19 March 2020 were not her dogs. She also clarified her response on the day of the incident was because of the manner in which she had been approached and spoken to by one of the Animal Control Officers.

**LEGISLATION:**

[14] Section 31(1) of the Dog Control Act 1996 (the Act) states that:

*A territorial authority must classify a dog as a dangerous dog if –*

- (b) *the territorial authority has, on the basis of sworn evidence attesting to aggressive behaviour by the dog on 1 or more occasions, reasonable grounds to believe that the dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife;*

[15] Section 31(3) of the Act allows for an owner of a dog to object to the classification of a dog owned by them as a dangerous dog.

[16] Section 31(4) of the Act states:

*In considering any objection under this section, the territorial authority shall have regard to –*

- (a) *the evidence which formed the basis for the original classification; and*
- (b) *any steps taken by the owner to prevent any threat to the safety of persons and animals; and*
- (c) *the matters advanced in support of the objection; and*
- (d) *any other relevant matter –*  
*and may uphold or rescind the classification.*

**Analysis of the Evidence:****S.31(4)(a) of the Act**

[17] The witness Christopher Amy stated in a statement taken by Animal Control Officer Newell, “*The dog is kept at 32 Hartis Ave Huntly*”. He then states, “*We walk past the dogs every day. I chased the dogs back to the property.*” He goes on to state, “*... and I saw 2 black dogs attacking a small white bischon type dog. I ran approximately 100 meters down the road to where the attack was happening.* He went on to say, “*I chased the dogs home. I am unsure if the dogs jumped back into the section or if they went through or under the gate.*” The statement does not comment on whether he saw the dogs in the section at 32 Hartis Ave behind either the latched gate or roadside fencing.

[18] In a statement taken by Animal Control Officer Davis a second witness, Karen Amy it states, *"I saw the dogs return to 32 Hartis. I have seen them at that address before. I was in my kitchen and suddenly I heard a dog screaming outside so I rushed to my window .."* She goes on to state, *"When Chris got to the dogs one of the black dogs ran back across the road to 32 Hartis Ave and the second dog hung around and did not leave for about 30 seconds."* In the later part of her statement she notes, *"I have never seen these dogs out before until today."* She finished her statement by stating, *"No person came out from number 32 Hartis Ave"*.

[19] Both of the Animal Control Officers affirmed an affidavit containing the words, *"Based on the aggression these dogs have displayed I believe these dogs constitute a threat to public safety"*. Ms Davis has attached as exhibit A, a copy of Karen Amy's signed statement dated 19 March 2020. Ms Newell has attached to her affirmed affidavit as exhibit A, a copy of the signed witness statement from Mr Christopher Amy. As exhibit B she has attached a report from the vet clinic that attended to the dog attacked in the incident of 19 March 2020.

[20] The basis of the classification of each dog rests on the evidence of Mr Christopher & Mrs Karen Amy that the dogs involved are from 32 Hartis Ave, Huntly. That is because neither Animal Control Officer described in their affidavit any observed behaviour that they themselves noted during their interaction with the dogs known as Klouws or Meelah. The Officers have each relied on the witness statements to form the basis of their sworn evidence.

[21] Ms Edwards has challenged the evidence of the witnesses and claimed that her dogs Klouws and Meelah could not leave the premises. The evidence given by the Animal Control Officers is that they found the two dogs behind a fence and latched gate. Thus the Committee must determine whether the evidence relied upon by the Animal Control Team Leader to classify the dogs as dangerous was sound. The following case from 2008 has given the Committee some guidance in considering this point.

***Tito v The Waikato District Council HC Hamilton CRI-2008-419-62 [2008] NZHC 2645 (24 October 2008)***

*[21] At first blush in any event, the prosecution case appears to be relatively strong. Ms Lockey lives just across the road from Ms Tito. She said in her affidavit that she recognises the dog as belonging to Ms Tito and she saw the dog go back to the front of Ms Tito's address.*

*[22] There are, however, other matters that suggest that a defence might be open to Ms Tito. First, issues of identification always require caution. Any judge who decides to base a case on the basis of eye-witness identification is required to pay heed to the principle that an honest witness can be a mistaken witness, and that a mistaken witness can be a convincing witness.*

*[23] Secondly, there is the fact that from the outset Ms Tito has maintained that her dog was not involved in the attack.*

[24] Thirdly, Mr Bowler appears to have accepted that proposition when he visited Ms Tito on 15 December 2007. Faced with Ms Tito's denial he did not at that time seek to seize the dog or to take it into custody using the powers that were undoubtedly available to him. It is not clear, in fact, on the evidence whether or not he even asked to see Ms Tito's dog which was allegedly secured at the rear of her premises.

[25] Fourthly, there is the fact that Ms Tito's property is apparently reasonably securely fenced with a corrugated iron fence. There is also a gate that is said to be of a height that would prevent a dog from escaping. For these reasons Ms Tito will argue that her dog was secure at all times and could not have escaped from the back yard.

[26] Finally, Ms Tito points to the fact that there are approximately 30 dogs in her street. There therefore exists the possibility that Ms Lockey is mistaken when she says that Ms Tito's dog was the dog that attacked her cat.

[27] All of these matters persuade me that the justice of the case requires the issue of the identification of the dog to be determined in the usual way, with evidence given both for and against the prosecution. I am therefore satisfied that I should allow the appeal so far as it relates to the charges in respect of the events that allegedly occurred on 15 December 2007. The convictions and penalties imposed in respect of those charges are quashed, and those informations are remitted to the District Court at Huntly for re-hearing.

### **S.31(4)(b) of the Act**

[22] We must now turn to any steps taken by the owner to prevent any threat to the safety of persons and animals. Ms Edwards has been in communication with the Animal Control Team Leader and has acted on all the recommendations made by Ms Oakes. That is, the gate height has been raised and the gate is now padlocked to ensure the gate is not inadvertently left open.

### **S.31(4)(c) of the Act**

[23] When considering the matters advanced by Ms Edwards there are several issues to consider. Firstly she has undertaken all recommended actions by the Animal Control Team Leader. Secondly Ms Edwards is adamant that her two dogs are not the dogs involved in the incident and notes the Animal Control Officers found the dogs behind a latched gate inside her property. Ms Edwards noted that no one actually saw the two dogs involved in the incident enter her property and go beyond the latched gate. Ms Edwards has also produced photos of a similar type dog to those owned by her wandering on Hartis Ave outside her property. She also alluded to the motivation of the witnesses towards her as a result of prior incidents between her and the witnesses.

### **S.31(4)(d) of the Act**

[24] When considering any other matters the Committee notes the time gap in the witnesses allegedly seeing the dogs enter the driveway of 32 Hartis Ave and the Animal Control Officers finding the two dogs in the section of 32 Hartis Ave. In short there is no eye witness that observed the two dogs actually entering into and remaining at 32 Hartis Ave, Huntly until approached by the Animal Control Officers.

### **REASONS AND DECISION:**

[25] The reliance by Waikato District Council, the territorial authority, on the sworn affidavits of Ms Davis and Ms Newell, for the classification of the dogs, is in our view contrary to the legislation. This is because Ms Newell and Ms Davis have not included any of their own evidence relating to their own observations about the two dogs. They have relied on the unsworn witness statements and thus ‘hearsay’ evidence by including the witness statements as exhibits to their affidavits. In the *Tito* case, mentioned at paragraph [21] above, Justice Lang refers at paragraph [21] of the decision to the sworn affidavit of Ms Lockey produced in the District Court. Ms Lockey was the witness in that case. It is our view the sworn evidence, if it is to be relied upon for the classification of the two dogs, should have included the sworn evidence of Christopher Amy and Karen Amy. In short, a deponent’s affidavit should not include the unsworn statement of another person especially when the sworn evidence is to be used for the purpose outlined in section 31(1)(b) of the Act.

