

Notice of Meeting:

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

Date: Wednesday 26 April 2023
Time: 1:30 PM
Meeting Room: Committee Room 1
Venue: Municipal Building, Garden Place, Hamilton

Lance Vervoort
Chief Executive

Dog Control Hearings Panel

Te Komiti Whiriwhiri I Ngaa Take Kuri

OPEN AGENDA

Membership

Chairperson Cr Ewan Wilson
Heamana

Members Cr Mark Donovan
Cr Moko Tauariki
Cr Andrew Bydder
Cr Anna Casey-Cox
Cr Melaina Huaki

Quorum: Three members

Meeting Frequency: As required

Amy Viggers
Mana Whakahaere
Governance

14 March 2023

Telephone: 07 838 6727
Amy.Viggers@hcc.govt.nz
www.hamilton.govt.nz

Purpose

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

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

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

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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:** 26 April 2023
Author: Arnold Andrews **Authoriser:** Michelle Hawthorne
Position: Governance Advisor **Position:** Governance and Assurance Manager
Report Name: Confirmation of the Dog Control Hearings Panel Open Minutes 21 February 2023

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

That the Dog Control Hearings Panel confirm the Open Minutes of the Dog Control Hearings Panel Meeting held on 21 February 2023 as a true and correct record.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Dog Control Hearing Panel Unconfirmed Open Minutes 21 February 2023 .

Dog Control Hearings Panel

He Koomiti Whiriwhiri I Ngaa Take Kuri

OPEN MINUTES

Minutes of a meeting of the Dog Control Hearings Panel held in Committee Room 1 and via Audio Visual Link, Municipal Building, Garden Place, Hamilton on Tuesday 21 February 2023 at 9.00am.

PRESENT

Chairperson Cr Ewan Wilson
Heamana

Members Cr Mark Donovan
 Cr Anna Casey-Cox

In Attendance Michelle Hawthorne – Governance and Assurance Manager
 Kelvin Powell – City Safe Unit Manager
 Trudi Swanson – Team Leader Animal Education and Control Officers
 Sonia Swinbourne – Animal Education and Control Officer

Governance Team Amy Viggers – Governance Lead
 Arnold Andrews – Governance Advisor

1. **Apologies – *Tono aroha***
Resolved: (Cr Wilson/Cr Donovan)
 That the apologies for absence from Cr Tauariki, Cr Bydder, and Cr Huaki are accepted.
2. **Confirmation of Agenda – *Whakatau raarangi take***
Resolved: (Cr Wilson/Cr Donovan)
 That the agenda is confirmed.
3. **Declarations of Interest – *Tauaakii whaipaaanga***
 No members of the Council declared a Conflict of Interest.
4. **Confirmation of the Dog Control Hearings Panel Open Minutes 12 December 2022**

Resolved: (Cr Wilson/Cr Donovan)
 That the Dog Control Hearings Panel confirm the Open Minutes of the Dog Control Hearings Panel Meeting held on 4 June 2021 as a true and correct record.

Item 8 (Resolution to Exclude the Public) was taken after Item 4 (Confirmation of the Dog Control Hearings Panel Open Minutes 12 December 2022) to accommodate presenters.

8. Resolution to Exclude the Public**Resolved:** (Cr Wilson/Cr Donovan)**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. Confirmation of the Dog Control Hearings Panel Public Excluded Minutes 12 December 2022	) Good reason to withhold information exists under) Section 7 Local Government Official Information and Meetings Act 1987	Section 48(1)(a)
C2. Amendment to the Dog Control Panel Decision of December 2022)	

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) (ii)
Item C2.	to maintain the effective conduct of public affairs through protecting persons from improper pressure or harassment	Section 7 (2) (f) (ii)

The meeting went into a public excluded session at 9:03 AM

During the public excluded session of the meeting the following was resolved to be released to the public: That the Dog Control Hearings Panel determines that the disqualification from dog ownership of Nicola Kenney is upheld, and the duration of the disqualification is reduced so it concludes on 21 February 2025.

The meeting returned to the open session at 9:38 AM**5. Objection to menacing classification - Claudia Williams**

Ms Williams spoke to her objection and apologised for her dog's behaviour. She acknowledged her negligence and took full responsibility. She listed different steps taken to address the dog's behaviour and further training undertaken since the incident to address sensitivity to other dogs.

Panel members asked questions in relation to the fence and its repair and defining the incident as an attack.

Unit Manager City Safe spoke about Leena (dog) and its behaviour and the assessment provided by the applicant. Team Leader Animal Education and Control Officers answered questions regarding the animal information record, information in the report, obligations of the owner at their

property, public entering properties, fencing requirements and provisions from Council.

Item 8 (Resolution to Exclude the Public) was taken after Item 6 (**Objection to menacing classification - Claudia Williams**) at the request of the Panel.

8. Resolution to Exclude the Public

Resolved: (Cr Wilson/Cr Donovan)

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
5. Objection to menacing classification - Claudia Williams	) 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 5. to maintain the effective conduct of public Section 7 (2) (f) (ii)
affairs through protecting persons from
improper pressure or harassment

The meeting went into a public excluded session at 10:16am.

During the public excluded session of the meeting the following was resolved to be released to the public: That the Dog Control Hearings Panel determines that the classification of Leena as a menacing dog is not upheld.

The meeting was adjourned from 10:36am to 10:45am.

The meeting returned to the open session at 10:45am.

6. Objection to menacing classification - Dave Burger and Rochelle Ramsay

Mr Burger spoke to his objection and pointed out that the report's description of his dogs was inaccurate. He said behaviour classified as "attacking" in the report was considered normal play-fighting with his dogs and that his property was fully fenced. He also said that he only became aware of the incident after Animal Control contacted him as he did not witness anything, that he had paid the veterinary bill for the victim dog and had added padlocks to the gate since the incident. Panel members asked questions in relation to Kora (dog) having previous roaming charges and infringements from August 2022.

Unit Manager City Safe spoke to the report and addressed the uniqueness of the case with it having only one witness. He noted that the acceptance of two infringement notices was an admission of guilt by the applicant.

Panel members asked questions in relation to the process of attaining witness statements and the roaming infringements for Kora from a previous address.

Animal Education and Control Officer answered questions regarding dog behaviour and provided clarity on Section 52A of the Dog Control Act.

8. Resolution to Exclude the Public**Resolved:****Section 48, Local Government Official Information and Meetings Act 1987**

The following motion is submitted for consideration:

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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.

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6. Objection to menacing classification - Dave Burger and Rochelle Ramsay) 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 6. to maintain the effective conduct of public Section 7 (2) (f) (ii)
affairs through protecting persons from
improper pressure or harassment

The meeting went into a public excluded session at 11:19am.

*During the public excluded session of the meeting the following was resolved to be released to the public:
That the Dog Control Hearings Panel determines that the classification of Kora and Drax as menacing dogs is upheld.*

The meeting was adjourned from 11:25am to 1:00pm.

The meeting returned to the open session at 1.00pm

7. Objection to menacing classification - Nigel Binks

Procedural Motion

Resolved: (Cr Wilson/Cr Donovan)

That the item (Objection to menacing classification - Nigel Binks) be deferred to the next available Dog Control Hearings Panel meeting to take place as soon as is possible and no later 5 weeks.

The meeting was declared closed at 1:20pm.

Council Report

Item 5

Committee: Dog Control Hearings Panel **Date:** 26 April 2023
Author: Arnold Andrews **Authoriser:** Michelle Hawthorne
Position: Governance Advisor **Position:** Governance and Assurance Manager
Report Name: Confirmation of the Dog Control Hearings Panel Open Minutes 1 March 2023

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

That the Dog Control Hearings Panel confirm the Open Minutes of the Dog Control Hearings Panel Meeting held on 1 March 2023 as a true and correct record.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Dog Control Hearing Panel Unconfirmed Open Minutes 1 March 2023 .

