

Notice of Meeting:

I hereby give notice that an ordinary Meeting of the Dog Control Hearings Panel will be held on:

Date: Tuesday 1 September 2020
Time: 1.00pm
Meeting Room: Committee Room One
Venue: Municipal Building, Garden Place, Hamilton

Richard Briggs
Chief Executive

Dog Control Hearings Panel OPEN AGENDA

Membership

Chairperson Cr Ewan Wilson
Heamana

Members Cr Margaret Forsyth
Cr Maxine van Oosten
Cr Angela O'Leary (Alternate)
Cr Rob Pascoe (Alternate)

Quorum: Three members

Meeting Frequency: As required

Becca Brooke
Governance Manager
Menetia Mana Whakahaere

24 August 2020

Telephone: 07 838 6727
Becca.Brooke@hcc.govt.nz
www.hamilton.govt.nz

Purpose

The Dog Control Hearings Panel is responsible for:

1. To conduct fair and effective hearings and make determinations on objections under the Dog Control Act 1996.

<i>The Panel is delegated the following Terms of Reference and powers:</i>

Terms of Reference:

1. Hear and determine any objections under the Dog Control Act 1996.

ITEM	TABLE OF CONTENTS	PAGE
1	Apologies – <i>Tono aroha</i>	4
2	Confirmation of Agenda – <i>Whakatau raarangi take</i>	4
3	Declarations of Interest – <i>Tauaakii whaipanga</i>	4
4	Confirmation of Dog Control Hearings Panel Open Minutes 28 July 2020	5
5	Objection to disqualification from dog ownership - Ropata Marshall	9
6	Objection to menacing classification - Taryn Van Meygaarden	35
7	Resolution to Exclude the Public	58

1 Apologies – *Tono aroha*

2 Confirmation of Agenda – *Whakatau raarangi take*

The Committee to confirm the agenda.

3 Declaration of Interest – *Tauaakii whaipaaanga*

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

Council Report

Item 4

Committee: Dog Control Hearings Panel **Date:** 01 September 2020
Author: Tyler Gaukrodger **Authoriser:** Amy Viggers
Position: Governance Advisor **Position:** Governance Team Leader
Report Name: Confirmation of Dog Control Hearings Panel Open Minutes 28 July 2020

Report Status	<i>Open</i>
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Staff Recommendation - *Tuutohu-aa-kaimahi*

That the Panel confirm the Open Minutes of the Dog Control Hearing Panel Meeting held on 28 July 2020 as a true and correct record.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Dog Control Hearing Panel Open Unconfirmed Minutes 28 July 2020

Dog Control Hearings Panel

OPEN MINUTES

Minutes of a meeting of the Dog Control Hearings Panel held in Council Chamber, Municipal Building, Garden Place, Hamilton on Tuesday 28 July 2020 at 10.02am.

PRESENT

Chairperson Cr Ewan Wilson
Heamana

Members Cr Maxine van Oosten
 Cr Rob Pascoe

In Attendance: Julie Sanderson – Group Business Manager, City Growth
 Peter Crocker - Animal Control Team Leader

Governance Staff: Amy Viggers – Governance Team Leader
 Carmen Fortin and Ian Loiterton - Governance Advisors

Cr Wilson and Cr van Oosten took part in the meeting and voted via Audio Visual Link.

1. Apologies – Tono aroha

Resolved: (Cr Ewan/Cr Pascoe)
 That the apologies for absence from Cr Forsyth are accepted.

2. Confirmation of Agenda – Whakatau raarangi take

Resolved: (Cr Ewan/Cr Maxine)
 That the agenda is confirmed noting that item 7 (Objection to disqualification from dog ownership - Ropata Marshall) was deferred to a future meeting of the panel to take place on the 1st September 2020.

3. Declarations of Interest – Tauaakii whaipaaanga

No members of the Panel declared a Conflict of Interest.

Item 5 (Objection to dangerous classification - Yalda Ahmadi) was taken after item 3 (Declarations of Interest – Tauaakii whaipaaanga) to accommodate members of the public.

5. Objection to dangerous classification - Yalda Ahmadi

Ms Ahmadi spoke in objection of the dangerous classification and responded to questions from Members concerning the circumstances of the incident including how the property was fenced, the location and size of a 'Beware of Dog' sign, previous behaviour of the dog, current arrangements for housing the dog and what precautions were in place to prevent future incidents. Ms Ahmadi confirmed she was not present at the time of the incident.

The Animal Control Team Leader then outlined the report and provided a verbal update. He

responded to questions from Members including concerning apparent discrepancies between accounts of the incident, whether the property was fenced, previous behavioural issues, legislative requirements for fencing and property access regarding dangerous dogs, and staff understanding regarding current arrangements for housing the dog. Staff confirmed that when a dangerous dog is classified as such, the owner has 30 days to comply with the notice.

7. Resolution to Exclude the Public

Resolved: (Cr Wilson/Cr Pascoe)

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Objection to dangerous classification - Yalda Ahmadi	<ul style="list-style-type: none">) Good reason to withhold) information exists under) Section 7 Local Government) Official Information and) Meetings Act 1987 	Section 48(1)(a)

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

Item C1.	To maintain the effective conduct of public affairs through protecting persons from improper pressure or harassment	Section 7 (2) (f)
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The Meeting moved into Public Excluded session at 10.54am.

5. Objection to dangerous classification - Yalda Ahmadi

Resolved: (Cr Pascoe/Cr van Oosten)

That the Dog Control Hearings Panel:

- a) receives the report;
- b) determines that the classification of "Baby" as a dangerous dog is upheld; and
- c) approves the above decision be released to the public via appendix 1 to these open minutes of this meeting.

The meeting moved back into an Open session at 11.09am.

4. **Confirmation of the Dog Control Hearings Panel Open Minutes - 8 May 2020**

Resolved: (Cr Wilson/Cr Maxine)

That the Committee confirm the Open Minutes of the Dog Control Hearings Panel Meeting held on 8 May 2020 as a true and correct record.

6. **Objection to disqualification from dog ownership - Ropata Marshall** – *this matter was deferred to a future meeting of the Panel during confirmation of the agenda.*

The meeting was declared closed at 11.11am

Council Report

Item 5

Committee: Dog Control Hearings Panel **Date:** 01 September 2020
Author: Susan Stanford **Authoriser:** Kelvin Powell
Position: Animal Control Manager **Position:** City Safe Unit Manager
Report Name: Objection to disqualification from dog ownership - Ropata Marshall

Report Status	<i>Open</i>
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Purpose - *Take*

1. To seek a determination from the Dog Control Hearings Panel on the disqualification from dog ownership of Ropata Marshall.

Staff Recommendation - *Tuutohu-aa-kaimahi*

2. That the Dog Control Hearings Panel:
 - a) receives the report; and
 - b) determines that the disqualification from dog ownership of Ropata Marshall is upheld.

Executive Summary - *Whakaraapopototanga matua*

3. Section 25 of the Dog Control Act 1996 notes that a territorial authority must disqualify a person from being a dog owner if they have received three infringements in a 24-month period or committed an offence under the following acts:
 - The Dog Control Act 1996
 - Part 1 or Part 2 of the Animal Welfare Act 1999
 - Section 26ZZP of the Conservation Act 1987 or
 - Section 56I of the National Parks Act 1980.
4. Ropata Marshall has received five infringements for three separate events in a 24-month period.
5. Staff recommend that the Dog Control Hearings Panel uphold the disqualification for the recommended period, as detailed in the options section below.
6. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the matter in this report has a low level of significance.

Background - *Kooreo whaimaarama*

7. Ropata Marshall was disqualified from dog ownership on 17 February 2020 (**Attachment 1**) and his written objection was received on 23 March 2020 (**Attachment 2**). After a dog owner has received three infringements within a 24-month period the Council must disqualify them from dog ownership (see Legal and Policy section, paragraphs 24-27).

8. Ropata Marshall has received five infringements for three separate incidents involving two dogs (Batman and Blue) over a three-month period, from January to March 2020. Ropata Marshall is the owner of Batman and was the owner of Blue up until 12 February 2020, when he re-homed her.
9. Batman is a male, Pit Bull Terrier type-dog approximately one year old. Blue was a female, Pit Bull Terrier-type dog. Batman and Blue were litter mates.
10. The three incidents that resulted in infringements are:
 - 29/1/2020
Blue out roaming, able to get off the property by jumping the boundary fence. When AECOs arrived, Blue jumped the fence and rushed at the officers. Infringement #12664 issued for failure to keep dog controlled or confined (s52a).
 - 10/2/2020
Dog attack, Blue and Batman “bailed up” a member of the public and when another man went to assist them the dogs turned on him. Infringements #12709 and #12710 issued for failure to keep dog under control (s53).
 - 7/3/2020
Batman and Blue were out roaming and entered the complainant’s house rushing at his children. Infringements #12673 and #12674 issued for failure to keep dog controlled or confined (s52a) and failure to comply with any bylaw authorised by this section (s20) respectively). (Full animal histories – **Attachment 3** and copy of infringements (**Attachment 4**)

Note: Blue was owned by Ropata Marshall and resided at Lilac St when the first two offences occurred. Blue’s ownership was transferred to a W. Marsters on 12/2/2020. For the third offence Ropata Marshall was infringed for both dogs because at the time Blue was staying at his address in Lilac St and he was the person in charge of the dog at the time of the incident (infringement #12674)
11. Blue and Batman were subsequently impounded for another incident that occurred on 20 March 2020. Blue’s new owner did not claim her, and Blue was euthanised on 28 May 2020.
12. Ropata Marshall is objecting to being disqualified from dog ownership on the following ground:
 - Blue, not Batman, is the instigator of incidents.
 - The applicant has been co-operative with Animal Control staff.
 - The applicant has taken steps to mitigate the behaviour of Batmaan including, fixing fencing, supervising him in the garden and is willing to undertake any training directed by AEC. (See **Attachment 5** – for full objection submissions from James Carter, Solicitor).
13. Ropata Marshall will be accompanied by his solicitor, James Carter, during the hearing on 1 September 2020.

Discussion - *Matapaki*

14. In considering their decision, panel members should consider:
 - the number of incidents that have occurred
 - the nature and seriousness of those incidents
 - any escalation in behaviour demonstrated by the dog
 - what steps the dog owner has taken to prevent further occurrences and the timeliness of those actions
 - the potential impact to public safety.

