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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 **MONDAY, 29 MARCH 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.*

**1. APOLOGIES AND LEAVE OF ABSENCE**

**2. DISCLOSURES OF INTEREST**

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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 March 2021
<b>Prepared by</b>	Lynette Wainwright Committee Secretary
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	GOV1319
<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 Friday, 19 February 2021.

### **2. RECOMMENDATION**

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**THAT** the minutes of the meeting of the Regulatory Subcommittee held on Friday, 19 February 2021 be confirmed as a true and correct record of that meeting.

### **3. ATTACHMENTS**

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- A REGSUB Minutes – 19 February 2021
- B Decision

**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 **FRIDAY, 19 FEBRUARY 2021** commencing at **9.30am**.

**Present:**

Cr NMD Smith (Chairperson)  
Cr J Gibb  
Cr J Sedgwick

**Attending:**

Ms E Schonberger (Objector)  
Mr S Doll (Witness for the Objector)

Ms T Oakes (Team Leader Animal Control)  
Ms A Davis (Animal Control Officer)  
Ms C Pidduck (Legal Counsel)  
Mrs LM Wainwright (Committee Secretary)

**APOLOGIES AND LEAVE OF ABSENCE**

All members were present.

**CONFIRMATION OF MINUTES**

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

**THAT the hearing minutes of a meeting of the Regulatory Subcommittee held on Friday, 19 February 2021 be confirmed as a true and correct record of that meeting.**

**CARRIED**

**HE2102/01**

**HEARING**

Esther Schonberger - Objection to Menacing Classification  
Dog ID: 153771  
Name ID: 67806  
Property ID: 1014862  
Service Request ID: DOGS1501/21

## **INTRODUCTION**

Commissioner Smith introduced the members of the hearing panel and welcomed all parties.

## **HEARING OF THE OBJECTION**

Ms Schonberger addressed the hearing as follows:

- When she moved to the property, it was not fenced.
- Following the incident, Casper is now well contained and the gate to the property has been raised 44cms.
- Casper has now been neutered, registered and micro chipped. Following neutering, he has become more peaceful and is very social.
- At the time of Casper escaping from the car, Ms Schonberger was looking for his leash.
- She had not witnessed any other attacks.

Mr Doll addressed the hearing as follows:

- Mr Doll was sitting on the leash in the car.
- He did not see Casper maul the cat, Kruden.
- Dogs are now controlled at all times.

The Animal Control Team Leader noted the following:

- There was previous history on file for Casper.
- Casper was a poodle/spaniel mix and had a high prey drive.
- The attack had occurred in a public place.
- Casper had a pointy nose which would be easy to muzzle. The muzzle is not required when he is contained in Ms Schonberger's property.

The statement of the Animal Control Officer was taken as read.

The hearing adjourned at 10.26am and resumed at 10.45am.



**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 33B(1)(a) of the Dog Control Act 1996.

**BETWEEN** **Esther Schonberger**

Objector

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

Respondent

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

Chairperson Cr Noel Smith  
Members Cr Jan Sedgwick  
Cr Janet Gibb

**HEARING** at Ngaruawahia on 19 February 2021

**APPEARANCES:**

Ms E Schonberger, Objector  
Mr S Doll, Witness for the Objector  
Ms T Oakes, Team Leader, Animal Control Officer, Waikato District Council  
Ms A Davis, Animal Control Officer, Waikato District Council  
Ms C Pidduck, Legal Counsel for Waikato District Council

**DECISION**

**Pursuant to Section 33B(2) of the Dog Control Act 1996 the Regulatory Subcommittee upholds the classification of the dog, known as 'Casper', as a menacing dog.**

**Introduction:**

[1] On the 18<sup>th</sup> November 2020 an incident was reported to Waikato District Council Animal Control Officers that a neighbour's dog had attacked and mauled a cat at 49 Lily Street, Raglan. An Animal Control officer attended shortly after the incident was reported, and as a result of the taking of a statement from the owner of a cat a male person was spoken to at the address of 77 Wallis Street, Raglan. The dog, identified in these proceedings as Casper, a white 'Spoodle' was found at the premises. As Casper was not registered he was seized and transported to the Council pound at Ngaruawahia. Casper was subsequently released once he had been registered and confirmed as being microchipped. Casper was classified as a menacing dog on 26 November 2020. Ms Schonberger 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 Officer's statement, a copy of the menacing dog classification notification to Ms Schonberger, her written objection and photos taken by Animal Control Officers as well as other associated documents, photos and emails provided by Ms Schonberger.

[3] The only witnesses, Mr Glen Schnuriger was not present at the hearing to give evidence or provide the Committee with the opportunity to clarify any aspect of his witness statements.

**HEARING:****Objector – Ms Schonberger**

[4] At the commencement of the hearing the Chairperson outlined how the hearing would take place.

[5] Ms Schonberger began her objection by stating she was sorry for what had happened to the complainant's cat. She was concerned that the Council documents showed her in bad light. She told the Committee that she rented the property she lives in and that she had made contact with her landlord many times in the past two years. The landlord was slow to fix or raise fences and other gaps in the boundary fencing which made it difficult for her to contain Casper within the property.

[6] Ms Schonberger went on to tell the Committee that on the day of the event she and a friend had been at the beach where she regularly walks her dog off lead. Upon her return she attempted to find both leads, as she has two dogs, before letting them out of her car. She found one but could not find the other. After some time she decided to risk letting Casper out of the car without a lead while she continued looking for it. Her friend, Mr Stephen Doll, also got out of the car to look for the lead. It was at that time Mr Doll noted he had been sitting on the lead.

[7] From information contained in a statement taken from Mr Schnuriger, the owner of the cat attacked by Casper, the Committee was aware that Mr Schnuriger had been alerted to a growling noise outside his dwelling and his cat making hissing noises. Ms Schonberger stated it was about this time that her neighbour, Mr Glen Schnuriger, came out of his front door and abused both herself and Mr Doll. Ms Schonberger was apprehensive and didn't feel safe remaining outside so she went inside her dwelling. She stated she had no time to apologise.

[8] Ms Schonberger commented that she now has both Casper and her other dog on a leash whenever she has them off her property. Casper was always microchipped, has been de-sexed and is contained at all times when on her property.

[9] Ms Schonberger stated she was sad about the incident and wished that both parties could be at peace with each other. She commented that she believed she had done all that she could to make sure it doesn't happen again.

[10] In response to questions from the Committee, Ms Schonberger acknowledged that it had been a risk to let Casper out of the car without having him on a lead. She acknowledged that there were two people, her and Mr Doll and that there were two adults to manage those dogs at the time they arrived home. Ms Schonberger responded that Casper just got out quicker than she could restrain him.

### **Witness - Stephen Doll**

[11] Mr Stephen Doll stated that he was a friend of Ms Schonberger's and that he had accompanied her to walk her two dogs at the beach. Upon their return to Ms Schonberger's home they could only find one lead for the two dogs. He was not aware he was sitting on the second lead until he got out of the car. He took responsibility for the lead not being available to Ms Schonberger to leash 'Casper'. He stated that Ms Schonberger opened the back door of her car and Casper jumped out and ran off. He noted Casper run towards the neighbour's property. The neighbour gave Casper a kick and chased him away. Mr Doll managed to grab hold of Casper and took him into Ms Schonberger's house.