Dog Control Hearings Panel

Te Koomiti Whiriwhiri I Ngaa Take Kuri

OPEN MINUTES

Minutes of a meeting of the Dog Control Hearings Panel held in Committee Room 1, Municipal Building, Garden Place, Hamilton on Wednesday 1 March 2023 at 9:30am.

PRESENT

Chairperson Cr Ewan Wilson
Heamana
Members Cr Mark Donovan
Cr Anna Casey-Cox
Cr Andrew Bydder

In Attendance: Kelvin Powell – City Safe Unit Manager
Susan Stanford – Animal Control Manager
Craig Heathcote – Animal Education and Control Officer
Robert Bedford - Animal Education and Control Officer

Governance Staff: Amy Viggers – Governance Lead
Arnold Andrews – Governance Advisor

Item 4 (Objection to menacing classification - Shannon Werder) was taken at the at the beginning of the meeting to accommodate external presenters.

4. Objection to menacing classification - Shannon Werder

Mr Werder spoke to his objection and described the incident for the Panel. He mentioned the distance between the victim dog and its owner during the incident, the people involved, previous incidents with this dog, history of dog ownership and breed of dog.

The Panel asked questions in relation to puppy training, training undertaken since ownership, the ability of the dog to hurt/harm if provoked, impact of muzzling, medical report for the medical attention received by the objector, injury details, communication with victim dog owner and character certificate for the dog (Vixen).

Animal Education and Control Officer spoke to the report and the Panel deemed social media communication to have no value as evidence without written/verbal statements from witnesses and victim dog owner. The Panel requested the Animal Education and Control Officer to read out the witness/victim's statement.

The Panel asked questions in relation to initial actions taken, muzzling requirements for both public or private settings, historic evidence of incidents and menacing dog/breeds that may be classified.

Item 6 (Resolution to Exclude the Public) was taken during the discussion of Item 4 (Objection to menacing classification - Shannon Werder) at the request of the Panel .

6. Resolution to Exclude the Public

Resolved: (Cr Wilson/Cr Donovan)

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
4. Objection to menacing classification - Shannon Werder	) 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 4.	to maintain the effective conduct of public affairs through protecting persons from improper pressure or harassment	Section 7 (2) (f) (ii)
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The meeting went into a public excluded session at 10:16am.

During the Public Excluded session of the meeting the following was resolved to be released to the public: That the Dog Control Hearings Panel determines that the classification of Vixen as a menacing dog is upheld.

The meeting returned to the open session at 10:31am.

Cr Bydder left the meeting during the above adjournment.

The meeting was adjourned from 10.31am to 10.50am.

The meeting returned to the open session at 10:50am.

8. Apologies – Tono aroha

Resolved: (Cr Wilson/Cr Donovan)

That the apologies for absence from Cr Tauariki and Cr Huaki are accepted.

9. **Confirmation of Agenda – *Whakatau raarangi take***

Resolved: (Cr Wilson/Cr Donovan)

That the agenda is confirmed.

10. **Declarations of Interest – *Tauaakii whaipanga***

No members of the Panel declared a Conflict of Interest.

5. **Objection to menacing classification - Colby Osborne**

Ms Osborne spoke to her objection and described the current and previous incident involving Blue (dog).

The Panel asked questions in relation to timing of the current incident, previous incidents, fencing, measures taken since the incident, Blue's behaviour and changes in behaviour since the companion dog's departure, infringements issued and cattle being attacked or disrupted.

Animal Education and Control Officer spoke to the report and verified the date of the incident. He mentioned the initial communication received from Ms Osborne and communication with the victim cattle owner. He also stated that Blue was given a warning letter. The Panel requested the Animal Education and Control Officer to read out the witness/victim's statement.

The Panel asked questions in relation to process, timelines, staff's opinion based on evidence, reason for classification, infringements, the impact of muzzling on similar incidents and differences between and dangerous and menacing classification.

Item 6 (Resolution to Exclude the Public) was taken during the discussion of item 4 (Objection to menacing classification – Colby Osborne) at the request of the Panel .

6. **Resolution to Exclude the Public**

Resolved: (Cr Wilson/Cr Donovan)

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
5. Objection to menacing classification - Colby Osborne	) 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 5. | to maintain the effective conduct of public affairs through protecting persons from improper pressure or harassment | Section 7 (2) (f) (ii) |
|---------|---|------------------------|

The meeting went into a public excluded session at 12:00pm.

*During the Public Excluded session of the meeting the following was resolved to be released to the public:
That the Dog Control Hearing Panel determines that the classification of Blue as a menacing dog is upheld.*

The meeting was declared closed at 12:15pm.

Council Report

Committee: Dog Control Hearings Panel **Date:** 26 April 2023
Author: Susan Stanford **Authoriser:** Kelvin Powell
Position: Animal Control Manager **Position:** City Safe Unit Manager
Report Name: Objection to menacing classification - Nigel Binks

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

1. To seek a determination from the Dog Control Hearings Panel on the classification of “Stellar Binks” 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 Stellar as a menacing dog is upheld.

Executive Summary - *Whakaraapopototanga matua*

3. Stellar is a tricolour, three-year-old St Bernard. On 3 October 2022 Stellar attacked Chief a six-and-a-half-year-old Miniature Dachshund/Shih Tzu cross at the entry to Day’s Park off leash area.
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 Stellar as a menacing dog is upheld (Option A) as detailed 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. Stellar is a tricolour, three-year-old St Bernard. On 3 October 2022 Stellar attacked Chief a six-and-a-half-year-old Miniature Dachshund/Shih Tzu cross at the entry to Days Park off leash area. There is a significant size and weight difference between these two dogs.
8. In the afternoon of 3 October 2022 as the owner of Chief has entered Day’s Park, she has noted there was two people (a man and woman) behind her with three dogs, one off-lead and two on-lead. A female was holding the leash of a St Bernard (Stellar). As she has entered the park, she has let Chief off-lead.

9. The St Bernard has pulled away from the woman and come up behind Chief and his owner and attacked Chief. Chiefs' owner has pulled Stellar away from Chief and then the female dog owner has come over and taken control of Stellar. Stellar's owner has noted that Stellar does not like small dogs as she has been attacked by one in the past. This information was also relayed to the Investigating Animal Control Officer; when she spoke to the female dog owner, she noted Stellar was not behaving well with the little dog and that she had previously been attacked by a small dog.
10. Immediately after the attack there was an exchange of words between the dog owners. Chief's owner noted she was both frightened and angry and did tell Stellar's owner "where to go". No owner details were exchanged at the scene, but chief's owner noted the registration number of the car she believed belonged to the other dog owners.
11. During the attack Chief received injuries to his back and his owner took him straight to the vet from Days Park. It is noted these did not include puncture wounds but scratches on his back that the vet noted as being consistent with injuries received from another dog. The wounds were cleaned, and anti-inflammatory medication and pain relief was administered.
12. A lengthy statement submitted by the male owner of Stellar notes that Chief a small cross breed dog and his owner (aged 76 years old) were blocking their entry to the park, an area of at least 4-5 metres in width creating an unsafe environment. He also notes that Chief engaged directly with their dogs who were on lead and that Chiefs owner began screaming and shouting before there was any interaction and this contributed to the situation. There is no mention of Stellar pulling free of her owner and having negative reactions to small dogs as noted to both Chief's owner on the day and to the investigating AECO the following day by the female dog owner. The statement notes Stellar's female owner did a body check of the small dog and that the dog owner was abusive.
13. For full job details, vet report and witness statements see CRM 284725 (**Attachment 1** – CRM284725).
14. As a result of this attack the dog Stellar was classified as menacing for behaviour (**Attachment 2** – menacing classification).
15. On 18 November 2022 an objection to the classification (**Attachment 3** – objection received) of the dog Stellar as menacing was received from the registered dog owners. The owners are objecting on the following grounds:
 - i. That they are responsible dog owners who have regularly fostered for the SPCA and as outlined in the email accompanying a statement provided, that they are taking steps to prevent anything like it possibly occurring again (see CRM 284725).
 - ii. That the actions of the victim dog owner contributed to the event and that she was unreasonably aggressive and abusive.
 - iii. That the interaction was not aggressive and there were no injuries and that the injuries seen by the vet could have occurred after the interaction at Day's Park.
 - iv. Two character references have been supplied for Stellar (**Attachment 4** – character references).