15. [Roaming dogs across Hamilton city](#) are an issue which has been highlighted recently. Dogs that roam frequently expand their “territory” and can show signs of aggression towards people or animals that enter it, posing a risk to public safety.
16. Disqualification from dog ownership is based on the past behaviour of the dog(s) that resulted in three or more infringements in a 24-month period. It is not founded on what the future behaviour of the dog may be.
17. While Batman is noted by the owner and Mr Carter as not being the instigator of the incidents that occurred, this does not excuse or justify the behaviour of Batman and the impacts it had on community members.
18. Ropata Marshall has at all times been courteous with AEC staff. However, if he had taken the actions that he has since the last incident on 20 March 2020 and been disqualified from dog ownership back in October 2019, we wouldn’t be where we are today, and two families and two other members of the public would not have been subjected to terror. In October 2019 when AEC first became aware of the puppies and the poor behaviour they displayed, Ropata Marshall met with AEC staff and was given advice on re-homing and managing the puppies’ behaviour.
19. Mr Carter notes that an infringement for s53 (failing to control) of the Dog Control Act 1996 requires an offence greater than that of “mere roaming” and in this he is correct. The behaviours beyond roaming that Batman and Blue displayed which resulted in the infringements (#12709 and #12710) include rushing at Animal Control staff, “bailing up” a member of the public and turning on his would-be rescuer.

Options - *Kōwhiringa*

20. Under the Dog Control Act 1996, territorial authorities have four potential outcomes/options in determining an objection to disqualification. They are:
 - I. uphold the disqualification for the recommended period
 - II. uphold the disqualification but bring the termination date forward
 - III. terminate the disqualification immediately
 - IV. change the disqualification to that of probationary owner.
21. Staff recommend option one because of the extensive history of unacceptable behaviour in the dogs that Ropata Marshall owned or was in charge of at the time the incidents occurred.
22. Ropata Marshall has not demonstrated responsible dog ownership in that little action appears to have been taken to prevent Batman and Blue from roaming from when they first came to the notice of AEC and the last event in March 2020.

Financial Considerations

23. This is a regular operating activity funded through the 2018-2028 Long Term Plan.

Legal and Policy Considerations

24. [Section 25](#) of the Dog Control Act 1996 notes that a territorial authority must disqualify a person from being a dog owner if they have received three infringements in a 24-month period or committed an offence under the following acts:
 - The Dog Control Act 1996
 - Part 1 or Part 2 of the Animal Welfare Act 1999
 - Section 26ZZP of the Conservation Act 1987 or
 - Section 56I of the National Parks Act 1980.

25. [Section 26](#) of the Dog Control Act 1996 sets a person's right to object to disqualification from dog ownership and the territorial authorities' responsibilities in considering that objection.
26. If a dog owner is dissatisfied with the outcome from the territorial authority's hearing process under [section 27](#) of the Dog Control Act, they may appeal to the District Court.
27. Staff confirm that the disqualification and options provided for the Dog Control Hearings Panel comply with Council's legal obligations under the Dog Control Act 1996.

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

28. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
29. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report.
30. The recommendations set out in this report are consistent with that purpose.

Social

31. Staff considers that the keeping of animals can enhance the quality of life and well-being for individuals and families; however, staff also have a responsibility to protect the community from unreasonable animal nuisances – families, whanau, iwi, haapu, and communities should be safe from dangerous animals.

Risks - *Tuuraru*

32. Should the disqualification be overturned AEC, believe Batman could potentially pose an ongoing risk of roaming if stringent containment measures are not adhered to.

Significance & Engagement Policy - *Kaupapa here whakahira/anganui*

33. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the matter(s) in this report has/have a low level of significance.
34. Given the low level of significance determined, the engagement level is low. No engagement is required.

Attachments

Attachment 1 - Notice of disqualification from dog ownership

Attachment 2 - Notification of objection received

Attachment 3 - Animal histories (Batman - Girl - Blue)

Attachment 4 - Infringements

Attachment 5 - Reasons for objection to disqualification

NOTICE OF DISQUALIFICATION FROM DOG OWNERSHIP

Section 25, Dog Control Act 1996

TO: (Name of owner) **Ropata Marshall**

ADDRESS: **Lilac Street, Melville, Hamilton 3206, ,**

This is to notify you that you have been disqualified under section 25 of the Dog Control Act 1996 from owning any dog.

This follows –

- 3 or more infringement offences (not relating to a single incident or occasion) having been committed by you, within a continuous period of 24 months

The disqualification will apply from 17/2/2020 until 17/2/2025

A summary of the effect of the disqualification and your right to object is attached.

Signature of officer

Date

COPY

AC/F07
Version 4
24.1.05

EFFECT OF DISQUALIFICATION
Section 28, Dog Control Act 1996

You are required to dispose of every dog owned by you within 14 days of the date of this notice.

However, you may not dispose of a dog-

- to a person who resides at the same address as you; or
- in a way that constitutes an offence against the Dog Control Act 1996 or any other Act.

You must not become the owner, even on a temporary basis, of any dog while you are disqualified. You may have possession of a dog only for the purpose of-

- preventing it from causing injury, damage, or distress; or
- returning, within 72 hours, a lost dog to a territorial authority for the purpose of restoring the dog to its owner.

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

- fail to dispose of every dog owned by you within 14 days of this notice; or
- at any time while disqualified, become the owner of any dog; or
- dispose of a dog owned by you-
- to a person who resides at the same address as you; or
- in a manner that constitutes an offence against the Dog Control Act 1996 or any other Act.

If you are convicted of the first or second of these offences, your period of disqualification may be further extended.

You will also commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you dispose or give custody or possession of a dog to a person knowing that person to be disqualified from ownership under section 25 of the Dog Control Act 1996.

Full details of the effect of disqualification are provided in the Dog Control Act 1996.

RIGHT OF OBJECTION TO DISQUALIFICATION
Section 26, Dog Control Act

You may object to the disqualification by lodging a written objection with the Hamilton City Council setting out the grounds on which you object. You are entitled to be heard in support of your objection and will be notified of the time and place when your objection will be heard. No objection can be lodged within 12 months of the hearing of any previous objection to the disqualification. If an objection is lodged within 14 days after the date of this notice, the requirement to dispose of every dog owned by you will be suspended until the Hamilton City Council has determined the objection.

There is a further right of appeal to the District Court if you are dissatisfied with the decision of the Hamilton City Council on your objection.

AC/F07
Version 4
24.1.05

Susan Stanford

From: Peter Crocker
Sent: Thursday, 21 May 2020 14:51
To: Susan Stanford
Subject: FW: Ropata Marshall - Batman

Follow Up Flag: Follow up
Flag Status: Flagged

Hi

This the objection of disqualification for dog owner Ropata Marshall.

From: James Carter <jcarter@jamescarterlaw.co.nz>
Sent: Tuesday, 24 March 2020 12:06 PM
To: Peter Crocker <Peter.Crocker@hcc.govt.nz>
Subject: Re: Ropata Marshall - Batman

Good afternoon Peter

Further to the above email, I am instructed that my client made a phone call requesting the release of Batman. This is to confirm he does apply for Batman's release.

Do you have any response to the matters raised regarding payment in the above email? My client does intend to come to Ellis Street between 1 and 2 pm to pay the fees owed however I hold the view this is not required unless the decision is to release.

Regards

James Carter
 Barrister & Solicitor
 M: 027 8600988

www.jamescarterlaw.co.nz

Patron of the Hamilton Dog Obedience Club
 Volunteer Solicitor at Community Law Waikato

This e-mail is a confidential communication between James Carter Law and the intended recipient. If it has been received by you in error, please immediately notify us by return e-mail and delete the original message. Owing to a legislation change, effective from 1 July 2018, we will be asking clients for more information. New Anti-Money Laundering (AML) Legislation requires us to obtain certain personal information and proof of identity from you prior to opening our file. This includes, but is not limited to, your Passport or Driver's Licence as well as proof of your address. For files opened in the name of a Trust, this information is required for all trustees and beneficiaries of the Trust and, in the case of a Company, all directors and shareholders.

On Mon, Mar 23, 2020 at 2:12 PM James Carter <jcarter@jamescarterlaw.co.nz> wrote:

Good afternoon Peter

If you intending to file a prosecution then the disposal of the dog falls with the court remit upon conviction. The s. 71 Notice only becomes relevant if there is an application for the release of the dog, what about the dog owner who is going to be prosecuted but accepts that the dog will not be released and does make such an application? S. 72 (2) is engaged in the absence of no release application.

As the decision as to prosecution is still effectively pending it would not, in my opinion, for the council to rely upon s. 69 would be erroneous.

In addition, I note your comments regarding wishing to fight for his dog and pay fees, etc. However, s. 71(4) clearly does not place any time limit on making an application for release, this, in turn, aids in the interpretation that when a prosecution is to take place then the right to dispose of a dog as per s. 69 DCA does not apply.

Disqualification:

My client has been disqualified for a period of 5 years by Notice dated 18 March 2020. In accordance with s. 26 DCA please take this email as Notice of objection under s. 26 (1) (a) & (b).

I note this requires a hearing and this may well take some time for the matter to be arranged [especially due to the current health climate].

It may be possible to arrange a hearing via AVL but that remains a matter for discussion. There is also an option for the matter to be heard on the papers, however, that would require the agreement of the dog owner taking into account s. 26(1)(b) which grants the applicant the entitlement to be "heard".

Please confirm you will not be taking any action to dispose of Batman taking into account the above submissions.

Kind regards

James Carter
Barrister & Solicitor
M: 027 8600988

www.jamescarterlaw.co.nz

Patron of the Hamilton Dog Obedience Club
Volunteer Solicitor at Community Law Waikato

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On Mon, Mar 23, 2020 at 1:46 PM Peter Crocker <Peter.Crocker@hcc.govt.nz> wrote:

Hi Jim,

Just wondering what your client is intending to do regarding his dog Batman?

The family had a visit on Saturday but never requested the return of the dog therefore no retention notice has been issued to the owner, the seven day hold period is up today which means as of tomorrow the dog becomes the property of Hamilton City Council.

If he wants to try and fight for the return of his dog he needs to request it's return and pay the seizure fee asap.