[12] Mr Doll commented that neither he nor Ms Schonberger could talk to the neighbour as he, the neighbour, was so upset. He didn't see Casper maul the neighbour's cat. Leashing of the dogs was now very important and since 18 November Mr Doll is unaware of any further events between Casper and the neighbour's cat.



**Objector - Ms Schonberger**

[13] Ms Schonberger, in response to questions from the Committee, stated that she had never seen an incident, including the one on 18 November 2020, between Casper and the neighbour's cat. On each occasion an incident had 'occurred' it was the neighbour who told her that one had occurred. She commented that cats are always fighting in her neighbourhood and they get injuries from time to time. She stated that it was only because her neighbour had supposedly heard and seen each incident that anyone else knows about it. She again confirmed she did not hear or see anything on the morning of 18 November, stating she had her back to the neighbour's property. She confirmed the neighbour's dwelling was no more than probably five meters from where her car was parked. She stated she did not hear Casper attack the cat.

**Animal Control Team Leader – Tracey Oakes**

[14] Ms Oakes opened her comments by stating that Ms Schonberger had not taken enough steps to prevent Casper from attacking her neighbour's cat. Ms Oakes referred the Committee to the cat owner's statement which outlined a series of attacks and the details of the attack on 18 November 2020.

[15] Ms Oakes then summarised why Casper had been classified as a menacing dog. She spoke of the conversations between staff and Ms Schonberger where staff had given lots of advice on how to control and contain Casper. She spoke of the lack of action from Ms Schonberger, Ms Schonberger's own admissions of the previous events, the level of aggression, Casper being a threat to domestic animals and thus a need for him to wear a muzzle in a public place.

**Animal Control Officer – Amanda Davis**

[16] Ms Davis's brief of evidence, having been pre-circulated, was taken as read and she answered question from the Committee. Ms Davis told the Committee that Casper weighed 14kg and was knee high to an adult. Ms Davis confirmed that as at 18 November 2020, Casper was unregistered, and that after being seized on 18 November 2020 he was released back to Ms Schonberger the following day.

**RIGHT OF REPLY – Ms Schonberger**

[17] Ms Schonberger attempted to clarify her comments 'Risk It'. She stated she was always using those words in various situations, including at work where some level of risk was always required. She stated it was an accident and was genuinely sorry for what happened to the cat. She had always responded whenever she was made aware of an 'incident' and where necessary contacted her landlord to effect alterations when required. Ms Schonberger now has Casper on a long lead unable to run freely whenever he was off her property. She stated that being required to muzzle Casper would not enhance the issue. The wearing of a muzzle was a life sentence for Casper and Casper would feel miserable if he had to wear a muzzle every time he went out.

[18] Responding to further questions from the Committee, Ms Schonberger stated that Casper was normally run on the beach off leash. She went on to state that most dog owners will tell you not to approach their dog if they don't like strangers. As most dog owners don't like their dogs on a leash Ms Schonberger wanted to also be able to run Casper off leash on the beach at any time. She finished her right of reply with the comment that people often came up to Casper to pat him when he was on the beach.

### **LEGISLATION: S33A Dog Control Act 1996**

[19] *Territorial Authority may classify a 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 consider 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,*

[20] On 26 November 2020, Tracey Oakes, Animal Control Team Leader, Waikato District Council undertook a classification exercise with respect of Casper. As a result Ms Oakes issued a notice, on 26 November 2020, under s33A of the Dog Control Act 1996 classifying Casper as a menacing dog. Notice of the classification was sent to Ms Schonberger and she responded by objecting to the classification.

### **REASONS FOR DECISION:**

[21] Ms Schonberger has accepted that her dog Casper has previously attacked the neighbour's cat on three occasions. On the occasion which resulted in the classification of Casper as menacing Ms Schonberger was some five meters away but claims not to have seen or heard the 'attack'.

[22] The Committee finds, on balance, that the four 'attacks' complained of have occurred and that Casper is the dog involved in all four incidents.

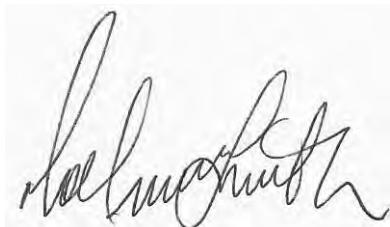
[23] The Committee notes that following the 18 November 2020 attack Casper has been de-sexed, that being one of the requirements of the menacing classification. The only additional requirement for Casper under the classification is that he be muzzled in public.

[24] Ms Schonberger's evidence including her written and emailed comments to the Committee have confirmed the four incidents. However nowhere has she shown that the processes undertaken by the Council officers has been deficient in the classification of Casper as a menacing dog.

[25] The role of the Committee is to review the classification and determine whether the classification should be upheld or dismissed. The Committee finds no grounds to rescind the classification.

**DECISION:**

[26] Pursuant to Section 33B(2) of the Dog Control Act 1996 the Regulatory Subcommittee upholds the classification of the dog, known as 'Casper', as a menacing dog.

A handwritten signature in black ink, appearing to read 'Noel Smith', is written over a light grey rectangular background.

Noel Smith  
Chairperson  
Regulatory Subcommittee  
Waikato District Council  
08 March 2021

### **Open Meeting**

<b>To</b>	Regulatory Subcommittee
<b>From</b>	Sue O’Gorman General Manager Customer Support
<b>Date</b>	16 March 2021
<b>Prepared by</b>	Tracey Oakes Animal Control Team Leader
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	Dog ID: 147051 Name ID: 162935 Property ID: 1007708 Service Request ID: DOGS1915/21
<b>Report Title</b>	Che Reti – Objection to Dangerous Classification

## **I. EXECUTIVE SUMMARY**

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Section 31 of the Dog Control Act 1996 (“the Act”) provides that Waikato District Council (“Council”) must classify a dog as dangerous if Council has, on the basis of sworn evidence attesting to aggressive behaviour by the dog on one or more occasions, reasonable grounds to believe the dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife.

“Remi”, a female blue, Neopolitan Mastiff, aged 4 years 7 months, owned by Che Reti, was involved in an incident on 26 December 2020 where “Remi” aggressively rushed Kitrina Reid. “Remi” was free to leave her property and the rushing happened on Ms Reid’s property at 191B Hoeka Road, Tamahere. As a result of this incident, Council issued Mr Reti with an infringement notice, and a notice of dangerous classification.

In accordance with Section 31(3) of the Act, Mr Che Reti has objected in writing to the dangerous classification within the statutory time frame.

Council has reasonable grounds to believe the behaviour displayed by “Remi” during the reported incident is very concerning. Due to this displayed behaviour, “Remi” poses an ongoing threat to the safety of any person and Council considers therefore “Remi” should remain classified as dangerous in accordance with the Act.

## 2. RECOMMENDATION

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

**AND THAT under Section 31(1)(b) of the Dog Control Act 1996, the dangerous classification imposed on the dog Remi, owned by Che Reti, be upheld.**

## 3. BACKGROUND

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At 9.45am on 27 January 2021, Council After Hours service received a complaint from a member of the public. A dog named Remi from 191 Hoeka Road had rushed at her and had chased her across her own front lawn, forcing her to jump her pool fence to escape. (Service Request annexed as Appendix 2). As this incident had happened at approximately 7pm on 26 December, 2020, it was classed as historic and was not phoned through to the On Call Officer. On 5 January 2021 Officer McLay received this job through a Council records system (Property and Rating). Officer McLay spoke to Kitrina Reid (The Complainant). Ms Reid did not want Officer McLay to speak to the dog owner as Ms Reid had already, however Ms Reid wanted the incident recorded with Council in case anything further should arise. Officer McLay was of the opinion that the time between the incident and Officer McLay getting in touch had led Ms Reid to believe the issue had been resolved.