Discussion - *Matapaki*

16. In considering their decision, panel members should consider:
 - i. the incident that formed the basis for the classification
 - ii. the number and type of incidents that have occurred
 - iii. any escalation in behaviour demonstrated by the dog

iv. the potential impact to public safety.

17. There are similarities and points of difference in the information provided to AEC during the investigation and the objection for example, the victim dog owner notes the offending dog owner tried to examine her dog, but the offending dog owners say she carried out a thorough check of the victim dog. The investigation notes and statements supplied are in the attachments. All material is as it was submitted to AEC by both the owner of Chief and the owners of Stellar.
18. The owner of Stellar notes that Chief, the victim dog was off lead and wandered onto the grass by the car park and the victim dog owner noted that one of the three dogs owned by the offending dog was off lead in the car park area. In their objection the offending dog owners have included photos and information noting that dogs must be on a lead in the car park area.
19. The female dog owner has noted to both the victim dog owner and investigating officer that Stellar has been attacked by a small dog so does not like them, given this known negative response of Stellar to small dogs there is a risk there could be a repeat of the behaviour shown at Day's Park.
20. That there was contact between the two dogs is certain and that there were injuries has been clearly shown by the vet report and following phone conversation the AECO had with the vet. The victim dog owner describes the attack as unprovoked and without warning (preamble). However, the owners of Stellar contend there was no attack.

Options

21. 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:
 - i. To uphold the classification, or
 - ii. To overturn the classification.
22. Staff recommend Option A because the best way to eliminate the risk is for Stellar 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*

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

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

24. [Section 33A](#) of the Dog Control Act 1996 sets out the circumstances in which a territorial authority may classify a dog as menacing including:
 - I. The dog has not been classified as dangerous; but
 - II. The territorial authority considers the dog may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of –
 - i. any observed or reported behaviour of the dog; or
 - ii. any characteristics typically associated with the dog's breed or type
25. [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.
26. 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*

27. 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').
28. 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.
29. 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*

30. Should the menacing classification be overturned, removing the owner's obligations to muzzle the dog in public there would remain a degree of risk that an incident like this could occur again.

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

Significance

31. 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

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

Attachments

Attachment 1 - CRM268065

Attachment 2 - Menancing Classification

Attachment 3 - Desexing Certificate

Attachment 4 - Objection Received .

Animal Complaint Record 284725/2022

COMPLAINANT

Complaint Received	03/10/2022
Name	[REDACTED]
Address	[REDACTED] Heritage Avenue Chartwell Hamilton 3210

Officer	D37
Home Phone 1	[REDACTED]
Home Phone 2	[REDACTED]
Mob Phone	[REDACTED]

PROPERTY

Property Address	809 River Flagstaff 3210	Lot 31 DP S6071	Safety Alert	NO
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ANIMAL DETAILS

Animal Number	244854	Animal Name	Stellar [REDACTED]	Tattoo	[REDACTED]
Animal Location	[REDACTED]	Color	[REDACTED]	Sex	F
Owner Address	[REDACTED] Davison Road Newstead Hamilton 3286	Owner Name	[REDACTED]	NAR No.	874540

REQUEST DETAILS

Offence Date		<p>Today at approx 16:30 [REDACTED] was walking with her dog into Days park from the River Road carpark, and another dog attacked her dog. Pru was able to grab the attacking dog's collar and pull her off. Her dog is a male dachshund cross shih tzu named Chief. The attacking dog was a tan and white female St Bernard. The St Bernard owner was unloading 3 dogs from their car, and about to follow [REDACTED] in to the park, when the St Bernard pulled free from the leash being held by the owner and attacked Chief. The owner said that her St Bernard doesn't like small dogs and will sometimes attack them. She refused to give her contact details to [REDACTED] (the car was a Honda CRV rego [REDACTED] - which she claimed was not her car). Pru took Chief to the vet and they shaved two places where Chief was bit, although no puncture wounds. She said that the owner of the attacking dog continued into the park to walk her dogs.</p>
Major Category	Animal Control (heading only)	
Minor Category	Dogs - Offences (heading only)	
Category 3	Dogs - Attack (heading only)	
Category 4	Dogs - Attack - Dog v Animal - Urgent	

INVESTIGATION DETAILS

Officer	AHU	<p>5.20pm Phone call to [REDACTED] statement taken over the phone. Request for photos and vet report to be emailed to me. (Trudi [REDACTED] - 04/10/2022) 4/10 [REDACTED] provided her own statement overnight via email as well as photos of the dogs injury and vet report. [REDACTED] I ran the vehicle registration and it came back to [REDACTED] I ran this name through NDD and came back with records for a Saint Bernard dog named Stellar [REDACTED]. On running the name through Authority there are departed records for the dog owner for 2 other dogs matching description in victim dog owners statement. Owners are [REDACTED] and [REDACTED] 4/10 9.20am Phone call to [REDACTED] and explained the dog attack complaint. I am investigating. Nigel tells that he had his 3 dogs on lead at the dog park with his wife. They saw the woman with the little dog and waited until she had gone through the narrow area heading into the park from the car park. He tells that the little dog came back towards them to and the owner wasn't watching. He said there was interaction with their Saint Bernard but he claims there was no injury. Nigel told me multiple times that the woman owner was</p>
Start Date	02/11/2022 01:39	
Finish Date	02/11/2022 01:54	
Outcome	* Completed	
Task	Investigation	

screaming erratically as a result of what he described as dog interaction and that this screaming added to the situation in a negative way. I have requested a statement from Nigel of his account of events.

10.18am Phone call with female dog owner [REDACTED]. I have advised of the complaint and that I have already spoken with [REDACTED]. I have asked for her account of the situation, she admitted that their Saint Bernard was not behaving well with the little dog and that it has previously been attacked by a small dog so does not like them. She told me she would not be taking this dog to the dog park anymore because of this behaviour and they decided this last night after the event. [REDACTED] has email through to say that he will provide a statement after he has had confirmation of injury unquestionably caused by a large dog judged by a qualified vet. I have email Nigel back to give him managers email for formal information request.

10/10 2.50pm Spoke with [REDACTED] to update, she tells me again that her little dog was in front of her and the large Saint Bernard came up to her little dog in an aggressive manner and attacked straight away. She herself had to pull the large dog off her small dog. She admits to being very shaken, shocked and upset at the attack. She tells that the male who was with the female dog owner didn't come near, was watching from far away. I have advised [REDACTED] that the other dog owners are not accepting of the dogs aggressive behaviour and this may end up in a hearing. [REDACTED] tells me that the information she has provided me is 100 percent truthful and she is willing to stand behind her statement if required.

No other witnesses have been provided.

Dog to be classified as menacing as a result of attack causing injury. Written warning issued to dog owners. (Trudi [REDACTED] - 10/10/2022) 10/10 email received from [REDACTED] detailing his account of events and is heavily focused on the behaviour of the victim dog owner. I have attached to the CRM

Nigel is requesting a copy of information and in particular the vet report before they provide a written response. This has been sent to our manager Susan [REDACTED]

I had not had a response from [REDACTED] and had arrived at an outcome prior to receiving email. (Trudi [REDACTED] - 11/10/2022)

11.25am Phone call with [REDACTED] advised of the outcome, discussed how to contest the menacing classification.

Talked through the vet report provided to me by care vets Chartwell. [REDACTED] has questioned the time, statement of victim dog owner has incident occurring at 4.30pm. I have phoned Care Vets Chartwell and spoke with Casey who tells me that [REDACTED] presented with Chief at 4.30pm and the incident had occurred shortly before that. I asked her to confirm the injury was in her opinion caused by another dog and she said yes and that whilst there weren't any puncture wounds they were quite significant skin scrapes. (Trudi [REDACTED] - 11/10/2022)

18/10/22 12.36pm After reviewing the case with unit manager Susan [REDACTED] the decision to go ahead with a menacing classification and written warning was made.