Regards

Peter Crocker

Team Leader Animal Education & Control Officers | Animal Education & Control

DDI: 07 838 6797 | Fax: 07 838 6915 | Mob: 021 775 618 | Email: peter.crocker@hcc.govt.nz



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Attachment 3

Animal histories

Batman (an237775)

Date and CRM#	Description	Outcome
30/10/2019 CRM186659	Dog attack Four puppies and mother dog attacking a puppy from same litter – Batman was victim puppy.	Animals impounded, victim dog taken to vets. Only two dogs to remain at the property (Girl and Batman), all others to be re-homed. All other pups remained at pound while owner sorted their re-homing.
6/1/2020 CRM190363	Roaming (public place) Three dogs from Lilac St roaming on Collins Rd.	Written warning Members of public noted dogs came from Lilac St. Dog owner confirmed dogs had got out and was fixing fence.
10/2/2020 CRM192048	Roaming (public place) Multiple reports of two dogs from Lilac St out roaming.	Dog seized AECO saw two dogs on street, recognised them as belonging to Lilac. They were jumping in and out of property over the fence.
10/2/2020 CRM192098	Dog attack Complainants partner went to the aid of a man who was being “bailed up” by two dogs on Collins Rd, they then turned on him but he managed to chase them away. Dogs reported as coming from Lilac St. Complainants partner to supply video of the dogs.	Infringements issued (#12709 and #12710 for s53 of Dog Control Act 1996 (DCA) failure to keep dog under control) Dogs had returned home by time AECO arrived. Dog owner denies dogs were out. Video supplied clearly shows dogs from 4 Lilac St.
7/3/2020 CRM193321	Roaming (public place) Dogs from Lilac St roaming on complainant’s property in Collins Rd. Second caller dogs jumping the fence into her property in Lilac St.	Infringements issued (#12673 and #12674 issued for failure to keep dog controlled or confined (s52(a) and Failure to comply with any bylaw authorised by this section (s20) respectively). Statement and photos of dogs from Lilac St supplied by complainant.
12/3/2020 CRM193851	Roaming (public place) Two dogs roaming for last few days on one occasion they entered the complainants house, rushing at and scaring his children. Dogs identified as coming from Lilac St.	Dogs seized for s52 and s57a Both dogs red flagged for showing aggression in the kennels.
18/3/2020 CRM194013	Disqualification papers served.	
20/3/2020 CRM194087	Rushing Two dogs from Lilac St have entered complainants house showing aggression towards the occupants.	Dogs seized

Girl (an226913)

Date and CRM#	Description	Outcome
26/10/2016 CRM141047	Menacing classification	Menacing classification documentation for "Girl" served.
29/11/2016 CRM142562	Menacing compliance follow-up Dog not de-sexed	Infringement issued (311173)
16/10/2019 CRM186071	Dog attack Seven puppies at Lilac St mauling a litter mate.	Dog impounded Victim puppy – deceased Puppies and mother dog showed aggression to AECO at property. Puppies approximately three months old. Once impounded "Girl" was held until de-sexing was organised as she was in breach of her menacing classification. The Dog owners had moved, and the dog was made GNA (gone no address) in May 2017. "Girl's" location remained unknown until this incident; her registration expired on 30 June 2018.
30/10/2019 CRM186659	Dog attack Four puppies and mother dog attacking a puppy from same litter – Batman was victim puppy.	Animals impounded, victim dog taken to vets. Only two dogs to remain at the property (Girl and Batman), all others to be re-homed. All other pups remained at pound while owner sorted their re-homing.
6/1/2020 CRM190363	Roaming (public place) Three dogs from Lilac St roaming on Collins Rd.	Written warning Members of public noted dogs came from Lilac St. Dog owner confirmed dogs had got out and was fixing fence.

Blue (an237777)

Date and CRM#	Description	Outcome
30/10/2019 CRM186659	Dog attack Four puppies and mother dog attacking a puppy from same litter – Batman was victim puppy.	Animals impounded, victim dog taken to vets. Only two dogs to remain at the property (Girl and Batman), all others to be re-homed. All other pups remained at pound while owner sorted their re-homing.
6/1/2020 CRM190363	Roaming (public place) Three dogs from Lilac St roaming on Collins Rd.	Written warning Members of public noted dogs came from Lilac St. Dog owner confirmed dogs had got out and was fixing fence.
24/1/2020 CRM191235	Urgent rushing Dog jumped front boundary fence of Lilac St property and chased two young girls who took refuge in a neighbours driveway.	Written warning issued. "Blue" classified as menacing
29/1/2020 CRM191436	Failure to keep control of dog Carmel coloured dog from Lilac St reported out roaming. When AECO's attended the dog "Blue" jumped the fence and rushed at the officers.	Infringement issued (#12664 for s52a, failure to keep dog controlled or confined)
10/2/2020 CRM192048	Roaming (public place) Multiple reports of two dogs from Lilac St out roaming.	Dog seized AECO saw two dogs on street, recognised them as belonging to Lilac. They were jumping in and out of property over the fence.

10/2/2020 CRM192098	<p>Dog attack</p> <p>Complainants partner went to the aid of a man who was being "bailed up" by two dogs on Collins Rd, they then turned on him, but he managed to chase them away.</p> <p>Dogs reported as coming from Lilac St.</p> <p>Complainants partner to supply video of the dogs.</p>	<p>Infringements issued</p> <p>(#12709 and #12710 for s53 of Dog Control Act 1996 (DCA) failure to keep dog under control)</p> <p>Dogs had returned home by time AEEO arrived. Dog owner denies dogs were out. Video supplied clearly shows dogs from Lilac St.</p>
Ownership of "Blue" transferred to William Marsters on 12/2/2020		

Item 5

Attachment 3

INFRINGEMENT NOTICE

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

NOTICE NUMBER **12664**

TERRITORIAL AUTHORITY



Hamilton City Council

Te kaunihera o Kirikiriroa

Garden Place, Hamilton
Ph (07) 838 6699, Fax (07) 838 6599

Forenames Surname

Name of dog owner:

Address:

Date of birth:

ALLEGED INFRINGEMENT OFFENCE DETAILS

Date	Time	Day of Week:
29-1-2020	4:45 pm	S M T W T F S
Road/Street:	Locality: HAMILTON	

OFFENCE COMMITTED INDICATED BY BOX TICKED

TICK ✓	IDENTIFYING NUMBER
<input type="checkbox"/> Wilful obstruction of dog control officer or ranger	18
<input type="checkbox"/> Failure or refusal to supply information or wilfully providing false particulars	19(2)
<input type="checkbox"/> Failure to supply information or wilfully providing false particulars about dog	19A(2)
<input type="checkbox"/> Failure to comply with any bylaw authorised by the section	20(5)
<input type="checkbox"/> Failure to comply with effects of disqualification	28(5)
<input type="checkbox"/> Failure to comply with effects of classification of dog as dangerous dog	32(2)
<input type="checkbox"/> Fraudulent sale or transfer of dangerous dog	32(4)
<input type="checkbox"/> Failure to comply with effects of classification of dog as menacing dog	33E(C)
<input type="checkbox"/> Failure to implant microchip transponder in dog	36A(6)
<input type="checkbox"/> False statement relating to dog registration	41
<input type="checkbox"/> Failure to register dog	42
<input type="checkbox"/> Fraudulent procurement or attempt to procure replacement dog registration label or disc	46(4)
<input type="checkbox"/> Failure to advise change of dog ownership	48(3)
<input type="checkbox"/> Failure to advise change of address	49(4)
<input type="checkbox"/> Removal, swapping, or counterfeiting of registration label or disc	51(1)
<input type="checkbox"/> Failure to keep dog controlled or confined	52A(3)
<input type="checkbox"/> Failure to keep dog under control	53(1)
<input type="checkbox"/> Failure to provide proper care and attention, to supply proper and sufficient food, water, and shelter, and to provide adequate exercise	54(2)
<input type="checkbox"/> Failure to carry leash in public	54A(2)
<input type="checkbox"/> Allowing dog known to be dangerous to be at large unmuzzled or unleashed	62(4)

Additional Details or other offences under the Dog Control Act 1996:

Section 52(A)

\$200

Reg. No. or Description of Dog:

Reg. No. 26881 Blue
Female, Pit bull - cross, blue in
colour

PAYMENT OF INFRINGEMENT FEE

The infringement fee is payable within 28 days after (Earliest date notice delivered personally or posted)

OFFICER NUMBER: THE INFRINGEMENT FEE MAY BE PAID AT THE ADDRESS SHOWN BELOW. CHEQUES OR MONEY ORDERS SHOULD BE "NOT TRANSFERABLE"


THE INFRINGEMENT FEE MAY BE PAID TO:

HAMILTON CITY: Cashiers or Animal Care and Control
COUNCIL Ground Floor 217 Ellis Street
Municipal Complex Hamilton
Garden Place

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

NOTICE NUMBER **12709** *Posted 12/2/2020*

TERRITORIAL AUTHORITY

 **Hamilton City Council**
Te kaunihera o Kirikiriroa
Garden Place, Hamilton
Ph (07) 838 6599, Fax (07) 838 6599

Forenames _____ Surname _____

Name of dog owner: *Reginald Marshall*

Address: *4 Lilac St
Hamilton*

Date of birth: *28/7/1990*

ALLEGED INFRINGEMENT OFFENCE DETAILS

Date	Time	Day of Week:
<i>10/2/2020</i>	<i>7:51pm</i>	<i>S M T W T F S</i>

Road/Street: *Collins* Locality: **HAMILTON**

OFFENCE COMMITTED INDICATED BY BOX TICKED IDENTIFYING NUMBER

<input type="checkbox"/>	Wilful obstruction of dog control officer or ranger	18
<input type="checkbox"/>	Failure or refusal to supply information or wilfully providing false particulars	19(2)
<input type="checkbox"/>	Failure to supply information or wilfully providing false particulars about dog	19A(2)
<input type="checkbox"/>	Failure to comply with any bylaw authorised by the section	20(5)
<input type="checkbox"/>	Failure to comply with effects of disqualification	28(5)
<input type="checkbox"/>	Failure to comply with effects of classification of dog as dangerous dog	32(2)
<input type="checkbox"/>	Fraudulent sale or transfer of dangerous dog	32(4)
<input type="checkbox"/>	Failure to comply with effects of classification of dog as menacing dog	33E(C)
<input type="checkbox"/>	Failure to implant microchip transponder in dog	36A(6)
<input type="checkbox"/>	False statement relating to dog registration	41
<input type="checkbox"/>	Failure to register dog	42
<input type="checkbox"/>	Fraudulent procurement or attempt to procure replacement dog registration label or disc	46(4)
<input type="checkbox"/>	Failure to advise change of dog ownership	48(3)
<input type="checkbox"/>	Failure to advise change of address	49(4)
<input type="checkbox"/>	Removal, swapping, or counterfeiting of registration label or disc	51(1)
<input type="checkbox"/>	Failure to keep dog controlled or confined	52A(3)
<input checked="" type="checkbox"/>	Failure to keep dog under control	53(1)
<input type="checkbox"/>	Failure to provide proper care and attention, to supply proper and sufficient food, water, and shelter, and to provide adequate exercise	54(2)
<input type="checkbox"/>	Failure to carry leash in public	54A(2)
<input type="checkbox"/>	Allowing dog known to be dangerous to be at large unmuzzled or unleashed	62(4)

Additional Details or other offences under the Dog Control Act 1996:

Ref CAR 192098 *\$200 =*

Reg. No. or Description of Dog: *"Blue" the female, American Pitbull Terrier, Blue in colour, 6 months old approx*