[26] Setting aside whether the Councils classification of the two dogs is flawed, there is the question of whether or not the dogs seized from Ms Edwards are the same two dogs involved in the attack at approximately 8.20am on March 19, 2020. We are very mindful of the comments noted at paragraphs 22, 23, 25 and 27 of the *Tito* decision noted at paragraph [21] above and in particular paragraph [22] of the decision. On this matter the Committee notes that Mr Amy described the two dogs involved in the incident as, “2 black staff cross, 1 (one) had white on its chest. Medium size one slightly large t(h)an other”. Mrs Amy described the dogs as, “black stocky type dogs smaller than my boxer x no collars, short hair”. In her evidence Ms Newell described the dogs as “the offending dogs’ providing no description of the dogs seized or photos of the dogs seized. Had photos been taken of the seized dogs and provided to the Committee, the Committee may have been able to match at least one of the dogs to the description Mr Amy had provided in his statement. However the only evidence the Committee has before it was that two black dogs were seized whereas Mr Amy described at least one black dog with white markings and one dog being bigger than the other.

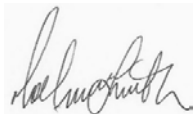
[27] While considering the identification of the two dogs involved in the dog attack the Committee is mindful of Mr Amy’s comments that the first dog, “was back in its driveway before the second dog stopped attacking”. Following that comment he makes the comment, “I am unsure if the dogs jumped back into the section or if they went through or under the gate”. Had the Animal Control Officer taking the statement asked Mr Amy to include commentary as to whether he had very shortly thereafter seen either or both dogs beyond the gate or behind the fence at 32 Hartis Ave the Committee could have, in all probability, accepted that the dogs were those seized by Animal Control Officers. However without any direct or circumstantial evidence linking the dogs seen by Mr Amy on the driveway of 32 Hartis Ave to those located within 32 Hartis Ave some time thereafter by Animal Control Officers there is no certainty that they are one in the same dogs.

[28] Ms Edwards has taken on board the suggestions of Ms Oakes and has installed additional netting on the top of the access gate to the property and has supplemented the gate latch with a secure chain and padlock that firmly affixes to the dwelling thus preventing accidental opening of the gate. No evidence was provided to the hearing that either or both of the dogs 'Klouws' or 'Meelah' have wandered from the property since 19 March 2020.

[29] The Committee notes once again the reliance on witness statements by the territorial authority to prosecute its' position before the Committee. The Committee notes the comments in paragraph [27] of the *Tito* decision, at paragraph [21] above, in that without the ability of the Committee to hear directly from a witness and the ability to elicit evidence to fill the gaps in the written evidence tendered to the Committee the principles of natural justice cannot be easily met.

[30] For the above reasons the Committee has, after a period of lengthy deliberation, come to a majority decision.

[31] Pursuant to Section 31(4) of the Dog Control Act 1996 the Regulatory Subcommittee rescinds the classification of the dogs, known as 'Klouws' and 'Meelah', as dangerous dogs.



Noel Smith  
Chairperson  
Regulatory Subcommittee  
Waikato District Council  
05 October 2020



### Open Meeting

<b>To</b>	Regulatory Subcommittee
<b>From</b>	Sue O’Gorman General Manager Customer Support
<b>Date</b>	03 January 2021
<b>Prepared by</b>	Tracey Oakes Animal Control Team Leader
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	Dog ID: 153771 Name ID: 67806 Property ID: 1014862 Service Request ID: DOGS1501/21
<b>Report Title</b>	Esther Schonberger – Objection to Menacing Classification

## I. EXECUTIVE SUMMARY

Section 33A of the Dog Control Act 1996 (“the Act”) allows Waikato District Council (“Council”) to classify a dog as menacing if the dog is considered to pose a threat to a person or other animal due to observed or reported behaviour (Section 33A and 33B of the Dog Control Act 1996 annexed as Appendix I).

“Casper”, a male white and tan, Miniature Poodle Cocker Spaniel Cross, aged 2 years 10 months, owned by Esther Schonberger, was involved in an incident on 18 November 2020 where “Casper” attacked a cat called “Kruden”. “Casper” was off leash and the attack happened on “Kruden’s” property at 49 Lily Street, Raglan. As a result of this, an infringement and a menacing classification were issued.

In accordance with Section 33B of the Act, Ms Esther Schonberger has objected in writing to the menacing classification within the statutory time frame.

Council believes the behaviour displayed by “Casper” during the reported incident is very concerning. Due to this displayed behaviour, “Casper” poses an ongoing threat to domestic animals and Council considers therefore “Casper” should remain classified as menacing in accordance with the Act.

## 2. RECOMMENDATION

**THAT** the report of the General Manager Customer Support be received;

**AND THAT** under Section 33(A)(1) of the Dog Control Act 1996, the menacing classification imposed on the dog Casper, owned by Esther Schonberger, be upheld.

### 3. BACKGROUND

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At 10.30am on 18 November 2020, Council received a complaint from a member of the public who reported a dog from next door had attacked his cat at his own address of 49 Lily Street Raglan. (Service Request annexed as Appendix 2). The witness was inside a dwelling at 49 Lily Street Raglan when he heard a 'growling ruckus' outside. He rushed outside and saw the white dog from 77 Wallis Street Raglan ("Casper") mauling his cat "Kruden". The dog was right on top of "Kruden" and had its mouth over "Krudens" back. The complainant ran towards the dog yelling. When he got to the dog, it let "Kruden" go and ran away. The incident took place at 49 Lily Street Raglan. "Casper" was off leash and not under control at the time of the incident. The male dog owner was present on his property at 77 Wallis Street Raglan. (Witness Statement annexed as Appendix 3)

Council responded to the service request and phoned the witness at 10:45am 18 November 2020. The address and description of the offending dog was confirmed, and Council records were checked. "Casper" was not registered at the time of the incident. The National Database record shows that "Casper" had no registration history prior to this incident. (National Dog Database Record annexed as Appendix 4).

At 12:46pm on 18 November 2020 a Council Animal Control Officer obtained a witness statement from the cat owner who witnessed the attack. As described in the Officer's Statement (Officer's Statement annexed as Appendix 5) "Kruden" had returned home while the witness statement was being taken and the Officer observed that "Kruden" had some hair loss and appeared sore and reluctant to move. The Animal Control Officer then took photos of the scene (Scene Photos annexed as Appendix 6). The location of the attack is marked on the annexed map (Map Annexed as Appendix 7).

At 13:17pm the Animal Control Officer knocked on the door of 77 Wallis Street Raglan and spoke to the dog owner Esther Schonberger. Ms Schonberger was aware of the previous incidents of "Casper" rushing at and attacking "Kruden". These incidents had been dealt with between the two parties and Council had not been involved. Ms Schonberger and her partner both mentioned that "Casper" hated that cat. After further discussion, Animal Control Officers seized "Casper" and took him to the Ngaruawahia Dog Pound Facility. (Seizure Notice annexed as Appendix 8, Impound Record annexed as Appendix 9). Photos were taken at the Ngaruawahia Dog Pound Facility of "Casper" while he was contained in the council vehicle. (Photos of Casper annexed as Appendix 10).

Ms Schonberger collected "Casper" from the Ngaruawahia Dog Pound Facility at 3pm 18 November 2020 after paying the appropriate fees which included registration. Council Animal Control Officers explained the process regarding the investigation and that a Menacing Classification may be imposed. Further discussion was had around what Ms Schonberger could do to prevent incidents like this happening again. (Officer Pocket book Notes annexed as Appendix 11).

On 26 November 2020, the Animal Control Officer in charge of the matter referred the incident to the Team Leader of Animal Control, who holds delegation to make decisions around enforcement action, including classifying a dog menacing under the Act. (Classification Decision Making Criteria annexed as Appendix 12). Council issued a notice of menacing classification dated 26 November 2020 and posted the notice to the dog owner Esther Schonberger. (Classification annexed as Appendix 13). Council also issued an infringement notice to Ms Schonberger for failing to comply with the Council Dog Control Bylaw 2015 (Section 20 of the Act) on 02 December 2020. (Infringement annexed as Appendix 14). The infringement fee was paid on 17 December 2020.