At 09.29am on 12 January 2021, Council received a complaint from Ms Reid. The dog at 191 Hoeka Road, Tamahere was loose on its own property. Ms Reid was aware that the dog could leave its property of its own free will when it was in this area (Service Request annexed as Appendix 3). Officer Amanda Davis was lead officer on this complaint. The dog Remi was in the yard on the left hand side of the house when Officer Davis and Officer Newell arrived, and no owners were home. Due to Remi being in a portion of the property that she can freely leave from, Ms Reid believed that the dog owners had not taken her conversation with them seriously and was prepared to make a formal witness statement about the incident that occurred on 26 December 2020 (Witness Statement annexed as Appendix 4).

At 1.30pm 12 January 2021, Officer Davis obtained a witness statement from Kitrina Reid. In this statement Ms Reid explains the detail of the rushing and the evasive action required to prevent contact from being made by Remi. It describes Ms Reid's actions leading up to the rushing. Ms Reid had heard Remi barking and had walked outside to investigate. The neighbours who own Remi had asked Ms Reid previously to do so if she heard Remi barking. Ms Reid saw Remi through the hedge walking towards the boundary fence. At that point Remi was barking at Ms Reid. Ms Reid then walked back towards her own home and it was during this walk home that she noticed the barking had become more frequent and higher pitched. She turned to look and saw that Remi was right behind her. Ms Reid ran and screamed for her husband to help her. Ms Reid ran across the area in front of her house and leapt face forward over the pool fence. Her feet hit the house on her way over and she landed on the concrete. Ms Reid has provided photos of the injuries she sustained (included in the Witness statement annexed as Appendix 4). Ms Reid has also provided security video footage of Remi chasing her across the front section (supplied via email).

Ms Reid then called Remi's owners and asked them to come home and secure the dog which they did approximately 30-60 minutes after that phone call.

On 12 January 2021, after obtaining the witness statement from Ms Reid, Officer Davis and Officer Newell went back to 191 Hoeka Road. The dog's owner was now home and Remi had been moved into her secure compound to the right of the house. Officer Davis had a discussion with Che Reti about the incident that had occurred, and about how the dog had escaped the secure compound. During this discussion it became apparent to Officer Davis that Mr Reti does not believe Remi is a threatening or aggressive dog.

On 22 January 2021, Officer Davis provided a correctly affirmed affidavit which included the witness statement and photos provided by Ms Reid. Ms Reid was unable to travel to swear this evidence herself due to personal reasons (Affidavit included in Witness Statement annexed as Appendix 4).

On 9 February 2021 Officer Davis issued an infringement for the offence that took place on 26 December 2021. This infringement has not been paid at the date of this report (Infringement annexed as Appendix 6)

On 22 January 2021, Officer Davis referred the incident to the Team Leader of Animal Control, who holds delegation to make decisions around enforcement action, including classifying a dog dangerous under the Act (Decision Making Criteria annexed as Appendix 7) The decision was made to classify Remi as dangerous, and Council issued a notice of dangerous classification dated 25 January 2021 and posted the notice to the dog owner Che Reti. (Classification annexed as Appendix 8).

Following receipt of the notice of dangerous classification, on 4 February 2021 Mr Reti lodged a written objection to the dangerous classification with Council. (Objection annexed as Appendix 9). Council received the written objection within the prescribed 14-day objection period.

Having received Mr Reti's written objection to the dangerous classification, the objection now needs to be determined in accordance with section 31 of the Act (Section 31 and 32 of the Dog Control Act 1996 annexed as Appendix 1).

#### **4. CONSIDERATION**

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The evidence provided by the victim by way of witness statement confirms that the dog showed aggressive behaviour when it chased Ms Reid across her front lawn.

In Mr Reti's objection, he argues that the dog cannot leave the front of the property, but does admit the incident took place. Mr Reti makes it clear in his objection he does not think this was a serious incident as Remi did not make contact.

A dangerous classification will ensure that Mr Reti contains Remi in the securely fenced portion of his property. It will enable Council to take further enforcement action should an incident of this type occur in the future. By applying a muzzle when "Remi" is in a public place, this will minimise the risk to any member of the public.

## **5. OPTIONS AVAILABLE**

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

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

## **6. CONCLUSION**

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This classification will reduce the risk posed to any member of the public by requiring Remi to be muzzled when in public. This classification requires Remi to be kept within a securely fenced portion of the owner's property that does not include access to the dwelling.

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 members of the public, including Ms Reid – a terminal cancer patient, 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 Remi as dangerous under the Act.

## **7. ATTACHMENTS**

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Appendix 1 – Section 31 and 32 of the Dog Control Act 1996

Appendix 2 – Service Request received 27 December 2020

Appendix 3 – Service Request received 12 January 2021

Appendix 4 – Witness Statement

Appendix 5 – Officers Statement

Appendix 6 – Infringement Notice

Appendix 7 – Decision Making Criteria

Appendix 8 – Dangerous Classification

Appendix 9 – Objection to Dangerous Classification

Appendix 10 – Photos of Remi

Appendix 11 – Officer Pocket book Notes

Appendix 1 - Section 31 and 32 of the Dog Control Act 1996





## New Zealand Legislation

# Dog Control Act 1996

### *Dangerous dogs*

#### **31 Territorial authority to classify dangerous dogs**

- (1) A territorial authority must classify a dog as a dangerous dog if—
- (a) the owner of the dog has been convicted of an offence in relation to the dog under [section 57A\(2\)](#); or
  - (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; or
  - (c) the owner of the dog admits in writing that the dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife.
- (2) Where any dog is classified as a dangerous dog under subsection (1), the territorial authority shall immediately give notice in the prescribed form of that classification to the owner.
- (3) Where any dog is classified as a dangerous dog under subsection (1)(b), the owner may, within 14 days of the receipt of notice of that classification under subsection (2), object to the classification in writing to the territorial authority, and shall be entitled to be heard in support of his or her objection.
- (4) 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 matters—
- and may uphold or rescind the classification.
- (5) The territorial authority shall give notice of its decision on any objection, and the reasons for its decision, to the owner as soon as practicable.

Section 31(1): substituted, on 7 July 2010, by [section 4](#) of the Dog Control Amendment Act 2010 (2010 No 62).