PAYMENT OF INFRINGEMENT FEE

The infringement fee is _____ (Earliest date notice delivered payable within 28 days after *13/2/2020* personally or posted)


OFFICER NUMBER: *D17* THE INFRINGEMENT FEE MAY BE PAID AT THE ADDRESS SHOWN BELOW. CHEQUES OR MONEY ORDERS SHOULD BE "NOT TRANSFERABLE"

THE INFRINGEMENT FEE MAY BE PAID TO:
HAMILTON CITY: Cashiers or Animal Care and Control
COUNCIL Ground Floor 217 Ellis Street
Municipal Complex Hamilton
Garden Place

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

NOTICE NUMBER **12710** *Posted 12/2/2020*

TERRITORIAL AUTHORITY

 **Hamilton City Council**
Te kaunihera o Kirikiriroa
Garden Place, Hamilton
Ph (07) 838 6599, Fax (07) 838 6599

Forenames _____ Surname _____

Name of dog owner: *Reginald Marshall*

Address: *4 Lilac St
Hamilton*

Date of birth: *28/7/1990*

ALLEGED INFRINGEMENT OFFENCE DETAILS

Date	Time	Day of Week:
<i>10/2/2020</i>	<i>7:51pm</i>	<i>S M T W T F S</i>

Road/Street: *Collins* Locality: **HAMILTON**

OFFENCE COMMITTED INDICATED BY BOX TICKED IDENTIFYING NUMBER

<input type="checkbox"/>	Wilful obstruction of dog control officer or ranger	18
<input type="checkbox"/>	Failure or refusal to supply information or wilfully providing false particulars	19(2)
<input type="checkbox"/>	Failure to supply information or wilfully providing false particulars about dog	19A(2)
<input type="checkbox"/>	Failure to comply with any bylaw authorised by the section	20(5)
<input type="checkbox"/>	Failure to comply with effects of disqualification	28(5)
<input type="checkbox"/>	Failure to comply with effects of classification of dog as dangerous dog	32(2)
<input type="checkbox"/>	Fraudulent sale or transfer of dangerous dog	32(4)
<input type="checkbox"/>	Failure to comply with effects of classification of dog as menacing dog	33E(C)
<input type="checkbox"/>	Failure to implant microchip transponder in dog	36A(6)
<input type="checkbox"/>	False statement relating to dog registration	41
<input type="checkbox"/>	Failure to register dog	42
<input type="checkbox"/>	Fraudulent procurement or attempt to procure replacement dog registration label or disc	46(4)
<input type="checkbox"/>	Failure to advise change of dog ownership	48(3)
<input type="checkbox"/>	Failure to advise change of address	49(4)
<input type="checkbox"/>	Removal, swapping, or counterfeiting of registration label or disc	51(1)
<input type="checkbox"/>	Failure to keep dog controlled or confined	52A(3)
<input checked="" type="checkbox"/>	Failure to keep dog under control	53(1)
<input type="checkbox"/>	Failure to provide proper care and attention, to supply proper and sufficient food, water, and shelter, and to provide adequate exercise	54(2)
<input type="checkbox"/>	Failure to carry leash in public	54A(2)
<input type="checkbox"/>	Allowing dog known to be dangerous to be at large unmuzzled or unleashed	62(4)

Additional Details or other offences under the Dog Control Act 1996:

Ref CAR 192098 *\$200 =*

Reg. No. or Description of Dog: *"Batman" the male, American Pitbull Terrier, Black and white in colour, 6 months old approx*

PAYMENT OF INFRINGEMENT FEE

The infringement fee is _____ (Earliest date notice delivered payable within 28 days after *13/2/2020* personally or posted)

OFFICER NUMBER: *D17* THE INFRINGEMENT FEE MAY BE PAID AT THE ADDRESS SHOWN BELOW. CHEQUES OR MONEY ORDERS SHOULD BE "NOT TRANSFERABLE"

THE INFRINGEMENT FEE MAY BE PAID TO:
HAMILTON CITY: Cashiers or Animal Care and Control
COUNCIL Ground Floor 217 Ellis Street
Municipal Complex Hamilton
Garden Place

INFRINGEMENT NOTICE

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

NOTICE NUMBER **12673****TERRITORIAL AUTHORITY****Hamilton City Council**Garden Place, Hamilton
Ph (07) 838 6699, Fax (07) 838 6599

Te kaunihera o Kirikiriroa

Forenames

Surname

Name of dog owner:

Address:

Date of birth:

ALLEGED INFRINGEMENT OFFENCE DETAILS

Date	Time	Day of Week:
7-3-2020	9:37am	S M T W T F S

Road/Street:

Locality: **HAMILTON****OFFENCE COMMITTED INDICATED BY BOX TICKED**

TICK ✓

IDENTIFYING
NUMBER

<input type="checkbox"/>	Wilful obstruction of dog control officer or ranger	18
<input type="checkbox"/>	Failure or refusal to supply information or wilfully providing false particulars	19(2)
<input type="checkbox"/>	Failure to supply information or wilfully providing false particulars about dog	19A(2)
<input type="checkbox"/>	Failure to comply with any bylaw authorised by the section	20(5)
<input type="checkbox"/>	Failure to comply with effects of disqualification	28(5)
<input type="checkbox"/>	Failure to comply with effects of classification of dog as dangerous dog	32(2)
<input type="checkbox"/>	Fraudulent sale or transfer of dangerous dog	32(4)
<input type="checkbox"/>	Failure to comply with effects of classification of dog as menacing dog	33E(C)
<input type="checkbox"/>	Failure to implant microchip transponder in dog	36A(6)
<input type="checkbox"/>	False statement relating to dog registration	41
<input type="checkbox"/>	Failure to register dog	42
<input type="checkbox"/>	Fraudulent procurement or attempt to procure replacement dog registration label or disc	46(4)
<input type="checkbox"/>	Failure to advise change of dog ownership	48(3)
<input type="checkbox"/>	Failure to advise change of address	49(4)
<input type="checkbox"/>	Removal, swapping, or counterfeiting of registration label or disc	51(1)
<input type="checkbox"/>	Failure to keep dog controlled or confined	52A(3)
<input type="checkbox"/>	Failure to keep dog under control	53(1)
<input type="checkbox"/>	Failure to provide proper care and attention, to supply proper and sufficient food, water, and shelter, and to provide adequate exercise	54(2)
<input type="checkbox"/>	Failure to carry leash in public	54A(2)
<input type="checkbox"/>	Allowing dog known to be dangerous to be at large unmuzzled or unleashed	62(4)

Additional Details or other offences under the Dog Control Act 1996:

Section 52(A)

\$200

Reg. No. or Description of Dog:

Reg. 2083 Male
Pit Bull, Black and white**PAYMENT OF INFRINGEMENT FEE**

The infringement fee is payable within 28 days after (Earliest date notice delivered personally or posted)

OFFICER NUMBER:

THE INFRINGEMENT FEE MAY BE PAID AT THE ADDRESS SHOWN BELOW. CHEQUES OR MONEY ORDERS SHOULD BE "NOT TRANSFERABLE"

THE INFRINGEMENT FEE MAY BE PAID TO:**HAMILTON CITY COUNCIL**

Cashiers

Ground Floor
Municipal Complex
Garden Place

or

Animal Care and Control
217 Ellis Street
Hamilton**INFRINGEMENT NOTICE**

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

NOTICE NUMBER **12674****TERRITORIAL AUTHORITY****Hamilton City Council**Garden Place, Hamilton
Ph (07) 838 6699, Fax (07) 838 6599

Te kaunihera o Kirikiriroa

Forenames

Surname

Name of dog owner:

Address:

Date of birth:

ALLEGED INFRINGEMENT OFFENCE DETAILS

Date	Time	Day of Week:
7-3-2020	9:37am	S M T W T F S

Road/Street:

Locality: **HAMILTON****OFFENCE COMMITTED INDICATED BY BOX TICKED**

TICK ✓

IDENTIFYING
NUMBER

<input type="checkbox"/>	Wilful obstruction of dog control officer or ranger	18
<input type="checkbox"/>	Failure or refusal to supply information or wilfully providing false particulars	19(2)
<input type="checkbox"/>	Failure to supply information or wilfully providing false particulars about dog	19A(2)
<input type="checkbox"/>	Failure to comply with any bylaw authorised by the section	20(5)
<input type="checkbox"/>	Failure to comply with effects of disqualification	28(5)
<input type="checkbox"/>	Failure to comply with effects of classification of dog as dangerous dog	32(2)
<input type="checkbox"/>	Fraudulent sale or transfer of dangerous dog	32(4)
<input type="checkbox"/>	Failure to comply with effects of classification of dog as menacing dog	33E(C)
<input type="checkbox"/>	Failure to implant microchip transponder in dog	36A(6)
<input type="checkbox"/>	False statement relating to dog registration	41
<input type="checkbox"/>	Failure to register dog	42
<input type="checkbox"/>	Fraudulent procurement or attempt to procure replacement dog registration label or disc	46(4)
<input type="checkbox"/>	Failure to advise change of dog ownership	48(3)
<input type="checkbox"/>	Failure to advise change of address	49(4)
<input type="checkbox"/>	Removal, swapping, or counterfeiting of registration label or disc	51(1)
<input type="checkbox"/>	Failure to keep dog controlled or confined	52A(3)
<input type="checkbox"/>	Failure to keep dog under control	53(1)
<input type="checkbox"/>	Failure to provide proper care and attention, to supply proper and sufficient food, water, and shelter, and to provide adequate exercise	54(2)
<input type="checkbox"/>	Failure to carry leash in public	54A(2)
<input type="checkbox"/>	Allowing dog known to be dangerous to be at large unmuzzled or unleashed	62(4)

Additional Details or other offences under the Dog Control Act 1996:

Section 20

\$300

Reg. No. or Description of Dog:

Reg. 2083 Female
Pit Bull, Black and white**PAYMENT OF INFRINGEMENT FEE**

The infringement fee is payable within 28 days after (Earliest date notice delivered personally or posted)

OFFICER NUMBER:

THE INFRINGEMENT FEE MAY BE PAID AT THE ADDRESS SHOWN BELOW. CHEQUES OR MONEY ORDERS SHOULD BE "NOT TRANSFERABLE"

THE INFRINGEMENT FEE MAY BE PAID TO:**HAMILTON CITY COUNCIL**

Cashiers

Ground Floor
Municipal Complex
Garden Place

or

Animal Care and Control
217 Ellis Street
Hamilton

**IN THE HEARINGS COMMITTEE
AT HAMILTON CITY COUNCIL**

IN THE MATTER OF

**An Objection to
Disqualification in accordance
with s. 26 (1) Dog Control Act
1996**

BETWEEN

**ROPATA MARSHALL
4 Lilac Street
Melville
Hamilton 3206**

AND

**THE HAMILTON CITY
COUNCIL**

**SUBMISSIONS AS TO WHY DISQUALIFICATION SHOULD
BE TERMINATED.**

Hearing: 28 July 2020 at 10:30 am Committee Room 1

Counsel: James Carter
jcarter@jamescarterlaw.co.nz
Mob: 027 860 0988

1084 River Road
Queenwood
Hamilton 3210
www.jamescarterlaw.co.nz

MAY IT PLEASE THE HEARINGS COMMITTEE:

1. Mr Ropata Marshall [the Applicant] is the registered owner of a male black and white Pitbull cross breed named “Batman”.
2. The Applicant, by notice, dated the 18th March 2020, was disqualified from owning a dog for the maximum period of five [5] years on the basis of being issued three [3] or more infringement notices within a 24 month period.¹
3. Copies of the Correspondence included with the Infringement Notices is attached and **Annexed “A”**. The Committee is referred to Notice No. 12664 [page 3 of 3] that refers to a dog named “Blue”. It should be noted the Applicant was looking after this dog for a third party. What is clear is that the Applicant’s own dog [Batman] behaved poorly when with this other dog. The dog “Blue” does not reside with the Applicant and does not visit.² The Committee is invited to give this notice less weight than Notices No.’s 12617, 12709 and 12710 which involve Batman.
4. By notice, dated the 23rd March 2020, an objection was filed within the required timeframe. The dog “Batman” was subsequently returned to the care of the Applicant and currently remains in his care.