Following receipt of the notice of menacing classification, on 8 December 2020 Ms Schonberger lodged a written objection to the menacing classification with Council. (Objection annexed as Appendix 15). Council received the written objection within the prescribed 14-day objection period.

Having received Ms Schonberger's written objection to the menacing classification, the objection now needs to be determined in accordance with section 33B of the Act (Section 33A and 33B of the Dog Control Act 1996 annexed as Appendix 1).

#### **4. CONSIDERATION**

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The evidence provided by the victim cat owner by way of witness statement confirms that the dog acted in an aggressive manner when it attacked the cat. While there is no recorded history for "Casper" with Council, both the witness and Ms Schonberger have mentioned previous attacks on "Kruden" by "Casper". Ms Schonberger and her partner disclosed to the Animal Control Officer that "Casper" hates this cat and yet made the decision to 'risk it' by letting "Casper" off leash in a public space where he has access to 49 Lily Street, Raglan. (Photo of "Kruden" annexed as Appendix 17).

While Ms Schonberger has stated in her objection that "Casper" is always leashed when walked from her car to her house now, this precaution could have been taken earlier considering the previous incidents involving "Casper".

A menacing classification will ensure that Ms Schonberger takes her responsibilities as a dog owner seriously and will enable Council to take further enforcement action should an incident of this type occur in the future. By applying a muzzle when "Casper" is in a public place, this will minimise the risk to any domestic animals.

On 13 December 2012 Ms Schonberger was involved in a similar incident. Ms Schonberger owned a Fox Terrier that attacked a cat which resulted in the death of the cat. As a result of this attack the Fox Terrier was classified menacing and rehomed to a different district. (Service Request annexed as Appendix 16). There is no record with Council of any further dog aggression related offences between these incidents.

Ms Schonberger owns two dogs, neither of which were registered in November 2020. Ms Schonberger registered this dog at the same time she paid for "Casper". The second dog was 1 year and 10 months old at the time of the incident. Ms Schonberger is now compliant with her registration obligations.

## **5. OPTIONS AVAILABLE**

---

The Committee has two options in considering the objection to the menacing classification:

- Uphold the classification of the dog as menacing; or
- Rescind the classification

## **6. CONCLUSION**

---

This classification will reduce the risk posed to domestic animals by requiring “Casper” to be muzzled when in public.

If the Regulatory Subcommittee rescinds the classification, there is a risk that further breaches of the Dog Control Act 1996 and Dog Control Bylaw 2015 will occur, and domestic animals could be threatened or harmed.

The position of the Animal Control Team on behalf of the Council is that the evidence substantiates the classification of “Casper” as menacing under the Act.

## **7. ATTACHMENTS**

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Appendix 1 – Section 33A and 33B of the Dog Control Act 1996

Appendix 2 – Service Request

Appendix 3 – Witness Statement

Appendix 4 – National Dog Database Record

Appendix 5 – Officers Statement

Appendix 6 – Scene Photos

Appendix 7 – Scene Map

Appendix 8 – Seizure Notice

Appendix 9 – Impound Record

Appendix 10 – Photos of Casper

Appendix 11 – Officer Pocket book Notes

Appendix 12 – Classification Decision Making Criteria

Appendix 13 – Menacing Classification

Appendix 14 – Infringement Notice

Appendix 15 – Objection to Menacing Classification

Appendix 16 – 2012 Service Request

Appendix 17 – Photo of Kruden

Appendix 1 - Section 33A and 33B of the  
Dog Control Act 1996



## New Zealand Legislation

# Dog Control Act 1996

### *Menacing dogs*

Heading: inserted, on 1 December 2003, by section 21 of the Dog Control Amendment Act 2003 (2003 No 119).

#### **33A Territorial authority may classify dog as menacing**

- (1) This section applies to a dog that—
  - (a) has not been classified as a dangerous dog under section 31; but
  - (b) a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of—
    - (i) any observed or reported behaviour of the dog; or
    - (ii) any characteristics typically associated with the dog's breed or type.
- (2) A territorial authority may, for the purposes of section 33E(1)(a), classify a dog to which this section applies as a menacing dog.
- (3) If a dog is classified as a menacing dog under subsection (2), the territorial authority must immediately give written notice in the prescribed form to the owner of—
  - (a) the classification; and
  - (b) the provisions of section 33E (which relates to the effect of classification as a menacing dog); and
  - (c) the right to object to the classification under section 33B; and
  - (d) if the territorial authority's policy is not to require the neutering of menacing dogs (or would not require the neutering of the dog concerned), the effect of sections 33EA and 33EB if the owner does not object to the classification and the dog is moved to the district of another territorial authority.

Section 33A: inserted, on 1 December 2003, by section 21 of the Dog Control Amendment Act 2003 (2003 No 119).

Section 33A(3): amended, on 1 November 2004, by section 10 of the Dog Control Amendment Act 2004 (2004 No 61).

Section 33A(3)(c): amended, on 28 June 2006, by section 13 of the Dog Control Amendment Act 2006 (2006 No 23).

Section 33A(3)(d): added, on 28 June 2006, by section 13 of the Dog Control Amendment Act 2006 (2006 No 23).



## New Zealand Legislation

# Dog Control Act 1996

### **33B Objection to classification of dog under section 33A**

- (1) If a dog is classified under section 33A as a menacing dog, the owner—
  - (a) may, within 14 days of receiving notice of the classification, object in writing to the territorial authority in regard to the classification; and
  - (b) has the right to be heard in support of the objection.
- (2) The territorial authority considering an objection under subsection (1) may uphold or rescind the classification, and in making its determination must have regard to—
  - (a) the evidence which formed the basis for the classification; and
  - (b) any steps taken by the owner to prevent any threat to the safety of persons or animals; and
  - (c) the matters relied on in support of the objection; and
  - (d) any other relevant matters.
- (3) The territorial authority must, as soon as practicable, give written notice to the owner of—
  - (a) its determination of the objection; and
  - (b) the reasons for its determination.

Section 33B: inserted, on 1 December 2003, by section 21 of the Dog Control Amendment Act 2003 (2003 No 119).



Appendix 2 - Service Request

## All Service Requests (CRMs) for customer number 156581

Request Number:	DOGS1501/21	Priority:	Medium
Date Received:	18/11/2020	Completed On:	18/11/2020
Source:	Phone	Resp Workgroup:	Dogs
Status:	P	Raised By:	SSMIT001
Group:	DOGSCRM	Resp User:	AFORB001
Category:	DogAggCurr	Call Back?:	Yes
Process Counter:	506145		

**Related Property & Customer**

Property Address: Lily Street

Home Telephone:

Mobile Telephone:

Work Telephone:

Caller Name: Glen John Schnuriger

Caller Address: 49 Lily Street~Raglan 3225

Caller Email:

**Request Details**

**Description:** Neighbours keep attacking their cat. Has been to the owners as the dog comes onto their property. Happened before and has happened again this morning, the dog attacked the cat in the doorway of their house. Seen the dog down the pathway. The live up the top and the can see this dog wandering around the wharf and is free to roam as often as it wants. Not sure of any injuries as cat has taken off and they can't find it atm. He has spoken to them in the past for them to take responsibility and is now ringing for something to be done before he does something. The house is next door and not sure of exact address and thinks it is 77 Wallis Street and you need to park at 49 Lily Street to get to 77 Wallis Street  
Journeys end accommodation is his address and can be parked there and will show you the house where dog is homed. Can someone please ring Glen asap to arrange a time to go and see him. [REDACTED]