Menacing classification given to admin, written warning issued and posted. The large dog Stella

was not well controlled, she has attacked the victim dog causing injury. Email sent to offending dog owner to advise. Phone call to comp to update.

NFA (Trudi [REDACTED] - 18/10/2022)

Animal record 244854 has been created as the menacing dog is from out of district. Record will be departed once the menacing classification paperwork has been done. [REDACTED] 02/11/2022}

Previous Complaints for Dog

CRM No.	284725/2022	Task	2INV
Animal	244854	Outcome	MENC
Maj Cat.	Animal Control (heading only)	Officer	D37
Min Cat.	Dogs - Offences (heading only)	Opened	03-Oct-22 05:06:00 PM
Cat 3	Dogs - Attack (heading only)	Closed	18-Oct-22 12:38:00 PM
Cat 4	Dogs - Attack - Dog v Animal - Urgent		

CRM No.	284725/2022	Task	2ACO
Animal	244854	Outcome	COMP
Maj Cat.	Animal Control (heading only)	Officer	AHU
Min Cat.	Dogs - Offences (heading only)	Opened	02-Nov-22 01:39:00 PM
Cat 3	Dogs - Attack (heading only)	Closed	02-Nov-22 01:54:00 PM
Cat 4	Dogs - Attack - Dog v Animal - Urgent		

CRM No.	291383/2022	Task	2INV
Animal	244854	Outcome	
Maj Cat.	Animal Control (heading only)	Officer	D40
Min Cat.	Dogs - Offences (heading only)	Opened	04-Nov-22 02:00:00 PM
Cat 3	Dogs - Offences - Officer (heading only)	Closed	
Cat 4	Dogs - Officer - Serve Dog Classification		

Chartwell Monday 3 October 2022

Time: 6.00pm

REPORT OF DOG ATTACK on Chief [REDACTED] aged 6.5 years.

I was walking into the Days dog park from the main carpark at approximately 4.30pm on Monday 3rd October 2022. There were two people behind me, a man and a woman who had just let their three dogs out of their car. One elderly Alsatian type was off lead, the other two, a female tan and white St Bernard were on leashes. I had just let my small dog Chief (a wire-haired Dachshund crossed Shih Tzu) off his lead whereupon he went to sniff the grass verge at the entrance. Suddenly the St Bernard dog, which had just come in behind us, pulled away from its female owner and attacked my dog on his back, totally unprovoked. There was no preamble. I tried to grab the big dog – a female tan and white St Bernard, and eventually got her by her collar. Only then did the owner come over. The owner stated that her dog doesn't like small dogs because she was once attacked by a small dog and has attacked before. I told her that she should not therefore bring such a dog to the dog park where there are many small dogs each day and her dog should be fully under her control. "She just pulled away from me", said the owner. This woman then tried to examine my dog and said he must be alright as there was no blood. I don't remember any verbal apology from the owner. I realized afterwards that the man with her didn't come up to us to see what had happened, which I now think is odd.

I reattached my lead to my dog and said I would take him to the vet to be examined. I asked the woman several times for her name and phone number but she refused to give them to me. Her reason was "I don't want to be abused over the phone by you". I asked her to confirm which car she came in to which she replied "It's not even my car". I took the number of the car I'm pretty certain they got out of and hopefully she can be traced. She was about 40/50 years of age, Sri Lankan or Indian in origin, probably about 5'5" in height. There was another woman there in the car park with us who heard the attack but didn't witness it. However, she did witness me asking the woman owner for her name and phone number and the woman's refusal to give it to me. The other lady suggested I give the St Bernard's owner my phone number but the owner refused to take it. I said that this incident needed to be reported so I required her name and number. She still refused to comply.

I was shaking with both fright and anger and told the owner where to go. I got in my car with my dog and took him straight to the Carevets at Chartwell who examined him and found two wounds on his back. They shaved the wound areas and gave him an injection of Meloxicam for inflammation and pain relief. They took photos, as did I when I got home. I have asked the vets to email the photos and a report to the Dog Control Office of HCC to whom I reported the attack when I got home.

The car I think the owners got out of was [REDACTED] Honda SRV, dark grey or black in colour.

My wish is that this female St Bernard dog either be muzzled or preferably banned from the Dog park altogether. As it has attacked before, there may be sufficient reason for the dog to be euthanized. I am elderly, as are many of the dog owners who walk in this park. I have noticed that the owners of the smaller dogs are often elderly too so a big dog, which is liable to attack small dogs, should not be allowed anywhere near other dogs.

[REDACTED]
3.10.22

CareVets Chartwell Veterinary Hospital
Lynden Court, Chartwell, Hamilton
Ph: 07 8559072

(1/25578)

For Chief (1/98793)
Dog, Male, Dachshund, Tan
Age: 6 yr 5 mth , Desexed: Y On: 10/11/2016

Chartwell
Hamilton 3210

Sales Group:
Client Group: None

Bill#: 1/1496101 Date: 3/10/2022

3/10/2022 [KF] (Photo)



Staff	Qty	Name
GC	1	CONSULTATION
GC	0.47	INJ - Meloxiclor 5mg/ml (20ML)

3/10/2022 [KF] (Photo)



3/10/2022 [GC]

WEIGHT:11.8

HISTORY:Was just at the dog park and was attacked by a st
emand, brought him straight down.

right, alert, responsive
:hest ausc hr 130bpm, mucous membranes pink and moist,
:apillary refill time <2secs
esp pant
:ait normal
no obvious blood or puncture wounds
wo superficial skin injuries on left side of lumbar back and just
:audal to right shoulder. has not punctured the skin, some
ruising around. clipped and cleaned with dilute chlorhex. no other
njuries found.

netacam injection and tlc at home. owner will monitor closely
ind review if any concerns.
NEO.



Item 6

Attachment 1

Attachment 1

Item 6



Susan [REDACTED]

From: [REDACTED]@hotmail.com>
Sent: Tuesday, 11 October 2022 1:27 pm
To: Trudi [REDACTED]
Subject: Re: Dog attack file
Attachments: Stellar - Deys park incident Monday 3rd 2022.docx.pdf

Kia ora Trudi,

I have attached our statement of events as they occurred at Dey's Park on the 3rd of October 2022, between 3.15-3.30pm.

We are certain of the indicated timing as it coincided with [REDACTED] finishing early on the day, following a meeting ending at 2.30pm (unusual) and heading straight to the park thereafter, having left our home at 14:55 on the day. We do not believe the event necessitates, or is a suitable basis for, classifying one of our dogs as a dangerous animal, and requiring her to wear a muzzle to be in any public space. There are too many discrepancies for a conclusive outcome to this event.

What we propose we will do to mitigate chances of any future incident:

All of our dogs will always be desexed (present and future)

Our St. Bernard female will always be walked on a lead in public

We will change the colour of her collar from purple to red and purchase a halti-collar, to better restrict her movements around her owner on lead when in public, and reduce any chance of unwanted pulling or dropping of the lead

Mr Binks will be her primary handler hereafter, recognising the size and weight of our giant breed is cumbersome for Mrs Binks to restrain if required

We will let other dog users know to not allow their dog to interact with our St. Bernard, unless both users are comfortable and provide approval first.

We will always provide and seek a slow and calm introduction in open areas which provide adequate space for appropriate introductions (no car park intros)

Sadly for us, we will make one additional consolation, we will not return to Dey's Park with our St. Bernard. You can reassure the other dog owner she will not encounter her there again, which should make her feel more comfortable about returning to the park with her dog. This experience has tainted our long-standing enjoyment of that park.

We hope these mitigation measures will be satisfactory to address any concerns.