## New Zealand Legislation

# Dog Control Act 1996

### 32 Effect of classification as dangerous dog

- (1) If a dog is classified as a dangerous dog under [section 31](#), the owner of the dog—
  - (a) must ensure that, from a date not later than 1 month after the receipt of notice of classification, the dog is kept within a securely fenced portion of the owner's property that it is not necessary to enter to obtain access to at least 1 door of any dwelling on the property; and
  - (b) 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—
    - (i) muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; and
    - (ii) controlled on a leash (except when in a dog exercise area specified in a bylaw made under [section 20\(1\)\(d\)](#)); and
  - (c) must produce to the territorial authority, within 1 month after the receipt of notice of classification, a certificate issued by a veterinarian and 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
  - (d) must, if a certificate under paragraph (c)(ii) is produced to the territorial authority, produce to the territorial authority, within 1 month after the date specified in that certificate, a further certificate under paragraph (c)(i); and
  - (e) must, in respect of every registration year commencing after the date of receipt of the notice of classification, be liable for dog control fees for that dog at 150% of the level that would apply if the dog were not classified as a dangerous dog; and
  - (f) must not, without the written consent of the territorial authority in whose district the dog is to be kept, dispose of the dog to any other person.
- (2) Every person who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$3,000.
- (3) If a court convicts a person of an offence against subsection (2), the court must also make an order for the destruction of the dog unless satisfied that the circumstances of the offence were exceptional and do not warrant destruction of the dog.
- (4) Every person who sells or otherwise transfers, or offers to sell or transfer, to any other person any dog known by that person to be classified as a dangerous dog without disclosing the fact of that classification to that other person commits an offence and is liable on conviction to a fine not exceeding \$3,000.
- (5) If a person fails to comply with subsection (1), a dog control officer or dog ranger may—
  - (a) seize and remove the dog from the person's possession; and
  - (b) retain custody of the dog until the territorial authority has reasonable grounds to believe that the person has demonstrated a willingness to comply with subsection (1).

- (6) [Section 70](#) applies to a dog removed under subsection (5) as if it were removed under [section 56](#); and accordingly section 70 applies with all necessary modifications.

Section 32: substituted, on 1 December 2003, by [section 19](#) of the Dog Control Amendment Act 2003 (2003 No 119).

Section 32(1)(c): amended, on 28 June 2006, by section 29(3) of the Dog Control Amendment Act 2006 (2006 No 23).

Section 32(1)(d): amended, on 7 July 2004, by [section 9\(1\)](#) of the Dog Control Amendment Act 2004 (2004 No 61).

Section 32(1)(e): amended, on 7 July 2004, by [section 9\(2\)](#) of the Dog Control Amendment Act 2004 (2004 No 61).

Section 32(2): amended, on 1 July 2013, by [section 413](#) of the Criminal Procedure Act 2011 (2011 No 81).

Section 32(4): amended, on 1 July 2013, by [section 413](#) of the Criminal Procedure Act 2011 (2011 No 81).

Appendix 2 - Service Request received 27 December 2020

# 21

## All Service Requests (CRMs) for customer number 179648

Request Number:	DOGS1815/21	Priority:	Medium
Date Received:	27/12/2020	Completed On:	27/12/2020
Source:	AftHours	Resp Workgroup:	Dogs
Status:	P	Raised By:	CCRUZ001
Group:	DOGSCRM	Resp User:	CMCLA001
Category:	DogAggHist	Call Back?:	No
Process Counter:	510322		

### Related Property & Customer

Property Address:	Hoeka Road		
Home Telephone:	Mobile Telephone:	021-2455677	Work Telephone:
Caller Name:	Katrina Reid		
Caller Address:	191B Hoeka Road~Tamahere 3284		
Caller Email:			

### Request Details

Description: Dogs Aggression - Historic

Incident Time and Date: 26/12/2020 around 7pm  
 Incident Location: 191B Hoeka Road Tamahere  
 Katrina was just walking around their property when a dark coloured large unknown breed dog rushed at her. So she run away and jump the fence. No medical needed just bruises and cuts. No witness aside from the camera they have in the house that can be reviewed. She would like to be contacted by ACO and would like to know the process please.

Resolution Description: Completed

Resolution Details: 05/01/2021, 13.00 - Spoke to the complainant and she just wants this on file and she does not want me to speak with the dog owners. Apparently dog is aggressive and managed to get out the section and rush at Katrina. They have spoken with the dog owners and they are fixing the fencing. The dog owners have been more than co - operative. I said that I would link the job to the dog if anything further should happen. Dogs name is Remi from 191 Hoeka.

### 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
7221044	ramAP	510322	100	CRMCreate	CRM Created	27/12/2020	27/12/2020	P
7221045	ramAP	510322	200	DogSeized	Dog Seized?	27/12/2020	05/01/2021	P
7221046	ramAP	510322	300	DogClass	Current Dog Classification?	05/01/2021	05/01/2021	P
7221047	ramAP	510322	2000	CRMComplet	CRM Completed	05/01/2021	05/01/2021	P
7222744	RamAP	510322	310	Infringe	Infringement / Prosecution or Warnings Required?	05/01/2021	05/01/2021	P

7222745	RamAP	510322	320	InformComp	Inform Complainant of Action	05/01/2021	05/01/2021	P
7222746	RamAP	510322	330	CRMComplet	CRM Completed?	05/01/2021	05/01/2021	P
7222747	RamAP	510322	340	CRMComplet	CRM Completed?	05/01/2021	05/01/2021	P

Appendix 3 - Service Request received 12 January 2021

## All Service Requests (CRMs) for customer number 168210

Request Number:	DOGS1915/21	Priority:	Medium
Date Received:	12/01/2021	Completed On:	12/01/2021
Source:	Phone	Resp Workgroup:	Dogs
Status:	P	Raised By:	JSOLO001
Group:	DOGSCRM	Resp User:	AFORB001
Category:	DogsStrayC	Call Back?:	Yes
Process Counter:	511042		

**Related Property & Customer**

Property Address:	Hoeka Road		
Home Telephone:	Mobile Telephone:	021-2455677	Work Telephone:
Caller Name:	Kitrina Joan Reid		
Caller Address:	191B Hoeka Road~RD 4~Hamilton 3284		
Caller Email:	kitandscottreid@gmail.com		

**Request Details**

Description: Dog on property, of 191A  
But not properly contained, and jumped to 191B property, over fence.  
Thanks Amanda.

Resolution Description: Completed

Resolution Details: Arrived at 191 a dog was in back yard large female Neo mastiff no one home at time. Statement taken from Kitrina at 191b. Photos of the scene taken and video of the rushing/behaviour sent to ACO email. Went to seize the dog from property but owner had arrived home and secured her in portion of section to right of house. Spoke with Chi Reti and her husband regarding the incident they were aware of it and pointed blame to the victim saying she as looking in their property and the dog was just doing her job. I explained that it was an offence to leave the owners property and that the dog was extremely aggressive and had attempted to attack the victim on her own property causing her injuries. I advised I would be classifying the dog and issuing an infringement. The dog was now secure and the owner was advised to keep her there unless with her and under control. the rushing incident happened 26/12/20 and Kitrina called 12/1/21 as the dog was in the yard and could get out.