The Law:

5. The ability to disqualify a dog owner from ownership falls within the discretion of a Territorial Authority [TA]. It is not a power that may be exercised by the District Court [although there is an avenue of appeal against the decision of the Hearings Committee via s. 27 Dog Control Act 1996 [DCA]].
6. In this case the power to disqualify has been exercised within s. 25 (1) (a) of the DCA. S. 25 (1) is subject to s. 25 (1A) that permits the TA not to disqualify if the TA is satisfied that the circumstance of the offence or offences are such that disqualification is not warranted [s.

¹ S. 25 (1) (a) Dog Control Act 1996. The maximum period of disqualification is five [5] years and the legislation is drafted to permit the TA to apply the period depending upon the severity of the offence. A TA should be able to justify the period imposed especially when the maximum is applied.

² It is not known if Blue remains with the Hamilton City Council.

25 (1A) (a)] or that the TA will instead classify the dog owner as a probationary owner [s. 25 (1A) (b)].³

7. Therefore, despite the wording of s. 25 (1) that states a TA “must” disqualify, a TA may fall back upon s. 25 (1A) and not disqualify the dog owner. The alternative should the TA conclude some form of control is required to monitor the dog owner is to utilise s. 25 (1A) (b) and classify the dog owner as a probationary owner.
8. S. 21 (2) DCA [Classification of probationary owners] reflects s. 26 (1) (a) in that the TA may classify the dog owner as a probationary owner following three [3] or more infringement notices within a 24 month period.
9. Probationary owner status can last up to two [2] years and permits the TA to require the dog owner to undertake training [s. 23A].

Submissions:

10. A meeting was held with between Peter Crocker at the Animal Control Centre at Ellis Street, Hamilton and counsel for the Applicant. During the discussion Mr Crocker stated that the dog, Batman, when by himself is a nice dog. However, when he was with Blue then Batman’s behaviour is poor. Blue is the instigator. The Applicant accepted this and since Batman was seized [along with Blue] and subsequently released there has been no contact between the dogs and will not be in the future.⁴
11. The Applicant has always been cooperative with Animal Control staff and has demonstrated a willingness to work with staff in the future. This cooperative manner is essential should the Committee decide to classify the Applicant as a probationary owner. It will permit staff to monitor the dog as well as give ongoing advice should the need arise.
12. The infringement notices are for failing to control, an infringement offence contrary to s. 53 DCA [Offence of failing to keep dog under control] captures a wide range of behaviour above that of mere roaming in a public place. S. 53 therefore requires further adverse

³ It is submitted this power is also delegated to council staff so that the decision either not to disqualify or classify as a probationary owner is available to staff in the first instance. Discussion between staff did take place and the decision was to refer this matter to Committee due to the number of infringements.

⁴ It is not known if Blue remains in custody as he is not owned by the Applicant who was looking after the dog on behalf of another person.

behaviour by the dog. The Applicant accepts that the issue of the infringement notices was not without just cause.

13. In response, the Applicant submits that since the dog Blue has been taken out of the picture the behaviour of Batman had radically altered and he does not make any attempt to leave the property. Batman is kept inside the dwelling and is not permitted to run freely on the property unsupervised.
14. The Applicant is aware that Batman has, by his previous actions, displayed adverse learnt behaviour. Since Batman's release from Council custody he has been kept inside the house and under supervision in the garden, it is submitted the previous learnt behaviour has been minimised or indeed removed since Batman's release.
15. In summary, the offences involved Batman getting over the boundary fence and then running across other properties. It is accepted this would have caused alarm to those persons occupying the boundary property. It is salient that when this took place Batman was in the company of Blue. As stated, this situation can no longer occur.
16. The Applicant has demonstrated an ability to accept responsibility for his previous poor dog ownership. With regards to looking after Blue the Applicant was attempting to assist a friend however it become noticeably clear this assistance came at the cost of Batman's behaviour and subsequent seizure. In short, the Applicant accepts his assistance to his friend was misplaced.
17. The Applicant has taken several steps to make sure Batman is kept under control.
 - Batman is no longer permitted to be in the garden unsupervised.
 - Batman is not permitted to be in the company of Blue.
 - The front of the property is fully fenced with a metal gate.
 - The remaining boundary is fully fenced.
 - The area that Batman was able to get through has been strengthened and the fence has been heightened [see photograph at Schedule 1 page 6].
 - The Applicant consistently demonstrates cooperation with Council staff, listens to and accepts advice.
 - The Applicant is willing to undertake any training that the Council requires.

- The Applicant is willing to grant consent to council staff to enter the property at a reasonable time, and without statutory power, to monitor Batman.

18. Batman is a family dog and lives with the Applicant, his partner and two children. The dog interacts very well with the children. That said the Applicant is aware of the risk of any dog and takes appropriate steps should a stranger come to the property.

19. Dogs are an integrated part of New Zealand society not only as pets but working animals. The loss of dog from a family causes distress under normal circumstances [for example death]. However, the loss of a dog through the powers of legislation makes it difficult for family members to accept, especially children. The Applicant accepts that his negligence, with regards to historic dog ownership, has put the loss of Batman at risk. In addition, the other dog of the family will also be required to be removed should the disqualification be upheld.

20. It is established law that no person may own a dog on a property where a person resides who is disqualified.

21. It is agreed that Council staff have acted correctly by referring this matter to the Hearings Committee rather than exercise their delegated authority to either remove the disqualification or classify the Applicant as a probationary owner.

22. It is submitted that the Hearings Committee may take comfort in all the efforts the Applicant has made to make sure no further incidents take place. Indeed, since Batman was released no further incidents have taken place.

23. The good attitude of the Applicant towards council staff can reassure the Committee that any required training will be undertaken as well as any general advice followed should he be classified as a probationary owner. As stated, the Applicant is more than willing for Council staff to undertake spot checks and grants access to his property for this purpose, even where a statutory power to enter does not exist.

24. The Hearings Committee may make the following decisions:

- Confirm the disqualification.

- Confirm the disqualification but reduce the time period.⁵
- Remove the disqualification and impose the classification of probationary owner.
- Remove the disqualification and not classify the Applicant as a probationary owner.

25. It is accepted the option to remove the disqualification and not to classify as a probationary owner is unrealistic. It cannot be argued that such a decision would address the requirement for public safety.

26. It is submitted that removing the disqualification and classifying the Applicant as a probationary owner would address the requirement for public safety. This submission is further supported as a condition that access to the property be granted at any reasonable time [without a statutory power to enter] would be agreed.

27. The Applicant is also fully aware that any further incident will likely result in a prosecution, and even if the offence does not carry destruction, that disqualification [upon conviction] will be the result.

28. The Hearings Committee is invited to remove the disqualification and classify the Applicant as a probationary owner in accordance with s. 21 DCA 1996.

This Objection is filed by James Carter

Counsel for the Applicant.



Dated at Hamilton this 14th day of July 2020

TO: The Hamilton City Council

Documents for service may be:

- (a) Posted to Counsel at 1084 River Road, Queenwood, Hamilton 3210;
- or
- (b) Emailed to the solicitor at jcarter@jamescarterlaw.co.nz

⁵ Currently the maximum has been applied of 5 years.



Schedule 1: Shows the additional fencing preventing any further escape from the property.

Ropata Marshall
4 Lilac Street
Melville
Hamilton 3206



Hamilton City Council
Te kaunihera o Kirikiriroa

Private Bag 3010
Hamilton 3240
New Zealand
TEL 07 838 6699
FAX 07 838 6599
EMAIL info@hcc.govt.nz
hamilton.govt.nz

Dear Ropata,

Please find enclosed Infringement notice: 12617

The offence that has been committed is Failure to keep dog controlled or confined.

We have spoken too you in relation to this.

As a consequence an infringement notice has been issued under Section 52A Dog Control Act 1996

We take this opportunity of drawing your attention to the "Summary of Rights" contained on the reverse side of the infringement notice.

Any correspondence relating to the notice must be in writing and can be posted to the Animal Care and Control Unit, Hamilton City Council, Private Bag 3010, Hamilton.

Any further breaches of the Dog Control Act 1996 may result in your dog being impounded, an infringement notice being issued, or prosecution.

Due to an offence being committed by your dog, you will no longer be eligible for the category one registration fee for two years.

Please take note that any dog owner that commits 3 or more infringement offences (not relating to a single incident or occasion) within a continuous period of 24 months must be disqualified for a period not exceeding 5 years from the date of the third infringement offence or offences (as the case may be) in respect of which the person is disqualified.

If you have any enquiries regarding this matter, please telephone (07) 838 6632

Regards

Dog Control Officer

Animal Education & Control

1 of 3

13/02/2020

Ropata Marshall
4 Lilac Street
Melville
Hamilton 3206

Dear Ropata

Please find enclosed Infringement notices: 12709 & 12710

The offence that has been committed is Failure to keep dog under control.

Therefore, infringement notices have been issued under Section 53(1) Dog Control Act 1996

We take this opportunity of drawing your attention to the "Summary of Rights" contained on the reverse side of the infringement notice.

Any correspondence relating to the notice must be in writing and can be posted to the Animal Care and Control Unit, Hamilton City Council, Private Bag 3010, Hamilton.