Ngaa mihi,

From: Trudi [REDACTED]@hcc.govt.nz>
Sent: Thursday, 6 October 2022 8:42 am
To: [REDACTED]@hotmail.com>
Subject: Dog attack file

Good Morning [REDACTED]

To request information about a file there needs to be a formal request for information made. You can send your request through to my manager at [susan\[REDACTED\]@hcc.govt.nz](mailto:susan[REDACTED]@hcc.govt.nz).

The complainant will also have the option to do the same.

At this time no outcome for this attack complaint has been decided. When we discussed the complaint over the phone I have requested that you provide your own statement of events to be added to the file prior to an outcome being made.

Do you no longer wish to provide this statement prior to the outcome?

Kind regards

Trudi [REDACTED]

Animal Control Officer, Team Leader | Animal Education and Control Unit

PH [REDACTED] - Email Trudi [REDACTED]@hcc.govt.nz



Hamilton City Council | 260 Anglesea St | Hamilton 3240 | www.hamilton.govt.nz

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Be kind



Tuesday 4th October 2022

An account of the event between the [REDACTED] family and a small/medium unknown dog and his owners at Dey's Park, 3rd October 2022.

Time of event: Between 3.15-3.20pm Friday 3rd October 2022.

Mr [REDACTED] finished work early on the day, leaving our property at 2.55pm (~20min drive), heading directly to Dey's park without any stops along the way. We arrived at the park at 3.17pm, however [REDACTED] car clock is 3min fast. We waited 2-3minutes after arrival, preparing dog treats and tying shoe laces, before exiting the vehicle with our dogs.

Two incidents to report

- (1) Unsafe circumstances created by third party dog owner and subsequent upsetting dog interaction
- (2) Excessive abuse and threatening behaviour directed at Mrs [REDACTED] during the encounter by the unknown dog owner

Unsafe circumstances created by third party dog owner and subsequent upsetting dog interaction

Upon arrival at Dey's Park we (Mr & Mrs [REDACTED]) parked our vehicle in the carpark, to the right – 4 positions along from the roadside. There were several cars parked in the carpark but a couple of vacant parks also, indicating it was not a particularly busy time of day. The weather was heavily overcast and threatening rain.

As normal (we have been coming multiple times per week to this park for >10 years), we scan to ensure the car park is clear and the pathway into the park unobstructed by other users. Waiting our turn for other owners to clear the area.

On the day in question, the only other dog walker in the car park area was a 50yrs+ Pakeha woman of medium height and build with her small/medium dog – her dog's leash was short as they crossed directly behind our vehicle and passed through the car park. We intentionally waited for them to pass us by and go past the entry to the park (the metal gate barrier), before opening our vehicle's rear door, unloading our dogs and proceeding to cross the carpark on lead.

However, upon exiting our vehicle and moving only a few metres (3-5m at most) toward the entry, we realised that the other dog owner had her dog on a retractable dog lead. As Mrs [REDACTED] began crossing from our car through the car park toward the barrier and entrance, the other owners dog changed direction and came back into the car park (to the small garden area immediately to the left of the metal barrier (within the car park area) unsolicited, interfering with our arrival by blocking and engaging our dogs directly. This action demonstrated a lack of spatial and appropriate behavioural awareness by the owner for her animal, allowing it to obstruct our animals pathway to the entry and interfering with our use and enjoyment of the park facility by creating an unsafe environment in a dangerous vehicle traffic area which was not appropriate for a calm and initial dog interaction.

When confronted by the other dog, our two female dogs, being led by Mrs [REDACTED], began introductory sniffs. My comparably large and young female dog (St. Bernard) vocalised an excited bark during this interaction, causing the other owner to recognise her dogs position and quickly yank her dog to bring her back within control and range – her dog then yelped in response to the yank and darted

quickly back toward its owner in response. My larger female dog barked excitedly, and with my wife holding on to her lead followed the dog back toward its owner as it scampered back to its owner, a few metres on the inside of the park entrance. That excited play bark from our dog and her movement toward the unidentified owner was met with an extreme reaction from the human who flung her dogs lead aside, raised her hands into the air and began screaming at maximum panic volume, loudly and intensely (before either dog had reached her) – not words, just panicked screaming.

In combination, her dog inappropriately blocking and engaging ours in the carpark, coupled with her panicked actions created an unsafe environment for us all and considerably escalated the situation due to her panicked perception of a “vicious attack” – it was never an attack scenario at all and we were confident of that – but it was an inappropriate obstruction and introduction triggered by her actions, followed by play and vocal queues from a big dog with a loud playful bark, which she misidentified as aggression. We did not observe or see any indication of direct contact between the dogs.

The other owners dog ran around her legs a couple of times in this process with its lead trailing on the ground, seeking a calm space at its owners feet from the loud volume of our bigger dogs bark, but the owner provided no apparent safety, care, or support for her dog and was just screaming. Her dog then rebuffed my larger dog with a bark and our St. Bernard immediately backed off, of its own accord, before the other woman attempted to assist and grab her lead. During this escalated period of confusion, the St. Bernard’s lead was tugged from Mrs [REDACTED] grip as they circled. The other owner was behaving unpredictably, and both the dogs leads were trailing on the ground as the two dogs circled one-another, becoming entangled.

Following the dog-to-dog reprimand and the subsequent quietening of our dog, both dogs leads were immediately retrieved by their respective owners. The unknown owner immediately stated that her dog had been attacked viciously before, and claimed that it was our fault that her dog was now traumatised (unfounded claim).

Mr [REDACTED] then took our three dogs to the side, while Mrs [REDACTED] immediately knelt to check the welfare of the other owners dog (who was calm and not stressed) due to the intensity of the owners continued panicked reaction and apparent concern - the owner was hyperventilating and still irrationally accusing our dog of a brutal bloody attack, screaming and threatening to have my wife arrested and sue us. She also pointed at our other smaller dog - who was separate, uninvolved whatsoever with this encounter and being led by Mr [REDACTED] - he wears a new harness rather than a collar as we’re training him not to pull on lead, and accused us of knowingly bringing a dangerous dog to the park – this was totally unfounded and untrue – he’s a puppy and being trained to walk without pulling (his head shape doesn’t suit collars very well). It definitely not a muzzle, it’s just a walking harness purchased recently from Animates – a very common sight on dogs at the park these days.

All her accusations were spat out viciously in a manner of seconds, without her paying any direct attention to her own dog. Her claim was 100% not the case. Her dog gave no indication of pain, injury/wounds or bleeding and was not panicked following the engagement, it was calm and happy to be handled by a stranger (it’s owner made no move to check her dog was okay) as soon as our dog wasn’t in its immediate space.

After Mrs [REDACTED] to her credit, responsibly completed a full precautionary body check and scan of the other dogs body for any indication of a wound (the owner made no move to check her dog or

identify any injury), determining there was no apparent injury or sensitive responses, Mr. [REDACTED] who was standing 5m to the side, moved all three of our dogs away from the event area, to the park sign with the attached poo bag holder, further into the park. We were both concerned for the health of the other dog owner at this point as she was demonstrating signs of shock and her position on the pathway prevented us from being able to pass by and return to our own vehicle.

Excessive abuse and threatening behaviour directed at Mrs [REDACTED] during the encounter by the unknown dog owner

The other dogs owner was far more concerned with hurling abuse at Mrs [REDACTED] about her perception of the event, than caring for, or being concerned for her own dogs physical wellbeing. After Mr [REDACTED] led the dogs further away into the park, once again Mrs Binks knelt on the path with the women's dog, while the abuse escalated and she was continually verbally attacked, and checked for any signs of injury – confirming again the dog had not received any apparent injury and was behaving normally. The unknown dog let Mrs [REDACTED] touch and check its entire body during this process, the dog's tail was wagging and he was happy to give Mrs [REDACTED] licks.