**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
7230202	ramAP	511042	100	CRMCreate	CRM Created	12/01/2021	12/01/2021	P
7230203	ramAP	511042	200	DogLocate	Dog Located?	12/01/2021	09/02/2021	P
7230204	ramAP	511042	900	CRMComplet	CRM Completed?	09/02/2021	09/02/2021	P
7279461	RamAP	511042	210	DogRegist	Is the Dog Registered?	09/02/2021	09/02/2021	P



7279462	RamAP	511042	220	ACOAction	ACO Action	09/02/2021	09/02/2021	P
7279463	RamAP	511042	230	ACOAction	ACO Action	09/02/2021	09/02/2021	P
7279464	RamAP	511042	240	EmailDown	Email Envir Admin to Downgrade Policy	09/02/2021	09/02/2021	P
7279467	RamAP	511042	250	ACOAction	ACO Action	09/02/2021	09/02/2021	P
7279469	RamAP	511042	260	Inform	Inform Complainant of Action	09/02/2021	09/02/2021	P
7279470	RamAP	511042	270	CRMComplet	CRM Completed?	09/02/2021	09/02/2021	P

Appendix 4 - Witness Statement



**District Office**  
Private Bag 544  
**Ngaruawahia 3742**

15 Galileo Street  
Facsimile

☎ 07 824 8633  
☎ 07 824 8091

**Huntly Area Office**  
**Raglan Area Office**  
**Tuakau Area Office**

142 Main Street  
7 Bow Street  
2 Dominion Road

☎ 07 828 7551  
☎ 07 825 8129  
☎ 0800 492 452

**OFFICE USE ONLY**

CRM: DOGS1915/21

Person ID:162935

Dog ID:147051

In the matter of

Section 57(A) and 52 of the Dog Control Act 1996

Between

Che Reti

And

Waikato District Council

---

## Affidavit of Amanda Davis

---

Filed by: Amanda Davis



**District Office**  
Private Bag 544  
Ngaruawahia 3742

15 Galileo Street  
Facsimile

☎ 07 824 8633  
☎ 07 824 8091

**Huntly Area Office**  
**Raglan Area Office**  
**Tuakau Area Office**

142 Main Street  
7 Bow Street  
2 Dominion Road

☎ 07 828 7551  
☎ 07 825 8129  
☎ 0800 492 452

**OFFICE USE ONLY**

CRM: DOGS1915/21  
Person ID: 162935  
Dog ID: 147051

I Amanda Davis, of 15 Galileo Street, NGARUAWAHIA, Animal Control Officer swear/affirm:

1. I am employed by Waikato District Council as an Animal Control Officer
2. On 12/1/2021, I took a witness statement from Kitrina Reid.
3. Attached is a Witness Statement provided to Waikato District Council. This is labelled exhibit "A".
4. Attached are photos of the victim's injuries provided to Waikato District Council. This is labelled exhibit "B".
5. Attached are scene photos provided to the Waikato District Council. This is labelled exhibit "C".
6. Attached are scene photos taken by me. This is labelled exhibit "D"
7. A security video was provided to the Waikato District Council showing the dog rushing the victim.
8. Based on the aggression this dog has displayed I believe the dog constitutes a threat to public safety.
9. This statement taken by myself is true and correct to the best of my knowledge and belief.
10. I am aware that I commit an offence of perjury and am liable of a term of imprisonment if I know the contents of this affidavit are false.

Signed: \_\_\_\_\_

Swear / Affirmed at Ngaruawahia this 22<sup>nd</sup> day of January 2021

Before me: \_\_\_\_\_

Joanne Elizabeth Tate  
Justice of The Peace

Joanne Elizabeth Tate, JP  
#14112  
NGARUAWAHIA  
Justice of the Peace for New Zealand



# Witness Statement

Section 82 of the Criminal Procedure Act 2011

OFFICE USE ONLY

CRM:

Person ID:

Dog ID:

Leave blank

Statement of: Katrina Reid  
 Date of Birth: 25/12/83  
 Contact Number: 021 2455677  
 Address: 191B HOEKA ROAD  
HAMILTON

**EXHIBIT NOTE**

This is the annexure marked "A" referred to within the affidavit of Amanda Davis and sworn/affirmed at Ngaruawahia this 22<sup>nd</sup> day of January 2021 before me

Signature [Signature]

Joanne Elizabeth Tate, JP  
 #14112  
 NGARUAWAHIA  
 Justice of the Peace for New Zealand

Date of Statement: 12/1/2021

Time of Statement: 1:30pm

I am making this statement to Waikato District Council as a complaint of an offence against the Dog Control Act 1996 or the Waikato District Council Dog Control Bylaw 2015.

The incident occurred on 26/12/2020 at about 7:15 am / (pm)  
specify the date give the time of day event happened

The incident happened at 191B Hoeka road  
Tamihare RD4  
Address of where the incident occurred

The dog involved was a Mastiff grey/greyish  
bigger than me. Female  
description of dog - breed, colour, sex, size etc

The dog is kept at 191A Hoeka road  
Tamihare  
give the address where the dog is kept

I know the dog is from this address because  
They are our neighbours and the dog jumped from their property into mine.

[Signature]  
 Witness Initials



I was inside my house with my husband and two year old son I had heard the dog barking for the past two hours. I had just put my son to bed and thought I would check as the neighbours were ~~on~~ away. I went outside through my front door & walked down our drive to my letter box. I looked for the dog but could not see the dog. I could not see any person in the neighbour's property. 6 months ago the neighbour had said to me if you hear barking or you check on our property because someone may be robbing them. I got back to the corner fence boundary fence as the driveway turns to my house. I was on my gravel drive not near the fence I saw the dog then the hedge walking towards the boundary fence going at a rate of barking. I intended to walk back to



my front door, I then noticed the  
 barking was more frequent &  
 higher pitch. I turned around  
 because at this I knew something  
 was wrong I saw the dog  
 was right behind me. I screamed  
~~and ran~~ ran & then screamed  
 for Scott who was inside  
 I kept face ~~fast~~ forward over  
 the fence attached to the  
 house and pool. I hit my feet  
 on the house and took Stein  
 out on the way. I landed on  
 the concrete got up and ran  
 into the living room, Scott had  
 opened the door at the time  
 to see what was happening.  
 once I was inside I freaked  
 out. I then called the neighbors  
 & dog owners and asked them  
 to come home. to I also asked  
 if they wanted me to call the  
 police. If they could not get there  
 to get someone to secure the  
 dog. about 30-60 minutes later  
 we had a lady talking to the




dog. On 27/12/2020 we called  
 animal control and reported  
 to after hours. I have spoken  
 to the dog owners and they  
 assured us they would fix the  
 fence and told me the dog  
 loves people & kids. They even  
 said I should go & see the  
 dog. ~~there~~ they said they did  
 not want to <sup>read</sup> to see the video  
 when I offered. I feel ruined  
 scared to go outside every  
 time I hear it both I feel  
 like a panic attack coming. I  
 feel like have my son or friend's  
 outside. I do not feel safe  
 walking down my own driveway.  
 I am a terminal cancer patient  
 and the stress of this is  
 affecting my health and life.  
 I no longer feel safe in  
 my own home. The neighbours  
 are aware of my terminal  
 illness.

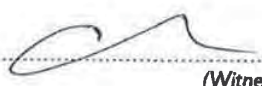


[Lined area with a diagonal line drawn across it, likely indicating a redaction or that the content is not applicable.]