Any further breaches of the Dog Control Act 1996 may result in your dog being impounded, an infringement notice being issued, or prosecution.

Please take note that any dog owner that commits 3 or more infringement offences (not relating to a single incident or occasion) within a continuous period of 24 months must be disqualified for a period not exceeding 5 years from the date of the third infringement offence or offences (as the case may be) in respect of which the person is disqualified.

If you have any enquiries regarding this matter, please telephone (07) 838 6632

Regards



Dog Control Officer

Animal Education & Control

2 of 3

Item 5

Attachment 5



Private Bag 3010
Hamilton 3240
New Zealand

TEL 07 838 6699
FAX 07 838 6599
EMAIL info@hcc.govt.nz
hamilton.govt.nz

30/01/2020

Ropata Marshall
4 Lilac Street
Melville
Hamilton 3206

Dear Ropata Marshall

Please find enclosed Infringement notice: 12664 (for incident with blue)

The offence that has been committed is Failure to comply with any bylaw authorised by the section.

As a consequence, an infringement notice has been issued under Section 52A Dog Control Act 1996

We take this opportunity of drawing your attention to the "Summary of Rights" contained on the reverse side of the infringement notice.

Any correspondence relating to the notice must be in writing and can be posted to the Animal Care and Control Unit, Hamilton City Council, Private Bag 3010, Hamilton.

Any further breaches of the Dog Control Act 1996 may result in your dog being impounded, an infringement notice being issued, or prosecution.

Due to an offence being committed by your dog, you will no longer be eligible for the category one registration fee for two years.

Please take note that any dog owner that commits 3 or more infringement offences (not relating to a single incident or occasion) within a continuous period of 24 months must be disqualified for a period not exceeding 5 years from the date of the third infringement offence or offences (as the case may be) in respect of which the person is disqualified.

If you have any enquiries regarding this matter, please telephone (07) 838 6632

Regards

D41

Dog Control Officer

Animal Education & Control

3 of 3

Council Report

Item 6

Committee: Dog Control Hearings Panel **Date:** 01 September 2020
Author: Susan Stanford **Authoriser:** Kelvin Powell
Position: Animal Control Manager **Position:** City Safe Unit Manager
Report Name: Objection to menacing classification - Taryn Van Meygaarden

Report Status	<i>Open</i>
----------------------	-------------

Purpose - *Take*

1. To seek a determination from the Dog Control Hearings Panel on the classification of “Rocky Reeda” as a menacing dog.

Staff Recommendation - *Tuutohu-aa-kaimahi*

2. That the Dog Control Hearings Panel:
 - a) receives the report; and
 - b) determines that the classification of Rocky Reeda as a menacing dog is upheld.

Executive Summary - *Whakaraapopototanga matua*

3. Rocky Reeda is a medium-sized Fox Terrier/Maltese cross dog that was classified as menacing as the result of an attack on a 12-year old boy out scootering with his family.
4. Section 33A of the Dog Control Act 1996 sets out the circumstances in which a territorial authority may classify a dog as menacing and section 33B outlines a dog owner’s right to object to that classification (as detailed in paragraphs 23-25 of this report).
5. Staff recommend that the classification of Rocky Reeda as a menacing dog is upheld (Option A) as detailed in paragraph 21 below.
6. Staff consider the decision in this report has low significance and that the recommendations comply with the Council’s legal requirements.

Background - *Kooreo whaimaarama*

7. Rocky Reeda is a medium-sized, approximately five-year-old, male Fox Terrier/Maltese cross dog.
8. On 10 May 2020, at approximately 1600 hours (4pm) the victim, a 12-year-old boy, was out walking and scootering with his family. He was about 50 metres ahead of his parents when he moved onto the road to pass another group of walkers.
9. At this point, Rocky Reeda ran towards the victim, dragging the seven-year-old child walking him onto the road. The child’s mother yelled something, and he let the leash go. Rocky Reeda continued across the road and began barking at the victim.

10. The victim leaned down to pick up the loose dog's lead; the dog then jumped up and bit him on the left side of his chest near the nipple. He gave the dog's lead to the male dog owner and went back to his parents.
11. The victim showed his mother a bite mark on his chest. A heated exchange then occurred between the victim's parents and the female dog owner; for full details including photographs and witness statements from both parties see CRM196092 (**Attachment 1**).
12. As a result of this attack, Rocky Reeda was classified as menacing for behaviour (see **Attachment 2** – menacing classification).
13. On 14 July 2020 an objection to the classification of the dog Rocky Reeda as menacing was received from Taryn Van Meygaarden, the registered dog owner (**Attachment 3**).

Discussion - *Matapaki*

14. In considering their decision, panel members should consider:
 - the incident that formed the basis for the classification
 - the number and type of incidents that have occurred
 - any escalation in behaviour demonstrated by the dog
 - the potential impact to public safety.
15. Dogs can behave in unexpected ways and it would appear that in this case, Rocky Reeda's behaviour towards the boy on the scooter is somewhat surprising to the dog owner. The victim's mother noted in her witness statement that the dog owner allegedly told her that the dog had issues with children on scooters, so while Rocky Reeda biting a child may have been a surprise, there is a noted predisposition to issues with scooters for this dog.
16. Rocky Reeda displayed a level of determination to reach the child on the scooter. He dragged the child walking him along, causing him to fall and be injured before he let go of the lead. If it was the scooter that triggered this behaviour, that is a cause for concern as when out walking or off lead in an off-lead park, there is a good chance Rocky Reeda will encounter scooter users again, so there is a potential ongoing risk to members of the public.
17. It is good to see the dog owners taking pro-active actions, employing a dog trainer and utilising a muzzle, to minimise an event like this occurring again. The most effective way to ensure that another child out scooting isn't bitten is to ensure Rocky Reeda is muzzled whenever he is out in public. The only way we can ensure this happens is by upholding the menacing classification, as muzzling is a requirement under the Dog Control Act 1996 for menacing classified dogs.
18. Lockdown generally seemed to have positive benefits for dogs as owners were home more often, so dogs received more attention/family interaction. Animal Control anecdotally noted more dogs out being walked/exercised than usual during this period.
19. The dog owner is objecting to the classification of menacing on the following grounds:
 - the incident was out of character
 - a muzzle has been purchased, even though they do not believe he is menacing
 - he has not shown aggression to visitors to the home
 - they are working with a dog trainer to ensure nothing like this happens again
 - they believe lockdown adversely affected Rocky Reeda
 - Rocky Reeda is a gentle dog.

(Full details are in **Attachment 3** – objection received).

Options

20. Under the Dog Control Act 1996, territorial authorities have two options when considering an outcome of an objection to a dog being classified as menacing:
 - A. To uphold the classification, or
 - B. To overturn the classification.
21. Staff recommend **Option A** because the best way to minimise the risk to other scooter riders, particularly children, is for Rocky Reeda to be muzzled when out in public and this can only be enforced under the Dog Control Act 1996 menacing or dangerous classifications.

Financial Considerations - *Whaiwhakaaro Puutea*

22. This is a regular operating activity funded through the Long-Term Plan.

Legal and Policy Considerations - *Whaiwhakaaro-aa-ture*

23. [Section 33A](#) of the Dog Control Act 1996 sets out the circumstances in which a territorial authority may classify a dog as dangerous including:
 - The owner has been convicted of owning a dog that has attacked
 - On the basis of sworn evidence attesting to aggressive behaviour by the dog
 - The owner of the dog admits in writing that the dog is dangerous.
24. [Section 33B](#) outlines a dog owner's right to object to the classification to the territorial authority and the territorial authority's obligations and considerations in respect to hearing the objection.
25. Staff confirm that the classification of menacing and options provided for the Dog Control Hearings Panel comply with the Council's legal requirements under the Dog Control Act 1996.

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

26. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
27. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.
28. Staff consider that the keeping of animals can enhance the quality of life and wellbeing for individuals and families; however, the Council also has a responsibility to protect the community from unreasonable animal nuisances – families, whanau, iwi, haapu, and communities should be safe from dangerous animals.

Risks - *Tuuraru*

29. Should the menacing classification be overturned, removing the owner's obligations to muzzle the dog in public, AEC staff believe Rocky Reeda could pose an ongoing risk given his noted aversion to scooters.

Significance & Engagement Policy - *Kaupapa here whakahira/anganui*

Significance

30. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the recommendation(s) in this report has/have a low level of significance.

Engagement

31. Given the low level of significance determined, the engagement level is low. No engagement is required.

Attachments

Attachment 1 – Animal Complaints Record CRM196092

Attachment 2 - Classification of dog as menacing

Attachment 3 - Objection to menacing classification received

Animal Complaint Record 196092/2020

Item 6

COMPLAINANT

Complaint Received	5/10/2020 5:11:00 PM	Officer	D40
Name	Glenda	Home Phone 1	(
Address	Amberley Place Flagstaff Hamilton 3210	Home Phone 2	
		Mob Phone	

PROPERTY

Property Address	Magellan Flagstaff 2001	LOT 95 DP 446695	Safety Alert	
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ANIMAL DETAILS

Animal Number	228843	Animal Name	Rocky Reeda	Tattoo	953010000639787
Animal Location	Santiago PL Flagstaff 2001	Color		Sex	M
Owner Address	Santiago Place Flagstaff Hamilton 3210	Owner Name	Taryn	NAR No.	1074606

REQUEST DETAILS

Offence Date		Medium sized, white terrier attacked caller's son as they were walking along Magellan Rise in Flagstaff today at around 16:00. The dog bit him on the left nipple and it happened between Telford Pl & Mataroa Cres. Dog owner was walking their 2 dogs with her family. The attacking dog was walked by the dog owner's child and as it charged towards caller's son, it dragged dog owner's kid over the road so he had to let go of the lead and then it attacked caller's son who was on his skate board. Dog owner's name is Taryn who is a Vet at CareVets Rototuna and caller thinks they live down Santiago Place. Caller says the dog owner did not take any responsibility and even blamed her son for riding his skateboard because her dog doesn't like skateboards. Assigned to Justin.
Major Category	Animal Control (heading only)	
Minor Category	Dogs - Offences (heading only)	
Category 3	Dogs - Attack (heading only)	
Category 4	Dogs - Attack - Dog v Person - Historic	

INVESTIGATION DETAILS

Officer	D40	100520 @ 1720 - Phoned comp and arranged to take a statement off her over the phone tomorrow. 110520 @ 1000 - I received a call off admin saying the owner of the of fending dog is stressing out because she's worried her dog might get put down. I phoned the dog owner Taryn and assured her we were not looking to put her dog down and that the comp wasn't pushing for that to happen either. I advised her I need to get all the information together before I can give an outcome. She asked if they could do a statement for their side of the story so I arranged to take a statement over the phone with her husband Ben later that day. 1400 - Took statement off victim dog owner Glenda over the phone - see attached. She also sent through photos of her son's injury - see attached. 1545 - Took statement
Start Date	5/10/2020 5:20:00 PM	
Finish Date	7/10/2020 3:40:00 PM	
Outcome	Animals - Menacing Dog Classification	
Task	Investigation	