Mrs [REDACTED] and three other people who passed by immediately after the aforementioned event were worried about the welfare of the women as she seemed to be overly upset, hyperventilating, shaking, and bending over while screaming accusations and abuse. Two of these people, plus Mrs [REDACTED], asked the women to sit down to calm herself and catch her breath. The women refused any assistance and continued to scream abuse and obscenities at Mrs [REDACTED]

Amongst other threats, the dog owner claimed she was going to call the police and get Mrs [REDACTED] arrested if she did not comply with providing her personal information. At this point the attending bystanders told the woman that she would not do that – that she was being unreasonable. Mrs [REDACTED] deliberately declined as she did not feel safe at all providing any personal information to this confronting and highly abusive individual, out of fear for her and her family's safety. By this point Mrs [REDACTED] had already been screamed and yelled at abusively and threatened in multiple ways by the individual.

Confirming the dog hadn't sustained any visible harm during the event, Mrs [REDACTED] (both Mr & Mrs [REDACTED] are trained first aiders) then tried to ascertain whether it was safe to leave the women alone as she seemed hysterical and reacting beyond reasonable expectation. The woman at this point stated that she was going to take her dog to the vets to get checked out.

The intensity of the unknown women's directed and blatant abuse towards Mrs [REDACTED] drew other people to the scene, coming to check Mrs [REDACTED] was okay and unharmed, as they had heard the woman's comments and abuse. Some stayed in the carpark to ensure Mrs [REDACTED] safety as the woman was irate and was not calming down and demanding her personal information. The women's aggression escalated, stepping up and encroaching into Mrs [REDACTED] immediate personal space, flailing her arms in her face and verbally attacking/badgering Mrs [REDACTED]. Although Mrs [REDACTED] remained very calm and was attempting only to deescalate the situation, another dog walker (women, Pakeha 50+) stepped in and told the woman to calm down, be reasonable and give Mrs [REDACTED] her number instead. The woman refused this compromise and continued to antagonise, abuse and harass Mrs [REDACTED]. Mrs [REDACTED] said no again to providing her details, asking what she'd use them for, and the woman at this point again swore at Mrs [REDACTED] ("you fu#king bit#h, Fu#K You!!") and threatened legal action. People standing in the park by Mr [REDACTED] (~40m away), by the sign with the free poo bags, could both see her angry gesticulation and clearly hear the aggression coming from this individual,

directed at Mrs [REDACTED]. Mr [REDACTED] was very concerned for Mrs [REDACTED] safety and was near to asking a bystander to call the police out of fear for her safety, reassured only by the presence of additional bystanders who had come to assist. Mr [REDACTED] could not return down the path to the scene, or his car (left his cell phone in the car), for concern of escalating the woman's aggressive response because of the presence of our three dogs.

The women then took her dog and rushed off towards her car continuing to scream abuse at Mrs [REDACTED] as she went. Mrs [REDACTED] suggested she record down our vehicles registration number (we encouraged it), and she did likewise – the other owners vehicle registration is [REDACTED]. We knew it meant a 3rd party could liaise with both party's without her gaining our personal information and threatening our personal safety.

Two people came and spoke to Mrs [REDACTED] after the incident to check if she was okay and told her that was an extreme and inappropriate response from the other dog owner. They re-advised she take the woman's registration down and try to not be too shaken up about the incident as it was a minor encounter that was escalated beyond reason. Mrs [REDACTED] at this point then returned to her husband and three dogs to complete the walk, but was badly shaken and continues to be impacted by the unreasonable, serious verbal attack and abuse directed at her by the other dog owner.

Given the event was not an attack or an aggressive situation between dogs, as it did not involve aggressive behaviours and there were no injuries identified or apparent immediately following the encounter (which occurred at between 3.15-3.20pm and was over by 3.30pm), coupled with the untrustworthy and unpredictable nature of the other dog owners demeanour, we will not accept that any minor injury or bruising observed by a vet later the same day (>1hr after the incident occurred, as she reported she would go directly to the vet which was less than 5min away from the park) can be attributed to this event. If there is an unexplained time gap there cannot be certainty that her dog did not have any further interactions or incidents elsewhere in the interim period, casting significant uncertainty that any injuries observed by the vet relate to this incident.

Reflections

We have four dogs and have been walking them at Dey's park, and many other Hamilton city parks, for >10 years regularly without being involved in any dog attack situations. We are responsible dog owners who are always concerned for the safety of our animals and others, are regular foster carers for the SPCA, and have never experienced or observed such an extreme negative over-reaction response from a human before, and I hope never again to encounter someone so abusive and unreasonable again.

From our experience some smaller dogs (and human owners) do not react well to large dogs when they have no experience with them, or have had a negative encounter in the past, and get up too close for their comfort. For this reason, we try our hardest to provide adequate space for other users when arriving calmly at the park, and for the safety of our own dogs. None of our 4 dogs have (including our St. Bernard) ever provoked an aggressive situation, or bitten/harmed another dog or human. Importantly, we did not solicit, ask or approve her dog to approach ours before we entered the park. Her actions triggered a situation beyond her control.

Furthermore, we are shocked that the owner reported us as saying our girl has attacked another small dog in the past – this discredits her statement and claim as she has not remembered the circumstances of the incident correctly in her panicked state. There is no record of any such event as

it doesn't exist. What Mrs [REDACTED] did say to her is that our St. Bernard is wary of small dogs and we try to give other users space as she had once been bitten on the jaw/s at the park by a small dog - by an intact male Frenchie at Dey's Park who became too excited trying to demonstrate his dominance to other female dogs which had surrounded her. Calm discussions at the time with that dogs owner resulted in them promising he'd be kept on lead at the park thereafter and recognising intact males can be quick to aggravate if excited. Following that event we choose to keep our St. Bernard on-lead, to reduce the anxious responses sometimes exhibited by other people and dogs at the park with less experience with large breeds.

Note our two other smaller dogs have always been walked off-lead within the park simultaneously and are social butterfly's (once we enter the lead-free area) and neither was involved whatsoever with this event.

N.B our fourth and oldest dog was not there as he does not travel easily anymore and cannot join us for walks outside of our property sadly.

Our own long-standing vets (Newstead Vets – Bart or Gabe) would affirm and support our long-standing and positive relationship with them, and the quality care we provide for all our animals.

Ngā mihi nui,

Mr & Mrs. [REDACTED]

[REDACTED]

2 November 2022

[REDACTED]
[REDACTED] Davison Road
Newstead
Hamilton 3286



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 [REDACTED]

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 [REDACTED]
Animal Education and Control Manager

Animal Education and Control Centre
217 Ellis Street, Hamilton
Phone 07 838 6632
Email animal.web@hcc.govt.nz

AC-F64a
V 8

Notice of Classification of Dog as Menacing Dog

Section 33A, Dog Control Act 1996

To: *
(name of owner)

Address:

[REDACTED]
[REDACTED] Davison Road
Newstead
Hamilton 3286

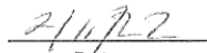
Female, Unneutered Saint Bernard, Tri-Colour,
Named Stellar Binks, Aged 3 years and 1 month
approximately, [REDACTED]

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 Monday, 3rd October 2022, in Hamilton

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


[REDACTED]
Animal Education and Control Manager


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



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

- (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.



161 Morrinsville Road
Newstead, 3284
Ph: 07 856 4522
Fax: 07 856 9487
Email: enquiries@newsteadvets.co.nz

Item 6

Certificate of Sterilisation

This is to certify that Newstead Vets surgically sterilised the following animal on 03-12-2020.

Owner:	[REDACTED]
Address:	Newstead Hamilton, 3286
Home Phone:	
Mobile Phone:	[REDACTED]

Patient Name:	Stellar [REDACTED]
Breed:	St. Bernard
Sex:	Female Spayed
Colour:	Tri Colour

Signed: _____ Date: 06-12-2022

Bart Karalus

for

Newstead Vets

161 Morrinsville Road
Newstead, 3284

Attachment 3

THE LEGAL STUFF
LAW. MADE. CLEAR.

thelegalstuff.co.nz

JO WADMORE
DIRECTOR

KIRSTEN PENNELL
DIRECTOR

259 Hukanui Road,
Chartwell, Hamilton
PO Box 28028, Rototuna,
Hamilton 3256

07 838 7099
0800 004 047

COPY

ACKNOWLEDGEMENT OF SERVICE

A formal objection on behalf of Mr and Mrs [REDACTED] was served by me, by delivering a copy of the objection to the Hamilton City Council offices in Garden Place, Hamilton on 18 November 2022 at 2.00 pm.