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:   
(Informant)

Date: 12/1/21

Signed   
(Witness - ACO)

Date: 12/1/2021

 Witness Initials

## 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.**

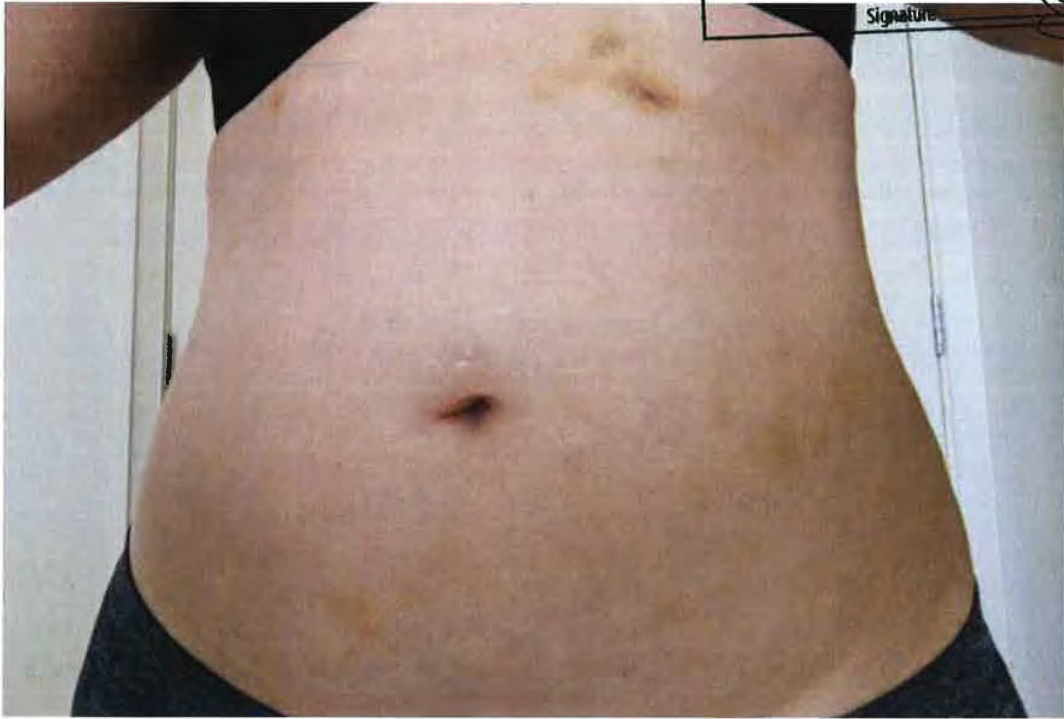
If you have any questions please contact  
an Animal Control Officer at the Waikato District Council, (07) 824-8633.

"B" 35

**EXHIBIT NOTE**  
This is the annexure marked "B" referred to within the affidavit of Amanda Davis and sworn/affirmed at Ngaruaahia this 22nd day of January 2021 before me

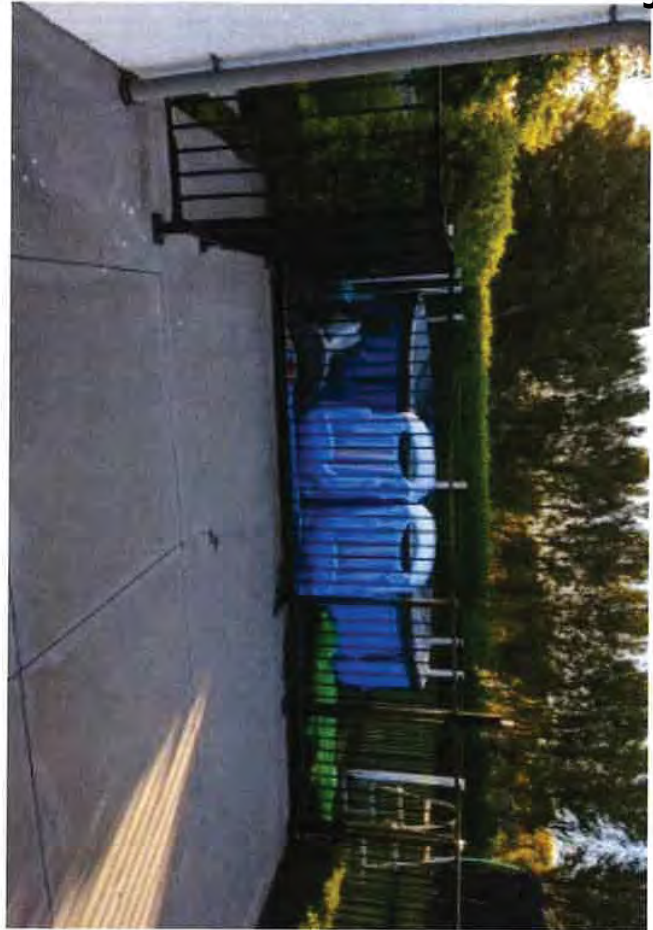
Signature: *[Handwritten Signature]*

Joanne Elizabeth Tate, JP  
#14112  
NGARUAHIA  
Justice of the Peace for New Zealand









**EXHIBIT NOTE**

This is the annexure marked "C" referred to within the affidavit of Amanda Davis and sworn/affirmed at Benaville's this 20th day of January 2021 before me

Signature [Signature]

Joanne Elizabeth Tate, JP  
 #14112  
 NGARUWAHIA  
 Justice of the Peace for New Zealand





"D" 38

**EXHIBIT NOTE**  
 This is the annexure marked "D" referred to within the  
 affidavit of Amanda Davis  
 and sworn/affirmed at Ngarua's  
 this 22nd day of January 2021 before me  
 Signature: [Signature]



Joanne Elizabeth Tate, JP  
 #14112  
 NGARUAWAHIA  
 Justice of the Peace for New Zealand







Appendix 5 - Officers Statement



## Officer's Evidential Statement

My full name Amanda Davis

I am currently an Authorised Animal Control Officer for the Waikato District Council.

My officer number is ACO 7.

On the 12<sup>th</sup> of January 2021 while on duty, I received a complaint through the Waikato District Council Centre about an unsecure dog at 191 Hoeka Road. The dog was not in a secure area of the property and the owners were not home. The dog had rushed and tried to attack the complainant on the 26<sup>th</sup> of December 2020.

On the 26<sup>th</sup> of December 2020 the service request DOGS1815/21 was logged via Hamilton City Council call centre. This was incorrectly categorised, and Animal Control was not made aware until the 5<sup>th</sup> of January 2021. ACO 15 spoke with the victim and she had appeared to have sorted the issue with the dog owner/ neighbour.

On the 12<sup>th</sup> of January 2021 I contacted Kitrina after receiving a call that the said dog was loose on the property again and not in the secure compound they have for her. She was terrified the dog would get out again.

Kitrina explained that on the 26/12/20 the dog had entered her property and chased after her attempting to attack her and she had to jump over a high pool fence to escape. She advised she thought she had sorted the issue and the dog owners were going to keep her in the compound area. She advised me that the dog can jump the current fencing she was behind and that she was concerned as the owners were not home. Kitrina advised me she would like to give a statement regarding the rushing as she as terrified the dog would try and attack her again.

On the 12<sup>th</sup> of January 2021 at approximately 9:30am I arrived at 191 Hoeka Road with ACO 16. There was no one home at the address. There was a grey Neapolitan Mastiff in the yard to the left of the house. The fencing was post and rail with large gaps between each rail. The dog stood at the gate barking in an aggressive manner at our presence. We left the address and visited Kitrina at her address at 191B Hoeka Road.

Kitrina provided me with a witness statement for the rushing/attack on the 26<sup>th</sup> of December 2020. She showed me the area where the dog had entered her property and chased after her. I photographed this area. Kitrina and her husband then showed me the video of the dog rushing after her. The dog's behaviour was of an aggressive nature. This video was emailed to me. Kitrina was still visibly upset from the incident and stated she was afraid to go outside with her two year old son. Kitrina stated that the dog can get out of the current yard fencing she was in.