**Resolution Description:** Completed

**Resolution Details:** 18/11/2020 10:45am call to Glen he confirmed the dog was a white fluffy dog and it has attacked his cat 3 times in the last 12 months he tried to sort it with the owner but they have continued to fail to keep the dog under control and the dog has attacked his cat again this am, the cat has not returned yet. Statement taken from Glen, photos of scene taken. Dog seized from 77 Wallis street 'Casper' male spoodle white and tan currently unregistered. impounded in Nga photos of dog taken in ute. Pocket book notes in ECM regarding conversation with dog owner. Easter aware of her dogs hate for that cat and aware he has attacked in the past. Dog owner admitted they couldn't find Caspers lead and 'Risky' letting him run into the property off lead. fully aware that Casper has attacked that cat in the past and stated he hates that particular cat. 26/11/2020 dog classified menacing paper work sent 26/11/2020 tracked post 2/12 infringement

**Memo Details**

There are no memos for this request

**Event Details**

Event Ctr	Related Table	Table No	Sequence	Event Code	Description	Date Commenced	Date Finalised	Status
7157607	ramAP	506145	100	CRMCreate	CRM Created	18/11/2020	18/11/2020	P
7157608	ramAP	506145	200	DogSeized	Dog Seized?	18/11/2020	02/12/2020	P

1/12/2021 7:42:54 AM

7157609	ramAP	506145	300	DogClass	Current Dog Classification?	02/12/2020	02/12/2020	P
7157610	ramAP	506145	2000	CRMComple	CRM Completed	02/12/2020	02/12/2020	P
7181589	RamAP	506145	310	Infringe	Infringement / Prosecution or Warnings Required?	02/12/2020	02/12/2020	P
7181590	RamAP	506145	320	Infringe	Infringement / Prosecution or Warnings Required?	02/12/2020	02/12/2020	P
7181591	RamAP	506145	330	EmailMenac	Email Envir Admin to Update to Menacing	02/12/2020	02/12/2020	P
7181592	RamAP	506145	340	Infringe	Infringement / Prosecution or Warnings Required?	02/12/2020	02/12/2020	P
7181593	RamAP	506145	350	InformComp	Inform Complainant of Action	02/12/2020	02/12/2020	P
7181594	RamAP	506145	360	CRMComple	CRM Completed?	02/12/2020	02/12/2020	P

Appendix 3 - Witness Statement



My son and I were inside the dwelling at 49 Lily Street Reglan we were cleaning up after our BxB guests. I heard a growling noise at the front door. The door was shut. I ran to the door and opened it. I heard the cat screaming & hissing. I saw the white dog from 77 Wattle's Street Reglan mauling my black and white cat 'Kruden'. The dog was right on top of Kruden he had his mouth over Krudens back the cat was trying to escape. I ran towards the dog yelling abuse at it to get away from Kruden. When I got to the dog I let go the dog ran about 3-4 meters away from me and then stopped and looked back at me. Kruden took off. I saw the white dog owner parked in the drive at 77 Wattle's Street I yelled out to him. 'This is bull shit I'll end up killing ya fucking dog'

He responded that the dog slipped its collar getting out of the car. He did not come and see if my car was ok. Kruden took it and could not be located. I then called animal control and reported the attack. This dog has attacked on three previous occasions that I have witnessed in the past 12 months. I have tried to go out with the dog owners but they do not seem to be able to control the dog. Kruden returned at about 12pm he has loose fur and my son said he was walking funny.

CS

[A large diagonal line is drawn across the page, starting from the top left and ending at the bottom right, crossing through the horizontal lines.]

*CB*  
..... Witness Initials



[Large area of the page is crossed out with a diagonal line.]

I confirm the truth and accuracy of this statement. I make this statement with the knowledge that it may be used in court proceedings. I am aware that it is an offence to make a statement that is known by me to **be false** or intended by me to mislead.

Signed: [Signature]  
(Informant)

Date: 18.11.2020

Signed [Signature]  
(Witness - ACO)

Date: 18/11/2020

## Information on completing a Witness Statement

Thank you for taking the time to complete a Witness Statement. It is important that you complete this form with as much detail as possible so that the Animal Control Officer (ACO) dealing with the case is well informed and can take the most appropriate enforcement action. Without this statement it is likely that the ACO will be unable to take any action with the owner of the dog or the dog itself. This statement is an important and necessary piece of evidence.

Please include in your statement -

- Your full details.
- The **date** and **time** of the incident.
- Where the dog lives and how you know this.

A detailed description of the dog(s) -

- **Colour** – (include any patches etc.).
- **Size** – small, medium, large.
- **Gender** (if known).
- If the dog was wearing a collar/tag.
- **Length of coat** – smooth, medium, longhaired.
- **Breed** - an option is to say what **type** of dog it is like if you are unsure of the exact breed.
- **Body type** – stocky, skinny, tall, short.
- **Face shape** - pointed or floppy ears, long or short nose, floppy jowls etc.
- Any other distinctive details you noticed.

Also, in your account of the incident include –

- The location of the incident.
- How the incident came about.
- How you came to be in contact with the dog - When and how did you first notice it? Where was the dog?
- The dog's behaviour – Was it growling, barking, lunging, attempting to bite?
- If the dog has bitten – Where? When? What the injuries are. Was medical or veterinary treatment sought and if so what was done??
- Was the owner of the dog or anyone else present? If so, what action did they take regarding the incident?
- Was anything said by anyone?
- What action you took - What did you do during and after the incident?
- Where did you last see the dog? Did it run off? If so, in what direction?
- How did the incident come to a conclusion?

**It is important that you initial or sign each page of the statement, and date it.**

If you have any questions please contact  
an Animal Control Officer at the Waikato District Council, (07) 824-8633.

Appendix 4 - National Dog Database Record



User: Tracey Oakes  
TA: Waikato District

[Search](#) [Standard Lists](#) [Messages](#) [Documents](#) [TA Contact Details](#) [Help](#) [Log Out](#)

## View Dog Details

Name:	TA Dog Id:	Born:	Kept at address:
CASPER	153771	3/2018 (MM/YYYY)	77 WALLIS STREET RAGLAN
Predominant breed:	Predominant colour:	Gender:	De-sexed:
Poodle, Miniature	White	Male	No
Secondary breed:	Secondary colour:	Classification:	Classification Section:
Spaniel, Cocker	Tan		
Distinguishing marks:	Standard microchip #:	Status:	Dog alert:
Brown Ears	900141000030106	Currently In District	No
Permanent identifier:	Other microchip #:	Deactivated reason:	Destruction Order Date:
			(DD/MM/YYYY)
TA:	Registration #:	Year of Registration:	
Waikato District	1240	2020/2021	

[Back](#)

[Current Owners](#) [Previous Registrations](#) [Duplicate Dogs in other TAs](#)

Current Owners		
TA Owner Id=67806 : Owner=SCHONBERGER,ESTHER		Address=77 WALLIS STREET RAGLAN 3225 : Created=23/02/2009
Previous Registrations		
Waikato District : TA Dog Id=153771 : Dog previously unregistered : TA Owner Id=67806 : Owner=SCHONBERGER,ESTHER		
Address=77 WALLIS STREET RAGLAN 3225 : Created=19/11/2020		
Duplicate Dogs in other TAs	Status	Compare
No duplicate dogs.		

[Search for other duplicate Dogs](#)

INTERNAL AFFAIRS  
Te Tari Taiwhenua

Local Government New Zealand  
te pakihi rauwhiri

Appendix 5 - Officers Statement

Officers statement Amanda Davis

On the 18<sup>th</sup> of November 2020 I was assigned DOGS1501/21.

At 10:45am I called Glen Schnuriger the owner of the cat and arranged a statement to be taken from him at 49 Lily Street Raglan. He confirmed on the phone that the dog was white and fluffy and has attacked his cat 3 times now.

Glen advised he has tried to sort the issue with the dog owner but they have continued to fail to keep their dog under control. He has witnessed the dog attacking his cat again today and his cat has run off and he is unaware of where it is and the injuries sustained at this stage.