Joanna Mary Wadmore
Solicitor
HAMILTON

Joanna Wadmore
Solicitor
HAMILTON

Received by

Toni [REDACTED] [print name]


Signature

(ON BEHALF OF HAMILTON CITY COUNCIL)

18 November 2022

Hamilton City Council
Animal Education & Control Manager
Private Bag 3010
HAMILTON 3240
ATTENTION: Susan [REDACTED]

DELIVERED BY HAND ON 18 NOVEMBER 2022

RE: STELLAR [REDACTED] - MICROCHIP [REDACTED]

I act for [REDACTED] who are the owners of Stellar [REDACTED].

I am in receipt of your documents dated 2 November 2022, (received by my clients on 4 November 2022).

This letter is formal notice of my clients' objection to Stellar being classified as a Menacing Dog under the Dog Control Act 1996 33A(2).

The classification of Stellar as menacing '*because of aggressive behaviour displayed...*' is fundamentally incorrect. There was no aggression involved on the part of Stellar during the interaction with the dachshund on 3 October 2022.

My clients in particular note that in determining an objection under s33B(2), the territorial authority, in making its determination, *must have regard to.....*

(a) the evidence which formed the basis for the classification.

My clients believe that the information provided to the HCC by the dachshund owner was very emotive and exaggerated, probably because of the 'perceived' threat (as she saw it). Her extreme reaction and admission of past (negative) experiences with large dogs has (my clients believe), severely clouded her ability to accept that not all large dogs are a danger. Her 'evidence' is not sufficient to support a claim by her that Stellar was aggressive. There are no witnesses who came forward, and the injuries the dachshund received cannot be deemed to have been part of an 'aggressive' dog attack.

My clients believe that Stellar has been inappropriately and incorrectly deemed to be 'menacing' purely based on her size.

I draw your attention to the following:

1. Stellar is already spayed.
2. The dachshund, at the time of the interaction, was off-lead in an 'on-lead' part of the park (the carpark). Stellar however, was 'on-lead' as required. This is reflected in the dachshund owner's own account of the interaction. It cannot be ignored that had the dachshund been on-lead, this incident may not have occurred at all.

thelegalstuff.co.nz

JO WADMORE
DIRECTOR

KIRSTEN PENNELL
DIRECTOR

259 Hukarui Road,
Chartwell, Hamilton
PO Box 28028, Rotoluna,
Hamilton 3256

07 838 7099
0800 004 047

3. The photographs provided to my clients, taken by the dachshund's vet, of the 'skin scrape' injuries, in fact appear to show that no aggression was involved. If a Saint Bernard wanted to injure a dachshund, then surely it could do a serious amount of injury, without much effort. There were no puncture wounds, no broken bones or damage to muscles, and no other injuries apart from the two small ones photographed. The injury to the dachshund does not indicate that aggression was at the heart of the interaction between the dogs, rather the injury is the result of large dog v small dog play. The photographs also indicate that one of the grazes may have been an old wound which had partially healed (surrounded by new, pink skin).

I suggest, that as lawyers are not involved in the hearing process, you contact my clients directly to arrange an opportunity for them to engage with Hamilton City Council regarding the appeal. I assume you have all the details you need, but in the event that I can be of any further assistance, please do not hesitate to reach out.

Yours faithfully
THE LEGAL STUFF



Jo Wadmore
Director

Mob: 027 460 9171
E: jo@thelegalstuff.co.nz

Reasons and supporting documentation of why the [REDACTED] family believe our dog Stellar should not be classified as Menacing by Deed.

RE: STELLAR [REDACTED] – MICROCHIP [REDACTED]

The classification of Stellar as menacing '*because of aggressive behaviour displayed.....*' is fundamentally incorrect. There was no aggression involved on the part of Stellar, a young de-sexed female giant-breed (St. Bernard) dog, during the interaction with the dachshund on 3rd October 2022.

Of particular note, that in determining an objection under s33B(2), the territorial authority, in making its determination, *must have regard to.....*

a. the evidence which formed the basis for the classification.

The information provided to the HCC by the dachshund owner was very emotive and exaggerated, lacking sufficient clarity and detail in their complaint, probably because of the 'perceived' threat (as she saw it). Her extreme reaction and admission of past (negative) trauma with large dogs has severely clouded her ability to accept that not all large dogs are a danger.

Her 'evidence' in the form of the vet report, is not sufficient to support her claim that Stellar aggressively attacked her dog. There are no witnesses who came forward, and the injuries the dachshund received cannot be deemed to have been part of an 'aggressive' dog attack. There was no puncture wound which would indicate a bite, and the animal was not treated for an injury (only anxiety) as the skin abrasions were only superficial. Furthermore, it could not be ruled out that the observed inflamed scar tissue was not instead from an unrelated recent injury.

An aggressive attack from a giant breed dog, as described by the complainant and opposed by the Binks', requires by definition a succession of injuries caused by multiple aggressive acts, causing multiple skin-puncturing wounds and/or severe soft-tissue damage. This was simply not the case and there was insufficient evidence to support the complainants highly exaggerated version of what was actually an irresponsibly triggered dog introduction (due to lack on control of their off-lead dog outside the dog exercise area).

We draw your attention to the following:

1. Stellar is female and already spayed.
2. The male dachshund, at the time of the initial interaction, had left the dog exercise area and was off-lead in an 'on-lead' part of the park (the car park). Stellar however, was 'on-lead' as required. This is reflected in the dachshund owner's own account of the interaction. It cannot be ignored that had the dachshund been on-lead, as per the HCC conditions of use for the park (refer Figure 1) this incident may not have occurred at all. Refer to point #6.
3. The photographs provided, taken by the dachshund's vet, of the 'skin scrape' injuries, in fact appear to show that no aggression was involved. If a Saint Bernard wanted to injure a dachshund, then surely it would do a serious amount of injury, without minimal effort. There were no puncture wounds, no broken bones or damage to muscles or underlying tissue, and no other injuries apart from the two small surface abrasions photographed. The injury to the dachshund does not indicate that aggression was at the heart of the interaction between the dogs, rather the injury is the result of large dog vs. small dog play engagement with potential accidental contact.
The photographs provided by the vet also indicate that one of the grazes may have been an old wound which had partially healed (surrounded by new, pink skin). We are not able to obtain previous medical records for their dog, but the complainant clearly stated during the

incident that her dog had been involved in a previous dog attack and was traumatised, only recently returning to walking at the park. We encourage greater consideration be given to the historical injury/attack, as the observed abrasions may not in-fact be fresh or related to this event at all and owner is also dealing with some long lasting trauma herself which escalated her reaction in this situation.

4. The [REDACTED] did suggest to the HCC investigator that this injury, if attributable to this incident at all, was likely accidentally caused by contact with a paw, given the comparable size and weight difference of the two animals. The Chartwell Vets report did not provide a conclusion or indicate that the observed abrasions were recent or definitively caused by a bite wound or attack from an aggressive interaction and we maintain there was no biting at all involved in this incident – it was not aggressive, only accidental. The dog was not provided treatment for the physical injury. When asked for their opinion, our long-standing vets of 20+ years (Newstead vets) advised that the injury was too minor to be definitively caused by any form of aggressive behaviour, it was too minor and could've occurred at a different time and date given the presence of healing scar tissue.
5. Mr. & Mrs. [REDACTED] did not at any point make any statement to the complainant about our dog attacking small dogs in the past – this is an absurd, unfounded and completely untrue lie which she has recorded in her complaint. While attempting to calm her, we did say to her that sometimes small dogs don't seem to react very well to giant breeds, but that Stellar's really friendly and has heaps of experience playing with smaller dogs and this encounter wasn't aggressive, just her misinterpreting play behaviour indicators (loud bark, excited movements). A search of any council records will highlight we have never been involved in any dog incident, ever, and maintain an impeccable record as fosterers and adopters with the SPCA for the past several years. Our dogs range in age from 1.5yrs – 11 years old and they are well exercised and socialised with both humans and animals.
6. Fundamentally, the situation which arose on the day was instigated by the complainants lack of awareness and control of her dogs behaviour when it left the dog exercise area – failing to meet the HCC conditions of use. They also obstructed our clear path and safe access to the park entrance. Because she was not aware of her dog, she was caught by surprise when it returned, being followed by the St. Bernard and exhibited many signs of a panic response.