Kirtina sent me photos the injuries she sustained from the evasive action of jumping her fence she had to take. She also sent photo of the gate she jumped over.

ACO 15 and I went back to the property at 191 Hoeka Road. The dog owner had arrived home. The dog had been moved to her secure compound to the right of the house. I spoke with Chi and partner and introduced myself and ACO 15. I advised why we were there. I explained the seriousness of the incident, that it was an offence to leave the owners property and that the dog was extremely aggressive and had attempted to attack the victim on her own property causing her injuries from jumping the pool gate. I advised of the process from here. I advised them to keep the dog in her compound as they know she can leave via the boundary fencing.

Chi advised that the cow has pushed down the wire netting on the post and rail fencing allowing the dog to escape. We discussed extending the fence. Chi enquired about a containment wire and that was not suitable due to the dog's breed, skin and level of aggression shown. I explained their obligations as dog owners and what was required.

Chi suggested that it was Kitrina's fault as she had looked over his fence, that the dog was just doing her job. The dog had entered her property from an area without visibility over the fence to do so. It was explained that regardless the dog can not freely leave their property.

Chi was advised of classification and potential enforcement and I reinforced the importance of keeping his dog on his property. Chi does not believe his dog is a threat or aggressive.

I advised Kitrina that the dog owner was home and he had moved her into the secure area, so she had not been removed. Kitrina was very upset by this and scared the dog would escape again.


After a discussion with my team leader the decision to classify 'Remi' as Dangerous was made.

On the 22/1/2021 the dog 'Remi' from 191 Hoeka Road was classified as Dangerous.

On the 9th of February Chi Reti was infringed for the incident on the 26<sup>th</sup> of December 2020.

On the 22<sup>nd</sup> of February 2021 I called Kitrina to update her on the objection and hearing. She advised me she had spoken to the dog owner and also paid \$5000 for the fencing he had erected for the dog to keep her contained.

On the 22<sup>nd</sup> of February 2021 visited 191 Hoeka Road and sighted the fencing. Chi stated he would take photos of this and a video for the hearing. I then took a photo of Remi in the compound area.

 22/2/2021  
ACO 7

Appendix 6 - Infringement Notice

# INFRINGEMENT NOTICE

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



**NUMBER:** D25412  
**SR No. :** DOGS1915/21

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

Che Reti  
191A Hoeka Road  
RD 4  
Hamilton 3284

	Forenames	Surname		
<b>Name of Owner:</b>	Che Reti		<b>Person ID:</b>	162935
<b>Date of Birth:</b>	22/03/1983		<b>Animal ID:</b>	147051

## ALLEGED INFRINGEMENT OFFENCE DETAILS

<b>Date:</b>	26/12/2020	<b>Time:</b>	7:15:00 PM	<b>Day of Week:</b>	Saturday
<b>Road/Street:</b>	Hoeka Road	<b>Locality:</b>	TAMAHERE		

## OFFENCE COMMITTED

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

Additional Details of Offence (if any):	Infringement Fee payable
DOG NOT CONTAINED TO OWNERS PROPERTY	\$300.00
<b>Reg No or Description of Dog:</b>	
<b>Licence:</b>	<b>Breed:</b> Mastiff Neapolitan
<b>Sex:</b> Female	<b>Primary Colour:</b> Blue

## PAYMENT OF INFRINGEMENT FEE

<b>The infringement fee is payable within 28 days after:</b>	09/02/2021	<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  
**Hunty** 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 7 - Decision Making Criteria

## Classification Decision Making Criteria

**Owner ID: 162935**

**Dog ID: 147051**

**CRM : DOGS1915/21**

<p><b><u>OWNER RESPONSIBILITY</u></b> <i>(How did they react? Did they stop the dog? Were they present? Have they offered to help the victim in any way? Was the dog leashed?)</i></p>
<p>The owner was not home at the time of the incident. Blamed the victim and stated the dog was only protecting their property.</p>
<p><b><u>HISTORY</u></b> <i>(Any history in Council Database)</i></p>
<p>Barking complaints x 2</p>
<p><b><u>SERIOUSNESS OF THE INCIDENT</u></b> <i>(Was contact made? Was the attack prolonged? What injuries were sustained?)</i></p>
<p>The dog escaped from its property onto the victim's property and chased her across her driveway at speed to attack. The dog was rushing the victim and would have attacked had she not screamed and startled the dog. The victim sustained severe bruising from jumping over a gate to escape the dog. The victim has terminal cancer and this injury and stress has affected her healing and life.</p>
<p><b><u>VICTIMS VIEWS</u></b> <i>(Impact of the incident on the Victim, and/or ongoing effects of the incident?)</i></p>
<p>This has had a huge impact on her life. She is terrified to go outside and can no longer take her 2 year old son outside to play for fear of the dog attacking again. She has terminal cancer and this has caused a huge amount of anxiety and has affected her health. She moved to this property so she can enjoy the time she has left with her family. She is now finding herself stressed and scared to leave her home. The injury she sustained as a result has been exacerbated due to her terminal illness.</p>
<p><b><u>EVIDENCE</u></b> <i>(Witness statement provided? Dog identified?)</i></p>
<p>Witness statement taken. The dog is registered to the property and there is video of the attack.</p>
<p><b><u>REGISTRATION COMPLIANCE</u></b> <i>(Was the dog registered at the time? If not, have they registered it since?)</i></p>



The dog was currently registered at the time.	
<b>PROPERTY</b> <i>(Is the property suitable to contain this dog?)</i>	
The boundary fence is not suitable to contain the dog. The dog left the property from the boundary fence and entered the victims property. There is a secure portion of the property to the right of the dwelling.	
<b>MITIGATING RISK</b> <i>(How the dog owner thinks they can mitigate this sort of behaviour in the future? Physical steps the dog owner has taken?)</i>	
The dog owner was advised to keep the dog in the secure portion of the property when away and improve the back yard fencing for the dog when they are home. They have been advised not to let the dog out into the area that borders the neighbouring property.	
<b>ACO REASONING BEHIND CLASSIFICATION</b>	
The dog is large and very territorial. The aggression displayed off the dog's property is a huge concern. A dangerous classification enables council to enforce a securely fenced portion of the property that does not include the front door. This securely fenced portion of the property will prevent the dog from leaving its property and entering neighbouring properties. The dog will be required to wear a muzzle and on lead when not in this portion of the property which in turn improves public safety.	

**OUTCOME**

**Discussion between ACO and Team Leader**

- Dog Seized/Impounded**      Yes/No
- Menacing Classification**      Yes/No
- Dangerous Classification**      Yes/No
- Infringement**      Yes/No
- Prosecution**      Yes/No



Signed (ACO) 

Date 22/1/2021

Check List

 22/1/2021

- Witness Statement
- Officers Statement
- Sworn Evidence (If Dangerous)
- Classification
- Copy of signed classification in ECM
- Classification hand delivered or delivered by registered post

Appendix 8 - Dangerous Classification



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District Office  
 Private Bag 544  
 Ngaruawahia 3742  
 15 Galileo Street  
 Facsimile  
 07 824 8633  
 07 824 8091

Huntly Area Office  
 Raglan Area Office  
 Tuakau Area Office  
 142 Main Street  
 7 Bow Street  
 2 Dominion Road  
 07 828 7551  
 07 825 8129  
 0800 492 452

OFFICE USE ONLY

CRM: DOGS1915/21  
 Person ID: 162935  
 Dog ID: 147051

# Notice of Classification of Dog as a Dangerous Dog

Section 31 Dog Control Act 1996

To: Che Reti

Address: 191A Hoeka Road  
RD 4  
Hamilton 3284

**THIS IS TO NOTIFY YOU THAT THE DOG DESCRIBED HEREIN,**

**Remi Blue Female Neapolitan Mastiff 991001000253470**  
*(description of dog)*

**HAS BEEN CLASSIFIED AS A DANGEROUS DOG UNDER SECTION 31(1) OF THE DOG CONTROL ACT 1996.**

**THIS IS BECAUSE**

- The Waikato District Council has, on the basis of sworn evidence attesting to aggressive behaviour by the dog on one or more occasions, reasonable grounds to believe it constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife.