I checked our records and there was a white poodle x type dog associated to 77 Wallis Street Raglan belonging to Esther Schonberger who was currently unregistered. The dog has no history with us other than being unregistered.

At 12:46pm myself and ACO 16 arrived at 49 Lilly Street Street Raglan and I took a statement from Glen Schnuriger the witness of the attack and the cat owner.

The cat had returned, he was sitting in the living room near the stairs. He did not attempt to move when approached. He had some hair loss, appeared to be sore and was not moving from the area he was resting. The cat had a wound on his back that was still healing from the last time the dog had attacked him according to Glen.

I took photos of the scene including the cat owners house , door way and driveway where the attack took place. The dog owners fence and driveway showing access from their gate to the cat owners property.

At 13:17pm ACO 16 and I went to 77 Wallis Street Raglan. I knocked on the door and heard two dogs barking. A female came out and I introduced myself and Jo from Animal Control. I asked if she was the dog owner and she confirmed she was (Esther Schonberger)

Two dogs came out of the dwelling one white poodle x type medium size and one small brown poodle type.

I explained to Esther and the male that had come to the door (identified as her partner) that were there because her white dog had attacked the neighbour's cat this morning on the cat owner's driveway. Esther was aware of the incident. I asked her partner and he confirmed this and stated that the cat owner had yelled at him regarding the incident.

Both Esther and her partner confirmed the incident had happened because the dog was let out of the vehicle as they had just returned home from the beach and could not find a second lead so decided to 'risk it' and let 'Casper' off the lead out of the car to run inside.

I questioned the previous incidents with the cat and Eshter stated the dog had attacked, that she has discussed this with the cat owner on those occasions. They had requested with the landlord to extend the height of the fence and also has a tether on the steps as they know he hates that particular cat from previous attacks. Esther and her partner mentioned several times that Casper hated that cat. They also stated that the cat owner leaves his door open so the cat can get out. I explained to her that there was no legislation regarding keeping cats contained and that cat was entitled to sit on its driveway. The legislation requires dog to be under control at all times.

When question why they the let him off if they knew he had attacked the neighbours cat before Esther stated it was only that one cat the dog hates and they couldn't find a lead so let him off.

I explained because Casper was off his property and we had a witness to the attack on the cat and he dog was currently unregistered I would be seizing him today and impounding him.

I then explained the process from there if they claimed the dog. I advised the dog may be classified as menacing and require desexing (currently not desexed) that the dog would also be required to wear a muzzle in public and be on lead unless in an off lead area (but still muzzled).

I then asked her why the dog was able to get to the cat if they had let him out and her partner was around in the drive at some point as the cat owner yelled out to him. Esther said her partner was sitting on the dogs lead so they let him out without a lead then said they both herd the cat owner yelling.

Esther and her partner were both advised that because they know he hates that cat and attacks it they shouldn't have 'Risked it" and either carried him or used the lead on Casper or transported one dog inside at a time. And he should not be off lead.

Neither Esther nor her partner enquired about the cats welfare at any point

I put Casper on lead and placed him in my ute, Esther was given a seizure notice and advised she could pay at the library.

Casper was taken to Ngaruawahia pound, photos were taken of the dog in the ACO vehicle to give size comparison that he is not a small dog.

3pm on the 18<sup>th</sup> of November Esther collected Casper from the Ngaruawahia pound.

I explained to her again the process from here with regards to a menacing classification, a file will be put together and an infringement, she was also warned again at the importance of keeping Casper on lead as his prey drive was strong being 2 types of high prey drive dogs. I advised her to keep 6 plus lead in her vehicle so she never has to 'Risk it' again and let him off.

History check on dog, no history on Casper other than being unregistered at time of seizure.

History check on Esther Schnuriger she has previously owned a fox terrier that attacked and killed a cat on 13/12/2012.

File put together and handed to team leader.

Discussion had with Team leader and decision made to classify dog as menacing.

X 

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Amanda Davis  
Animal Control Officer

Appendix 6 - Scene Photos



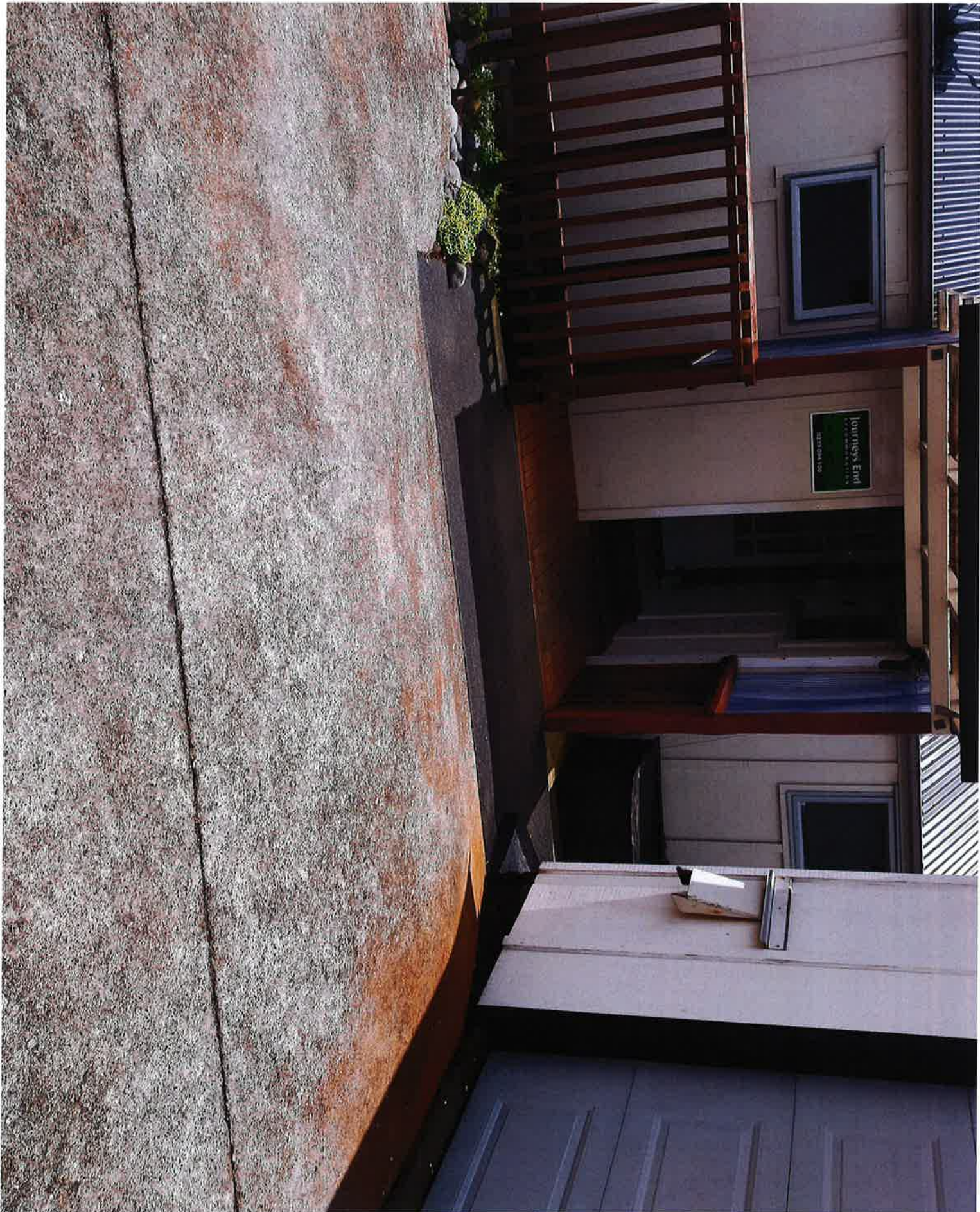
49 Lily street <sup>41</sup> Raylan. 18/11/2020  
C



77 Wallis street 42 Raglan. 18/11/2020



49 Lily street Ragan, <sup>43</sup> 18/11/2020



## Appendix 7 - Scene Map



ACO7  
Amanda Davis

A-attach scene  
O-dog

Appendix 8 - Seizure Notice



District Office  
15 Galileo Street  
Private Bag 544  
Ngaruawahia 3742

Huntly Area Office 142 Main Street 0800 492 452  
Raglan Area Office 7 Bow Street 07 825 8129  
Tuakau Area Office 2 Dominion Road 0800 492 452

Telephone (all hours) 07 824 8633  
Call Free 0800 492 452  
Fax 07 824 8091

Email: publicenquiries@waide.govt.nz  
www.waikatodistrict.govt.nz

# Notice of seizure and removal of a dog

Dog Control Act 1996

Date: 18/11/2020 Time: 13:17pm ANI No. ....