Attachment 1

off the offending dog owner Ben over the phone - see attached.
Both sides of the stories were similar, just the victim's claim it was a bite but the offending dog owner's claim they didn't see a bite although they have admitted that Rocky lunged at the boy. Rocky to be classified as menacing based on behaviour (Abbey 10/07/2020)

Previous Complaints for Dog

CRM No.	186211/2019	Task	2INV
Animal	228843	Outcome	1UNS
Maj Cat.	Animal Control (heading only)	Officer	D39
Min Cat.	Dogs - Offences (heading only)	Opened	10/18/2019 3:50:00 PM
Cat 3	Dogs - Barking	Closed	11/27/2019 2:24:00 PM
Cat 4			
CRM No.	196092/2020	Task	2INV
Animal	228843	Outcome	MENC
Maj Cat.	Animal Control (heading only)	Officer	D40
Min Cat.	Dogs - Offences (heading only)	Opened	5/10/2020 5:20:00 PM
Cat 3	Dogs - Attack (heading only)	Closed	7/10/2020 3:40:00 PM
Cat 4	Dogs - Attack - Dog v Person - Historic		
CRM No.	199372/2020	Task	2INV
Animal	228843	Outcome	
Maj Cat.	Animal Control (heading only)	Officer	D40
Min Cat.	Dogs - Offences (heading only)	Opened	7/10/2020 4:20:00 PM
Cat 3	Dogs - Offences - Officer (heading only)	Closed	
Cat 4	Dogs - Officer - Serve Dog Classification		

Justin

From: Hamilton City Council <PROD.Authority@hcc.govt.nz>
Sent: Sunday, 10 May 2020 17:16
To: Animal care
Cc: Customer Service
Subject: New Customer Request Task: 196092/2020 - Dog Offences > Attack > HDVP > Historic Attack Dog V Person

A new CRM task has been created for you to action.

Request Details:

Action officer: Justin

Request Number: 196092/2020

Description: Medium sized, white terrier attacked caller's son as they were walking along Magellan Rise in Flagstaff today at around 16:00. The dog bit him on the left nipple and it happened between Telford Pl & Mataroa Cres. Dog owner was walking their 2 dogs with her family. The attacking dog was walked by the dog owner's child and as it charged towards caller's son, it dragged dog owner's kid over the road so he had to let go of the lead and then it attacked caller's son who was on his skate board. Dog owner's name is Taryn \ who is a Vet at VETS. Caller says the dog owner did not take any responsibility and even blamed her son for riding his skateboard because her dog doesn't like skateboards.

Due Date: 28/05/2020

Safety Issues: N/A

Safety Issues: N/A

[Access your Tasks Here](#)

*"Rocky" to be classified as
menacing based on behaviour.*

Customer Details

Contact Name: Glenda !

Contact Address: Amberley Place Flagstaff Hamilton 3210

Contact Home Phone:

Contact Mobile:

Contact Email Address: !@gmail.com

Property Address: Magellan Rise Hamilton Flagstaff 3210

Street Name:

Category: Dog Offences > Attack > HDVP > Historic Attack Dog V Person

*10/5/20 - 5.20pm - Phoned comp + arranged to take a statement off her over the phone tomorrow.
 15/5/20 - 10am - I received a call off admin saying the owner of the offending dog is 'raving out' because she's worried her dog might get put down.
 I phoned the d/o Taryn and assured her we were not looking to put her dog down & that the comp wasn't pushing for that to happen either.
 I advised her I need to get all the information together before I can give her an outcome.*

Attachment 1

. she asked if they could do a statement for their side of the story so I arranged to take a statement over the phone with her husband Ben, 'ate that day.

11m- took statement off victim d/o Florida over the phone - see attached.

she also sent through photos of her son's injury - see attached.

45pm- took statement off the offending d/o Ben over the phone - see attached.

. Both sides stories were similar, just the victim's claim it was a bite but the offending d/o's claim they didn't see a bite - although they have admitted that "Rocky" lunged at the boy.

Item 6

- Rocky to be classified as menacing based on behavior.

e_an005 - Animals Enquiry - Hamilton_LIVE - 13384 - 7.0

Document Edit Name and Address Payments Animals Other Modules Help

OK Cancel Cut Copy Paste Find Excel Help Mapping Memos Attachments

1 of 2

Document

Animal Type	1 Dogs	Number	228843
MicroChip Brand	MICROCHIP	Id	953010000639787
Alpha Key	VAN MEYGAATF		
Assessment	57673	Parcel	6626672
Owner	1074606		
House Number			
Street Name	Santiago		
Suburb Name	Flagstaff	3210	

Owner Details

Name Taryn

Address . Santiago Place
Flagstaff
Hamilton 3210

Mobile Phone

Home Phone

Business Phone

e-Mail Address @gmail.com

Animal Details

Kept at Address . Santiago Place Flagstaff Hamilton 3210

OutsideTag Ref Dangerous NA Agency

Animal Name Rocky Reeda Neutered N Gender Male

Breed FTWR Terrier Fox (Wire) Cross MALT Maltese

Main Colour GLD Gold Second

Birth 09/09/2015 Age 4 Years 8 Months Death Depart

Features Spotted tongue Permit Number

Registration Details

Tag Number 12247 Tag Set 2019/20

eTran Recpt Date 21/05/2019 Reg Till 30/06/2020

By Law Code Search

Code Type Code Value

**offending dog.*

Item 6

Attachment 1

11/5/20 2pm.

Statement from Glenda from Amberley Place, Hamilton. The statement has been taken over the phone due to the country being in Level 3.

On the 10/5/20 at approximately 4pm I was walking along Magellan Rise with my husband, our three children and our dog Roxy.

My two sons were around 50m in front of us on scooters. My 12-year-old son Miles then went out onto the road on his scooter to pass the people in front of him, as I have been teaching my children to keep their distance when passing others due to the lockdown.

I then heard a woman screaming and looked up to see a boy on the opposite side of the road to us being dragged along the pavement on his stomach and then onto the road by a dog on a lead.

The woman shouted something at the boy and he let go of the lead.

The dog has then run over to my sons on their scooters and started barking at Miles.

The dog was medium sized, a terrier cross, long hair, dark blonde and lighter underneath (similar to a golden retriever) and was wearing a collar and lead, I'm unsure what the sex of the dog was.

Miles has then leaned down to pick up the lead and as he has stood up the dog has jumped up at him and bitten him near his left nipple.

The male dog owner has then come over and taken the lead off Miles and re-joined his family and continued their walk. (3 adults, 2 children and 3 dogs)

Miles scooted back to me and looked upset. I asked him what was wrong, and he said the dog had bitten him. He lifted his top to show the bite mark.

I yelled over to the dog owners that their dog had bitten my son.

The female dog owner then responded defensively, was swearing and called us liars. The male dog owner claimed he saw the whole thing and said the dog just jumped up and didn't bite, and then said if he made contact it would have just been a scratch.

The female dog owner's mother came over to us and asked if Miles was ok, I replied no because he's been bitten by their dog. We then showed her the bite. She then called over to her daughter and said she needs to come over and have a look.

The female dog owner then came over and didn't look at the bite but instead had a go at my husband saying the kids shouldn't be on the road on their scooters without helmets.

She then went on to say her dog has issues with scooters as kids come past their house and tease him on them. I then said if you know your dog has issues then it should be muzzled out in public.

The female dog owner then lost her cool and said she was a Vet at Care Vets Rototuna and she knows about dog behaviour, and that I don't. And then continued to rant and rave.

My husband then told her if she doesn't want to take responsibility for her dog and what it's done then we will report it. She replied go ahead.

We said we'll take a photo of your dog too, she said that's fine, but as the dog was back with the family we could only get a photo of the back of the dog.

I asked for the dog's registration number as well but because she was still ranting at my husband I don't know if she heard me.

The female dog owners mother kept trying to calm her down, and whilst we were all talking their dog was barking at our dog Roxy.

We then told them we weren't getting anywhere and that we were leaving.

Miles has not received medical treatment for his injury but the bite has left a mark on him and looks worse a day later. Photos have been sent to Animal Control.

Witnesses- There was a lady who came out of her house but didn't see the bite, she just witnessed the arguing after the bite.

Description of the dog- medium sized, a terrier cross, long hair, dark blonde and lighter underneath (similar to a golden retriever) and was wearing a collar and lead, I'm unsure what the sex of the dog was.

Justin

From: Glenda I < > @gmail.com>
Sent: Tuesday, 12 May 2020 16:25
To: Justin I
Subject: Re: Amended Statement

Hi Justin

Yes thats pretty much what happened. Thanks very much. Did you show Taryn the photos of the bite, just wondering if she has amitted that her dog did bite? Im just being curious.

Thanks for everything.

Kind Regards

Glenda

On Tue, 12 May 2020, 16:15 Justin Harden, <Justin.Harden@hcc.govt.nz> wrote:

Hey again,

Sorry I just realised I put your dog was called Rocky, I've changed it Roxy and attached the amended statement.

Thanks

11/5/20

3.45pm

Statement from Benjamin [redacted] from Santiago Place, Hamilton. The statement has been taken over the phone due to the country being in Level 3.

On the 10/5/20 at approximately 4pm I was walking out of Santiago Place, turning right onto Magellan Rise with my wife Taryn, our two sons Adam and Luke, my wife's mother Doreen, her dog Toby and our two dogs' Rocky and Layla. I was about 5m behind the rest of my family.

Taryn was holding Layla, our bigger dog's lead, Doreen was holding onto her dog Toby and my son Luke had hold of our other dog Rocky.

I noticed a boy on a scooter pulling a wheelie and remember thinking that was cool. I could see a younger boy behind him also on a scooter.

I could see the older boy slowed down on his scooter and was looking across at my family. I then heard Taryn calling to Luke, I looked and could see Rocky dragging Luke (7 years old) towards the road, Luke was stumbling and started to fall, so Taryn shouted to him to let go of the lead.

Luke let go of the lead and fell and hurt himself on the curb.

Rocky ran over to the older boy who was now stopped on the road with his scooter. Rocky ran around the older boy and was barking. He then stopped and was on our side of the boy.

Taryn went to see to Luke, so I went to get Rocky as I was worried he was going to run off. The older boy leaned down, picked up the lead and then stood back up.

Rocky then lunged at him. I was just 2m away and it didn't look like Rocky made any contact with him.