A summary of the effect of the classification and your right to object is contained overleaf.

  
 Tracey Oakes  
 Animal Control Team Leader

22 January 2021  
 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 dangerous dog**  
*Sections 32 and 36A, Dog Control Act 1996*

You are required,—

- (a) within 1 month after receipt of this notice, to ensure that the dog is kept within a securely fenced portion of your property that it is not necessary to enter to obtain access to at least 1 door of any dwelling on the property; and
- (b) not to 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—
  - (i) 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; and
  - (ii) the dog being controlled on a leash (except in a designated dog exercise area); and
- (c) to produce to Waikato District Council, within 1 month after receipt of this notice, a certificate issued by a veterinarian 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
- (d) where a certificate under paragraph (c)(ii) is produced to Waikato District Council, within 1 month after the date specified in that certificate, a further certificate under paragraph (c)(i); and
- (e) in respect of every registration year commencing after receipt of this notice, to pay dog control fees for that dog at 150% of the level that would apply if the dog were not classified as a dangerous dog; and
- (f) not to dispose of the dog to any other person without the written consent of the territorial authority in whose district the dog is to be kept.

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 (f) above. In addition, on conviction the court must order the destruction of the dog unless satisfied that the circumstances of the offence were exceptional and do not justify the destruction of the dog.

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 (f) above. The ranger or officer may keep the dog until you demonstrate that you are willing to comply with paragraphs (a) to (f).

You will also commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you sell or otherwise transfer the dog, or offer to do so, to any other person without disclosing that the dog is classified as a dangerous dog.

As from 1 July 2006, you are also required, for the purpose of providing permanent identification of the dog, to arrange for the dog to be implanted with a functioning microchip transponder. This must be confirmed by making the dog available to Waikato District Council in accordance with the reasonable instructions of 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 is 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 dangerous dog are provided in the Dog Control Act 1996.

**Right of objection to classification**

*Section 31(3), Dog Control Act 1996*

You may object to the classification by lodging with the Waikato District Council a written objection within 14 days of receipt of this notice setting out the grounds on which you object. You are entitled to be heard in support of the objection and will be notified of the time and place at which your objection will be heard.

Appendix 9 - Objection to Dangerous Classification

04 FEB 2021

02/02/2021

Waikato District Council

# 162935

# 1007708

Dog id: 147051

To whom this may concern,

I am writing as a reply to a dangerous dog notice for our neo mastiff Remi on 191a hoeka rd, tamahere,

Which we have received a notice for an incident where our neighbour was looking on to our property the dog had exited our property where our cow had broken a fence an ran an barked at the neighbour that was viewing our section from there driveway which is pretty close(which I do not agree with the dog being able to leave the property) but yes the incident did take place and being a large dog the person ran which is understandable then the dog also ran barked an retreated and went back to and went back to its property. NO ATTACK was made our dog has never attacked or tried to attack any persons or animal.

In saying this all dogs will bark and protect their boundaries with a bark as a warning whether big or small.

I see this being a misunderstanding of boundaries or even a misunderstanding of creature as hedges was also run up the fence line of the driveway blocking view. In all this being said I have remedied the best I can. Have built a 1.8 metre fence around the whole back sections and dog area, separating from our paddocks and boundary lines, in order to help teach the dog its boundaries are within and not beyond that area.

Which has seemed to have worked well as she no longer barks at the cars driving up drive ways our neighbour since the incident has also been over with the dog around her with no signs of any aggression what so ever we are a large family of 8 we also have a lot of other families and friends kids and our kids school friends come to our home also with no need to put her away because of any potential threat she is a family dog that will bark at strangers if owner are not around which is pretty common for any dog owner

I am writing this to see if it is possible to change this 1st offence to a warning and withdraw the label as a dangerous dog as we do like to take her to the beach and for walks out in public and have never had any problems doing so by the means of

Aggression we also sometimes have her stay at the doggy day care which they can vouch is not an issue and by having her labelled as a dangerous dog would seem to be unfit to be able to do these things or just plain not right our dog is not a dangerous dog and has not been raised to be one and would not do the things with with her if i thought it would pose a threat to the public

We choose a neo mastiff because of the nature of the dog how they are with family we been in the vets a few times with other animals and humans in the waiting room

with no drama at all we love and care for our dog and believe it's not right she's labelled a dangerous dog when she is not we do live in the country and have never chained our dog she has never caused an issue since owning her I am happy to discuss any further matters and more than happy to work to get this situation sorted the best I can so we can all have a better understanding please do not hesitate to call me.

Thank you for your time.

Regards  
Che reti  
0221560971

Appendix 10 - Photo of Remi





Appendix 11 - Officer Pocket Book Notes

12/1/21 spoke to Katrina  
she has footage  
of the dog  
chasing Per  
from previous  
incidents &

would like to  
give statement  
regarding this.  
drivers are away  
again & dog  
out of her  
compound area  
& car jump.  
stated she had  
spoken to the  
dog owner last  
time & they  
assured her  
the dog would  
not be an  
issue.

12/1/21  
11:00



12/1/21 Hoelke rd 191  
no one home  
Neo Mastiff in  
back yard. state  
ment taken from  
kithira at 191A  
dog can get  
out of fencing  
in back yard  
scared to go  
outside. statement  
taken & photos  
provided. Video  
of attach sent  
went to seize  
dog from  
property for  
containment

2

owner arrived home. Spedog now in secure part of section spoke with both owners explained seriousness of the situation. Advised to keep the dog in compound all all times until it back yard fencing is fixed and made higher. He asked about containment wire. Stated would not be suitable due

to dogs skin & aggression level. explained obligations of dog owner & seriousness of offence & potential to desquility & prosecute.

Advised would be classifying the dog as menacing or dangerous.

Advised when dog was still on the property she was upset & cried.

3

22/12/21 call to Kitina  
 9.50am re 191 Hoche  
 road. Advised  
 of hearing  
 she said the  
 owner had

called her &  
 was on the  
 phone for an  
 hour he was  
 advised & said  
 he can't take  
 the dog walking  
 or to kennels.  
 This is false  
 information.  
 Kitina has  
 paid \$5k for  
 fencing materials  
 for this dog's  
 owner to contain  
 him.

22/12/21 191 Hoche rd  
 11.18am spoke with Chi  
 regarding hearing  
 he has fence

~~4~~ 4



63

✓ The back of  
the property  
6th wooden  
fence. Took  
photo of Remi.  
He stated she  
was friendly &  
was to get  
days at school.

~~LS~~ S