To: The dog owner

Address: 77 Wallis street  
Raglan

Tag No: M/F Name: Cooper

Colour: white/tan Breed: spaniel

This is to notify you that this dog has been seized and removed from this address under the section of the Dog Control Act 1996 indicated below.

Section 15(1)	Without access to food, water or shelter
Section 20	Failure to comply with Bylaw
Section 28(7)	Disqualification of dog owner
Section 33E(2)	Failing to comply with menacing classification requirements
Section 42(2)(a)	Failing to register dog
Section 52(3)	Failing to control dog
Section 52(A)(4)(a)	Failing to confine or control dog on owner's property
Section 56(2)	Removal of barking dog causing distress
Section 57(5)(a)	Dog attacking person or animals
Section 57A(3)	Dog rushing at persons, animals or vehicle

The details of these offences are listed on the reverse of this notice.

You may apply for the return of the dog and should contact Amanda Ho at the Waikato District Council, 15 Galileo Street, Ngaruawahia, telephone (07) 824 8633, fax (07) 824 8091 within seven days of the date of this notice.

You may be required to pay any fees incurred in the seizure, custody, sustenance and transport of the dog.

**NOTE:** The dog may be sold, destroyed or otherwise disposed of unless the dog is claimed and all fees owing are paid within seven (7) days from the date of this notice. Disposal of the dog may not exempt the owner from fees owing or from possible prosecution.

Animal Control Officer

18/11/2020  
Date

Appendix 9 - Impound Record



Home
Tasks | Perform
Animals
Infringements
Infringements Court
Reporting
More

Maintenance
help
back
home
close
clear
refresh

Actions to Perform
Save and Clear
Delete
Save As...

Links to other Functions
Association Maintenance

Sections to Display

Dog Details
Impound Details
Outcome
Audit

Attachments
Expand All
Collapse All
Find

Related Data

Associations (3)

- Animal Master (1)
- Owner/Person (1)
- Owner/Person (1)
- Owner/Person (1)
- Attributes (0)
- Memos (0)
- Aliases (0)

Audit Details
Modified by the user: JINNEW201
19/11/2020 4:09:03 pm

Show Historical Items

Register Number
15382
Dog Pound Register - Register Number 15382

Register ID
15382

Dog Details

Breed:
Poodle Miniature
Breed 2:
CROSS

Colour:
White
Colour 2:
TAN

Gender:
Male

Tag No.:

Impound Details

Impounding Date:
18/11/2020

ACO:
7

Where Seized:
Wales Street - RAGLAN

Reason:
Attack All

Pen Number:
020

Tag Colour:
Green

Outcomes

Outcome:
Released
Released to owner? -
Suitable for Adoption? -

Released To:
Elen Schweninger

Chip Number:
90014100030106

Fostered To:

Date Fostered:

Temperature Tested:

ECM Doc Ser ID:

Audit

Date Data Entered:
18/11/2020
Date Data Updated:
18/11/2020
Date Conducted:
18/11/2020

Attachments

Impound Fee: 80.00

Seizure Fee: 70.00

Reg. Fee: 100.00

Microchip Fee:

Sustenance Fee:

Surrender Fee:

De-sexing Fee:

De-fleaing & Worming:

Vaccination:

TOTAL FEES:

80.00

70.00

100.00

Appendix 10 - Photos of Casper

Taken 18/11/2020<sup>51</sup> by ACO 7  
on





Appendix 11 - Officer Pocket Book Notes

The process to  
him re how it  
works.

18/11/20  
10:45am call to Ellen re  
cat attack. Said  
dog had attacked  
his cat 3 times  
has tried to sort  
with the owner  
but dog keeps  
attacking owner  
let out of car  
at least. owner  
was aware of  
incident this am.

12:46pm Statement taken  
from Ellen at  
49 Lily street  
Rugby. Witnessed  
dog attacking cat

13:17pm Male white &  
tan poodle x  
dog 'Casper'  
seized from  
77 Willis street  
Rugby. Not  
currently registered  
spoke with Ester  
the dog owner's  
partner. Ester  
was aware as  
was her partner  
stated the dog  
was let out  
of the vehicle  
in the driveway  
at least as  
they have 2  
dogs & couldn't  
find 2nd lead

decided to 'nshit' and let Casper run into property. Fully aware of Casper's hate of the neighbors cat. Stated that Casper only hates that cat. ~~for~~ Stated that she has frightened the fence & has a teether as they know he hates that cat from previous attacks. Has said he has spoken to the cat owner re

th.3. Stated she the cat is on the drive after door is open alot. I explained to her that being the dog owner she has to keep her dog under control of all times fearless of the cat. Gets him leaving his door open is not the issue. I explained that because of Casper being at the property

and attacking  
I would be  
seizing him &  
he is also  
not registered.  
I explained the  
process re  
impound & then  
classification.

aware of her  
right appeal.  
I asked why  
the dog was  
allowed to  
get to the cut  
as the cut  
owner stated  
the male dog  
in the drive  
at some point.

Easter stated  
her partner  
was sitting on  
the dog lead  
they couldn't  
find it so  
decided not to  
use one on him  
they both said  
the cut owner  
yelled something  
at him. Easter's  
partner were  
both advised  
that because  
they know  
Casper attacks  
cats he can  
not be off  
lead in a public





place or off  
 their property.  
 Easter a partner  
 did not enquire  
 about the car's  
 location at any  
 point. Both Easter  
 a her partner  
 are aware that  
 Casper has  
 attached their  
 car on previous  
 occasion and  
 did not seem  
 to take ~~care~~ <sup>care</sup>  
 when transporting  
 the dog from  
 vehicle to house  
 both properties  
 are close to

getter. Casper  
 is housed in  
 Nge pond  
 3pm Easter collected  
 Casper from  
 pond. explained  
 again the  
 process from  
 here and the  
 importance of  
 keeping the dog  
 on lead. I told  
 her to buy  
 several leads  
 to keep in the  
 car so she  
 always has  
 one for the  
 dog. He can  
 not be let

go as his pres  
drive 3 stick.

Appendix 12 - Classification Decision Making Criteria

**Classification Decision Making Criteria****Owner ID: 67806****Dog ID: 153771****DOGS1501/21****OWNER RESPONSIBILITY** Fully aware of offence but dismissive of their dogs aggression towards 'that one cat'**HISTORY** was unregistered at time of offence. No history in P & R but has attacked that cat 3 times prior according to cat owner and by dog owners omission**SERIOUSNESS OF THE INCIDENT** cat had hair loss and was visibly sore when ACO attended. Had run off, owner had yet taken to vets. Old wound from previous attack still pussy and not fully healed. Incident happened on the cat owners property. **VICTIMS VIEWS** sick of this dog being out of control, has tried to sort issue with the owners several times but keeps coming and attacking the cat. Male owner was present at time of this attack and has not made any attempt to enquire about the cats welfare.**EVIDENCE** statement provided, owner confirmed it was their dog who was involved.**REGISTRATION COMPLIANCE** was not currently registered a time of offence. Dog was seized and is not registered.**PROPERTY** Dog cannot be contained with current fencing**MITIGATING RISK** make sure they have the correct amount of dog leads in the car and no risk letting run into the property from the car againThats what ACO 7 told her to do and the female dog owner said she would comply. 