The older boy still had a hold of the lead, I thanked him as I took the lead and asked him if he was OK. He replied Yes.

I took Rocky back to our side of the road and checked if Luke was OK. Then there was shouting, and I noticed there was a family with the two boys, who had been walking a bit behind them.

The older boy had his shirt up and was showing something to the female. I could see a mark on him and then asked Taryn if she thinks he got that from Rocky. Taryn said we should check.

Taryn went over to talk to the family, and it got a bit heated, with the family accusing Rocky of biting their son. Their dog was barking at Rocky, so he was barking back.

Justin

From: Ben \ [redacted]@gmail.com>
Sent: Tuesday, 12 May 2020 18:28
To: Justin
Subject: Re: Amended Statement

Thanks Justin

On Tue, 12 May 2020 at 18:00, Justin Harden <Justin.Harden@hcc.govt.nz> wrote:



Item 6

Attachment 1



 Hamilton City Council Te kaunihera o Kirikiriroa	memo
Private Bag 3010, Hamilton, New Zealand Phone 07 838 6699 www.hamilton.co.nz	

ANIMAL EDUCATION & CONTROL

To: Sue Stanford (Animal Education and Control Manager)

From:

Subject:	Menacing Classification on breed or type — American Pitbull Terrier / Dogo Argentino / Japanese Tosa / Brazilian Fila (circle one)	Menacing Classification on Observed Behaviour/reported behaviour
----------	--	--

Date: 15/5/20 AN: 228843 File: CRM: 196092/2020

CAR DETAILS: a family have been walking their dogs and have let their 7 year old son hold onto one of them, "Rocky". Another family has walked past with kids on scooters. Rocky has dragged himself away from the 7 year old + rushed up to a 12 year old on a scooter and then lunged + bitten him after the 12 year old picked up the lead.

DOG OWNERS DETAILS: How was AECO received by dog owner? Is the D/O aware that their dog is being Classified? d/o was fine + seemed remorseful. Aware of the classification but it sounds like they will appeal.

DOG DETAILS: Is this dog to be classified on Behaviour. Describe behaviour and any identifying marks.

Micro Chip No 953010000639787 is the individual identifier for this dog.

AN: 228843 Registration Number: 12247 Dogs Name: Rocky Leeda

MENACING CLASSIFICATION NOTES: This dog has reportedly pulled its self free whilst out for a walk with its owner and then bitten a 12 year old boy. The d/o's have denied the dog has bitten the boy but admitted Rocky has lunged at the boy aggressively.

DETAILS OF AECO's Involved with Classification: 040

Approved for classification:

Date:

20/5/20.

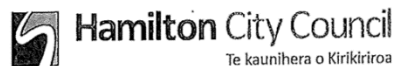
Is the identification Checklist attached Yes or No

Have photos been saved Yes or No

Menacing Classification Cover Sheet

10 July 2020

Taryn I
Santiago Place
Flagstaff
Hamilton 3210



Private Bag 3010
Hamilton 3240
New Zealand

TEL 07 838 6699
FAX 07 838 6599
EMAIL info@hcc.govt.nz
hamilton.govt.nz

Dear Taryn

Classification of Dog as Menacing Dog Section 33A Dog Control Act 1996

Section 33A of the Dog Control Act 1996 ("DCA") enables Hamilton City Council ("HCC"), to classify a dog that it considers poses a threat to any person, stock, poultry, domestic animal, or protected wildlife because of:

- a. any observed or reported behaviour of the dog; or
- b. any characteristics typically associated with the dog's breed or type.

As a result of the observed or reported behaviour HCC has classified the dog as a Menacing Dog under s33A of the Dog Control Act 1996. The Notice of Classification of Dog as Menacing Dog ("the Notice") is enclosed.

HCC requires you to have the dog de-sexed, and to provide a copy of the de-sexing certificate to HCC within one month from the date shown on the Notice.

You may be able to take advantage of discounts available through HCC for de-sexing fees with a contracted veterinarian. Microchipping is also available at the Animal Education and Control Centre. If you would like further information about these services, please contact the Animal Education and Control team on 838 6632.

Please ensure that you comply with the requirements of the classification within the timeframes outlined in the enclosed Notice to avoid any further enforcement action. If you do not agree with the Classification you may object in writing within 14 days of receiving the Classification. You must have valid ground for an objection and produce evidence that your dog is not of a breed or type listed above.

If you have any questions regarding the Notice of Classification please contact HCC's Animal Education & Control Centre, phone 838 6632.

Regards

Susan Stanford
Animal Education and Control Manager

Animal Education and Control Centre
217 Ellis Street, Hamilton
Phone 07838 6632
Fax 07 838 6915

AC-F64a
V 8



Hamilton City Council
Te kaunihera o Kiriikiriroa

Private Bag 3010
Hamilton 3240
New Zealand

TEL 07 838 6699
FAX 07 838 6599
EMAIL info@hcc.govt.nz
hamilton.govt.nz

Notice of Classification of Dog as Menacing Dog

Section 33A, Dog Control Act 1996

To: *
(name of owner)

Taryn

Address:


Santiago Place
Flagstaff
Hamilton 3210

Male Wire Fox Terrier x Maltese, Gold in colour,
Named Rocky Reeda, Aged 4 years and 10 months
approximately, Microchip 953 010 000 639 787

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 of the aggressive behavior displayed by the dog on Sunday, 10th May 2020, in Hamilton

A summary of the effect of the classification and your right to object is provided below.


Animal Education and Control Manager

10/7/2020
Date

* For the purposes of the Dog Control Act 1996, you are 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, 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.

S 33E(1) Effect of classification as a menacing dog

Sections 33E, 33F, 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 (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; and
- (b) must produce to HCC within 1 month after receipt of this notice, a certificate issued by a 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

V2
16.3.2011
AC-F54

Item 6

Attachment 2

- (c) must, if a certificate under paragraph (b)(ii) is produced to HCC, produce to HCC, 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).

You are also required, for the purposes 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 HCC in accordance with the reasonable instructions of HCC 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 after the dog is classified as menacing.

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 summary conviction to a fine not exceeding \$500 if you fail to comply with this requirement.

Full details of the effect of the classification of a dog as menacing are provided in the Dog Control Act 1996. This is available to view online at www.legislation.govt.nz.

Right of Objection to Classification Under Section 33C

Section 33D, Dog Control Act 1996

You may object to the classification of your dog as menacing by lodging with HCC 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.

Susan Stanford

From: Info <INFO@HCC.GOV.T.NZ>
Sent: Tuesday, 14 July 2020 07:54
To: Susan Stanford
Cc: Animal care
Subject: FW: attention Susan Stanford- objection to dog classification of Rocky Reeda
I [#32251N]

Follow Up Flag: Follow up
Flag Status: Flagged

This sender is trusted.

Hi,

Please see below email, for your response

Thank you,
Customer Services | City Growth

Email: info@hcc.govt.nz



Hamilton City Council | Private Bag 3010 | Hamilton 3240 | www.hamilton.co.nz

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-----Original Message-----

From: "Ben & Taryn" <[redacted]@gmail.com>
Sent: Tuesday, 14 July 2020 7:56 AM
To: "info@hcc.govt.nz" <info@hcc.govt.nz>
Subject: attention Susan Stanford- objection to dog classification of Rocky Reeda

Taryn
Santiago Pl
Flagstaff
Hamilton
3210

14 July 2020

Dear Susan,

Thank you for your notice dated 10 July 2020 advising me of the outcome of the complaint of my dog rushing a scooter on May 10, 2020.

1

I am writing to appeal the classification of my dog Rocky microchip number 953010000639787 as a menacing dog under section 33C of the Dog Control Act 1996.

Please find attached a copy of his desexing certificate. He was desexed at 7 months old by myself at Carevets Rototuna.

The following points are the grounds under which I object:

1. Rocky is a very obedient dog having been to 3 terms of dog obedience with Phoenix Dog Obedience as a younger dog and passing intermediate level. The incident on May 10 was very out of character for him. Unfortunately I was not the person holding his leash as I had control of our younger dog. I believe had I had Rocky the event would not have occurred. We were out on a rare family walk under Lockdown and the circumstances were not as they would usually have been under Level 1 or pre Lockdown.
2. Despite my belief Rocky is not menacing after talking with Justin Harden at the Hamilton City Council I went to work the very next day and purchased him a muzzle which he has worn on every walk since for the last 2 months. We have had no repeat of him attempting to rush at anyone or even bark since then.
3. We have had regular visitors including strangers to our home and Rocky has shown no signs of aggression or menacing to them. He is a barker so will bark if someone walks past our property but it is just that.
4. We have had Rocky assessed by, and are currently working with Darran Rowe of Mindfulness 4 Dogs with both our dogs to ensure the incident of May 10 will never happen again and have 2 happy and confident dogs at home and on walks. This work started within 2 weeks of the complaint being lodged. I am happy for you to contact Darran with regards to Rocky. I believe Lockdown adversely affected Rocky but now 6-7 weeks later he is his normal friendly self and we will continue to work closely with Darran and muzzle Rocky until he feels it is safe for him not to have a muzzle if the classification was removed.
5. The night of the incident I posted on social media so that the complainants knew who we were. I have never tried to hide the fact the incident occurred and have shown remorse over the words that were shared by both parties as emotions were high at the time with the incident involving children and pets.
6. The last is an emotional appeal on my behalf as Rocky's owner. My boy is a very gentle soul who loves his walks and people. He used to go off lead at Days Park prior to us getting a second dog 1.5 years ago. I honestly believe as his owner and a vet of 17 years that he does not deserve this classification based on 1 incident which was under the very unusual circumstances of Covid -19 Lockdown.

Thank you for your time in hearing out my objection.

Yours faithfully,
Taryn

Chartwell Veterinary Hospital
Hamilton South Veterinary Clinic
CareVets Rototuna



Caring for your pets

Desexing Certificate for Registration

- ☒ Desexed on this date
☐ Confirmed as desexed by visual inspection

953010000639787

Attach Barcode here

Microchip number where applicable

Animal Details

Name: Rocky Reeda

Breed: Cross Breed

Sex: male

Colour: Gold

Distinguishing Marks: _____

Desexed: Yes

Date of Birth: 9/09/2015

Owners Details

Name: Taryn

Address: Santiago Place Flagstaff Hamilton

Phone: _____

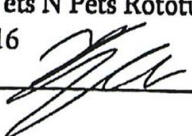
Owners Date of Birth: _____

Implanter/Verifier

Veterinarian name: Dr Taryn

Practice: CareVets N Pets Rototuna

Date: 18/03/2016

Signed:  BVSC.

www.carevets.co.nz

0800 CAREVETS (0800 227 383)

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Section 48, Local Government Official Information and Meetings Act 1987

That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
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This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

Page 58 of 58