**ACO REASONING BEHIND CLASSIFICATION**

The dog is an entire male 'Spoodle' with very high prey drive and ability to escape the property. The owner does not appear to understand the seriousness of her dogs offending and that her dog has attacked that cat on several occasions. They put blame onto the cat and cat owner. Were aware of the dog's behaviour and 'risked' it running off lead into the property. The dog is of size he could potentially kill a cat if no one had intervened.

**OUTCOME****Discussion between ACO and Team Leader**Dog Seized/Impounded  Yes/NoMenacing Classification  Yes/NoDangerous Classification  Yes/NoInfringement  Yes/NoProsecution  Yes/No

Signed (ACO)



Date 26 Nov 2020

 - Tracey Oakes.

## Appendix 13 - Menacing Classification

D10



Esther Schonberger  
77 Wallis Street  
Raglan 3225

Casper  
Poodle x spaniel  
Male, White and Tan

## NOTICE OF CLASSIFICATION OF DOG AS MENACING DOG

*Section 33A, Dog Control Act 1996*

This is to notify you that this dog has been classified as a menacing dog under section 33A(2) of the Dog Control Act 1996.

This is because reported behaviour of the dog leads us to believe that it may pose a threat to public safety; being any person, stock, poultry, domestic pet, or protected wildlife.

A summary of the effect of the classification and your right to objection is provided overleaf.

Tracey Oakes  
**Animal Control Team Leader**

26/NOV/2020

**Date**

\*For the purposes of the Dog Control Act 1996, you are the owner of a dog if-

- you own the dog
- you have the dog in your possession (otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, or damage, or distress, or for the sole purpose of restoring a lost dog to its owner): or
- you are the parent or guardian of a person under 16 who is the owner of the dog and who is a member of your household living with and dependant on you

## Effect of classification as menacing dog

*Section 33E, 33F and 36A, Dog Control Act 1996*

You—

- (a) must not allow the dog to be at large or in any public place or in any private way (except when confined completely within a vehicle or cage) without being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; and
- (b) must, produce to Waikato District Council, within 1 month after receipt of notice of the classification, a certificate issued by a registered veterinary surgeon certifying—
  - (i) that the dog is or has been neutered; or
  - (ii) that for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and
- (c) where a certificate under paragraph (b)(ii) is produced to Waikato District Council, produce to Waikato District Council, within 1 month after the date specified in that certificate, a further certificate under paragraph (b)(i).

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with all of the matters in paragraphs (a) to (c) above.

A dog control officer or dog ranger may seize and remove the dog from you if you fail to comply with all of the matters in paragraphs (a) to (c) above. The officer or ranger may keep the dog until you demonstrate that you are willing to comply with paragraphs (a) to (c) above.

As from 1 July 2006, you are also required for the purpose of providing permanent identification of the dog, arrange for the dog to be implanted with a functioning microchip transponder. This must be confirmed by making the dog available to the Waikato District Council in accordance with reasonable instructions of the Waikato District Council for verification that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location.

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with this requirement-

- within 2 months from 1 July 2006 if your dog is classified as menacing on or after 1 December 2003 but before 1 July 2006;
- or
- within 2 months after the dog has been classified as menacing if your dog is classified as menacing after 1 July 2006.,

If the dog is in the possession of another person for a period not exceeding 72 hours, you must advise that person of the requirement to not allow the dog to be at large or in any public place or in any private way (other than when confined completely within a vehicle or cage) without the dog being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction. You will commit an offence and be liable on conviction to a fine not exceeding \$500 if you fail to comply with this requirement.

Full details of the effect of classification as a menacing dog are provided in the Dog Control Act 1996.

## Right of objection to classification under Section 33A

*Section 33B, Dog Control Act 1996*

You may object to the classification of your dog as menacing by lodging with Waikato District Council a written objection within 14 days of receipt of this notice setting out the grounds on which you object.

You have the right to be heard in support of your objection and will be notified of the time and place at which your objection will be heard.



Appendix 14 - Infringement Notice

# INFRINGEMENT NOTICE

(ISSUED UNDER AUTHORITY OF SECTION 66 OF THE DOG CONTROL ACT 1996)



**NUMBER:** D25397  
**SR No. :** DOGS1501/21

Territorial Authority  
Waikato District Council  
15 Galileo Street, Ngaruawahia  
Ph: (07) 824 8633  
Fax: (07) 824 8091

Esther Schonberger  
77 Wallis Street  
Raglan 3225

	Forenames	Surname		
<b>Name of Owner:</b>	Esther Schonberger		<b>Person ID:</b>	67806
<b>Date of Birth:</b>	[REDACTED]		<b>Animal ID:</b>	153771

## ALLEGED INFRINGEMENT OFFENCE DETAILS

<b>Date:</b>	02/12/2020	<b>Time:</b>	10:30:00 AM	<b>Day of Week:</b>	Wednesday
<b>Road/Street:</b>	Wallis Street	<b>Locality:</b>	RAGLAN		

## OFFENCE COMMITTED

Offence Description	Infringement Fee (\$)	Offence Code
Failed to comply with ByLaw authorised by Section 20 of the Dog Control Act	\$300.00	S20(5)

<b>Additional Details of Offence (if any):</b>	<b>Infringement Fee payable</b>
dog not under control resulting in a cat being attacked	\$300.00
<b>Reg No or Description of Dog:</b>	
<b>Licence:</b>	<b>Breed:</b> Poodle Miniature
<b>Sex:</b> Male	<b>Primary Colour:</b> White

## PAYMENT OF INFRINGEMENT FEE

<b>The infringement fee is payable within 28 days after:</b>	02/12/2020	<b>ACO:</b>
<b>(earliest date notice delivered personally or posted)</b>		07

Please note that if you have been served with this Infringement Notice for failing to register a dog, payment of the infringement does not include the dog registration fee. You will still need to register your dog without delay and failing to do so may result in the issue of further infringement notices.

### Infringement fee may be paid to:

WAIKATO DISTRICT COUNCIL  
15 Galileo Street, Private Bag 544, Ngaruawahia  
Or to the any of the following Waikato District Council Area Offices  
**Huntly** 154 Main Street  
**Tuakau** 2 Dominion Road  
**Raglan** 7 Bow Street  
Cheques or money orders should be "NOT TRANSFERRABLE".

**IMPORTANT: PLEASE READ THE SUMMARY OF RIGHTS PRINTED OVERLEAF**

## SUMMARY OF RIGHTS

1. This notice sets out an alleged infringement offence. In terms of section 2 of the Dog Control Act 1996, you are liable as the owner of a dog if—
- you own the dog; or
  - you have the dog in your possession (otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, or damage, or distress, or for the sole purpose of restoring a lost dog to its owner); or
  - you are the parent or guardian of a person under 16 who is the owner of the dog and who is a member of your household living with and dependent on you.

### Payments

2. If you pay the infringement fee within 28 days of the issue of this notice, no further action will be taken. Payment may be made at places indicated on the front of this notice.

### Defences

3. You have a complete defence against proceedings if the infringement fee was paid to Waikato District Council at any of the places for payment shown on the front page of this notice before or within 28 days after you were served with a reminder notice. Note that late payment or payment at any other place will not be a defence.

### Further action

4. If you wish to—
- (a) raise any matter relating to the alleged offence for consideration by the Waikato District Council; or
  - (b) deny liability for the offence and request a court hearing (refer to paragraphs 5 and 9 below); or
  - (c) admit liability for the offence, but wish to have a court consider written submissions as to penalty or otherwise (refer to paragraphs 6 and 9 below),—
- you should write to Waikato District Council at the address shown on the front page of this notice. Any such letter should be personally signed.
5. You have a right to a court hearing. If you deny liability for the offence and request a hearing, Waikato District Council will serve you with a notice of hearing setting out the place and time at which the matter will be heard by the court (unless it decides not to start court proceedings). Note that if the court finds you guilty of the offence, costs will be imposed in addition to any penalty.
6. If you admit the offence but want the court to consider your submissions as to penalty or otherwise, you should in your letter—
- (a) ask for a hearing; and
  - (b) admit the offence; and
  - (c) set out the written submissions you wish to be considered by the court.

Waikato District Council will then file your letter with the court (unless it decides not to commence court proceedings). There is no provision for an oral hearing before the court if you follow this course of action.

Note that costs will be imposed in addition to any penalty.

### Non-payment of fee

7. If you do not pay the infringement fee and do not request a hearing within 28 days after the issue of this notice, you will be served with a reminder notice (unless Waikato District Council decides otherwise).
8. If you do not pay the infringement fee and do not request a hearing within 28 days after being served with the reminder notice, Waikato District Council may file the reminder notice, or provide particulars

of the reminder notice for filing, in the court and you will become liable to pay **costs in addition to the infringement fee**, under section 21(5) of the Summary Proceedings Act 1957.

### Queries/correspondence

9. When writing or making payment please include—
- (a) the date of the infringement; and
  - (b) the infringement notice number; and
  - (c) the identifying number of the alleged offence and the course of action you are taking in respect of it; and
  - (d) your address for replies.

### Notice of liability for classification as a probationary owner or a disqualified owner

If you commit 3 or more infringement offences (not relating to a single incident or occasion) over a period of 24 months, Waikato District Council may classify you as—

- a probationary owner; or
- a disqualified owner.

You will be treated as having committed an infringement offence if you—

- have been ordered to pay a fine and costs under section 375 (1)(b) of the Criminal Procedure Act 2011, or are treated as having so been ordered under section 25(5) of the Summary Proceedings Act 1957;
- or
- pay the infringement fee specified in the infringement notice. Probationary ownership starts from the date of the third infringement offence in the 24 month period. Unless terminated earlier by Waikato District Council, probationary ownership runs for a period of 24 months. Disqualification as a dog owner starts from the date of the third infringement offence in the 24 month period. The length of disqualification is determined by Waikato District Council but may be no longer than 5 years.

### Consequences of classification as a probationary owner or disqualified owner

During the period a dog owner is classified as a probationary owner, the person—

- must not be or become the registered owner of any dog except a dog that the person was the registered owner of at the time of the third infringement offence; and
- must dispose of every unregistered dog the person owns.

During the period that a person is classified as a disqualified owner, the person—

- must not own or become the owner of any dog; and
- must dispose of all dogs the person owns; and
- may have possession of a dog only for certain purposes (eg, returning a lost dog to the territorial authority).

A person may object to being classified as a probationary or disqualified owner by lodging a written objection with Waikato District Council. There is a further right of appeal to a District Court, if a disqualified person is dissatisfied with the decision of Waikato District Council.

Full details of classification as a probationary owner or a disqualified owner, and the effects of those classifications, are provided in the Dog Control Act 1996.

#### Note:

Full details of your rights and obligations are in section 66 of the Dog Control Act 1996 and section 21(10) of the Summary Proceedings Act 1957.

All queries and all correspondence regarding this infringement notice must be directed to Waikato District Council at the address shown.

## Appendix 15 - Objection to Menacing Classification



RECEIVED

- 8 DEC 2020

Waikato District Council

1/12/20  
77 Wallis St  
Raglan  
3225

Dear Sir/Madam,

**I would like to object to my dog Casper being classified as a menacing dog on the following grounds:**

**The incident in question, which has caused this classification, is in relation to one particular neighbour's cat. He has brought this to my attention previously; I have apologised, & made endeavours to do something about the situation. The main thing being, asking my landlord, to kindly increase the height of a particular part of the fencing around the house parameter, which he has done. I did apologise on the day of the incident, which was met with a reply of "b\*\*\*\*\*t", which led me to believe my apology was not accepted. My neighbour was also verbally aggressive, so I have not approached him since. He threatened to put a bullet in Casper, which is a threat I don't take lightly. Casper is always leashed when walked from my car to my house now, so he can't approach the neighbour/neighbours cat. I like to live at peace with my neighbours. It was never my intention to cause harm.**

**There have been no other incidents involved with**

**Casper causing harm to people or animals.**

**Casper is much loved & petted on the beach where I walk him in Raglan. People actually approach him/me, & ask for pats.**

**Casper is already microchipped/registered (therefore compliant)**

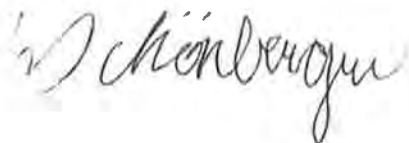
**I have booked Casper in to be neutered at Raglan Annexa vets 8/12/20, therefore showing further compliance.**

**The spoodle X breed, is not known for dangerous tendencies. Casper is a very good natured dog.**

**I would respectfully like to request a hearing, to have his Menancing Dog classification rescinded,**

**Sincerely**

**Esther Schonberger**



Appendix 16 - 2012 Service Request

## All Service Requests (CRMs) for customer number 113413

Request Number:	DOG1461/13	Priority:	Urgent
Date Received:	13/12/2012	Completed On:	14/12/2012
Source:	AftHours	Resp Workgroup:	Dogs
Status:	P	Raised By:	BMD
Group:	DogControl	Resp User:	MTEAN001
Category:	DogAttack	Call Back?:	No
Process Counter:	168945		

**Related Property & Customer**

Property Address: Sunshine Rise

Home Telephone:

Mobile Telephone: [REDACTED]

Work Telephone:

Caller Name: [REDACTED]

Caller Address: [REDACTED]

Caller Email:

**Request Details**

Description: After Hours 488760 Tri colour foxy from 3 Sunshine Rise attacked caller's cat yesterday about 11.30 am in callers section. Cat became ill so they took it to vet in the evening & it had a punctured lung & internal bleeding, & then it died. Caller has told dog owner many times to keep dog in, but she has not done so. She wants something done, as she doesn't want dog to kill her other cat.

Resolution Description: Completed

Resolution Details: 14-12-12 MTA - DOg impounded pending outcome of investigation.

Dog released on certain conditions. See notes for detail.

**Memo Details**

Memo Ctr	Table No	Memo Type	Status
411949	168945	CRMAanimals	C

**Event Details**

Event Ctr	Related Table	Table No	Sequence	Event Code	Description	Date Commenced	Date Finalised	Status
2944479	ramAP	168945	100	CRMCreate	CRM Created	13/12/2012	13/12/2012	P



Notes	Date Created
<p>Dog seized at 11:57 on 13-12-12 by MTA. Witness statement completed at Ngaruawahia office at 13:05 on 13-12-12 Dog has been caught wandering at large before (check entry made on Thu 26/4/12 in ACO Notebook titled Book 2 [REDACTED] ACO 5 30/03/12 - 23/11/12)</p> <p>14-12-12 Complainant and ACM have agreed to the dog going to Waihi. Dog has now been classified as Menacing (s.33a) and owner infringed for the dog wandering at large. Animal has been returned to the owner who will be taking the dog through to its new home.</p>	13/12/2012

2944480	ramAP	168945	200	GatherInfo	Information Gathered from Complainant	13/12/2012	14/12/2012	P
2944481	ramAP	168945	1300	InformComp	Inform Complainant of Action			F
2944482	ramAP	168945	1400	CRMComple	CRM Completed?	14/12/2012	14/12/2012	P
2946051	RamAP	168945	210	DogSeize	Dog Seized?	14/12/2012	14/12/2012	P
2946052	RamAP	168945	220	DogPound	Have you Created a Dog Pound Call Yet?	14/12/2012	14/12/2012	P
2946053	RamAP	168945	230	CreateAsso	Create Associations	14/12/2012		C

Appendix 17 - Photo of Kruden