According to the HCC sign at Dey's Park (refer Figure 1) – "Dogs are welcome at Hamilton parks subject to the following conditions":

1: Dogs must remain on a leash at all times, except on a designated dog exercise area

2: Dogs can be exercised off leash in the designated areas so long as the dog:

2a: remains inside the designated exercise area

2b: is under control at all times

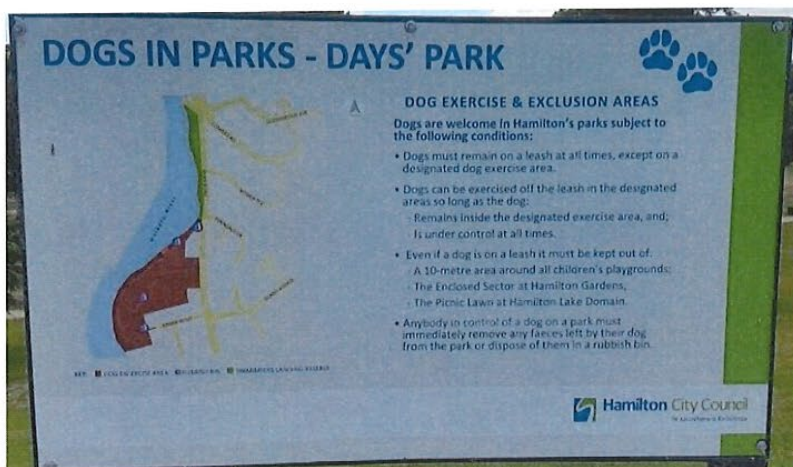


Figure 1: HCC Dog's on Parks sign, located in Day's Park, approximately 30m from the car park entry.

With reference to the complainant's version of events, she entered the dog exercise area and her dog was off lead. While inattentive and not in control, bagging up its faeces, her dog then left the designated exercise area while her back was turned and re-entered the on-lead car park zone on its own, moving to directly block and engage with our two female dogs in the dirt-patch (formerly garden with native carex's plants etc.) a few metres on the car park side of the metal arm. This impeded our previously unobstructed entry to the dog exercise area/entry to Day's Park (refer Figure 2) and compromised ours and our dogs safety.

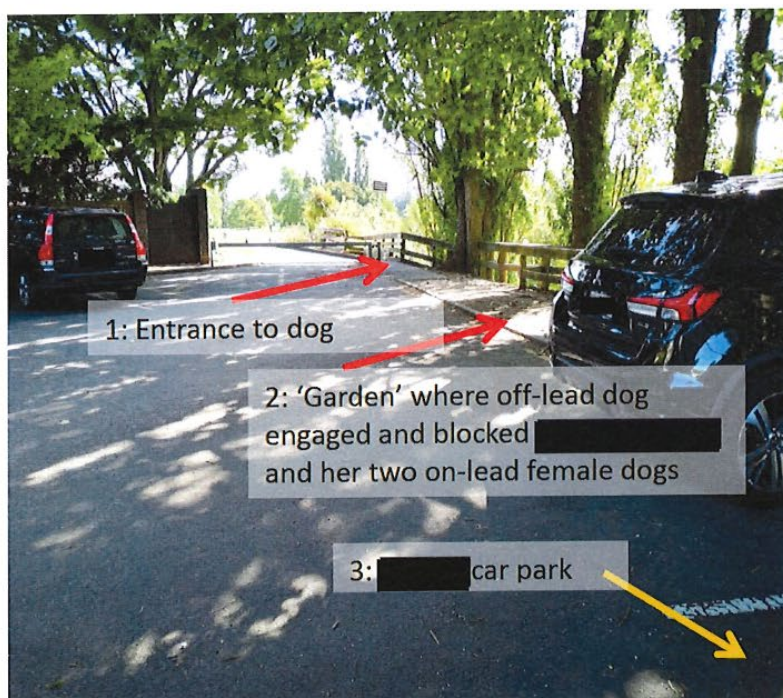


Figure 2: A photo taken from the Day's Park car park on River Road, demonstrating the parks' walkway entrance (1) to the dog exercise area, the car-park dirt-patch 'garden' (2) where the initial interaction occurred, and the location of the [redacted] parked car (3). The complainant's car was

parked on the roadside – she crossed the car park behind the [REDACTED] car from North-South to reach the park entrance (bottom-to-top direction within the picture).

7. We believe that Stellar has been inappropriately and incorrectly deemed to be 'menacing' purely based on her size and the perception of the complainant towards large breed dogs. Furthermore, we note that the HCC inspector had determined an outcome before receiving our written version of events, or before we were provided the requested copies of the vet report and complaint.

We've been treated unfairly in this process, as though we were considered guilty by the inspector before the initial discussion, and thereafter. Although we made every attempt to be reasonable and seek de-escalation because we're good people who don't wish harm on others (and we considered this interaction an event of no consequence as there was no aggression between the dogs, or any signs of injury, just poor human behaviour), when we were asked to provide our verbal version of the encounter we were countered and accused of giving a false version of events by the inspector, as though she believed the complainants version was 100%.

During the initial phone call [REDACTED] acknowledged that the complainant was not very pleasant and was very emotive when they spoke. She acknowledged there was a lot of specific detail lacking from the complaint. [REDACTED] acknowledged the 'injury' was the most minor complaint HCC would consider for pursuing any actions against another owner. When I called her and questioned the details of the vet report, having not yet received a copy, she had already deemed it as sufficient confirmation of a bite, regardless that there was no statement by the vet to verify this perspective. Only when I asked [REDACTED] directly to clarify to me the vets written statement, confirming it was caused by a bite in their opinion, did she recognise it was not stated on the report or recorded at all. She then hastily called and spoke with the clinic for the first time. The vet could not rule out the possibility that it had/had-not been caused by a bite, this opinion was sought and provided more than a fortnight after the event took place and thus the memory of the vet and their belated opinion is insufficient to support or corroborate the original report. It demonstrated [REDACTED] had already predetermined her expectation of the outcome, even though there was no adequate evidence or support to back that perspective up definitively. This was very unprofessionally handled from the investigator and demonstrated a subjective opinion.

8. Upon receiving the call from the investigator we immediately raised inaccuracies regarding the actual time of the event (3.17pm), versus what the complainant reported, 4.30pm. In addition we made clear the complainant was very threatening, accusatory, irrational and abusive during the encounter. We were advised HCC does not deal with matters associated with Human behaviour – regardless that the woman triggered the encounter between the dogs by not maintaining awareness and control of her dog, or keeping it within the dog exercise area while it was off lead.

Summary

We maintain we and our dog are innocent of this accusation. We are long-standing dog owners, public servants, SPCA fosterers, both trained in first aid and [REDACTED] has both Animal Behaviour and Emergency Situation training. Importantly, we are animal lovers with absolutely no record ever of any of our dogs having been involved in any dog attack, despite walking our dogs more than 2,500 times in the past 10 years at Hamilton City parks. For the record, we are both disturbed and disgusted that another animal owner would recommend our dog be put to death for such a minor misinterpreted play encounter.

Sincerely,

[REDACTED]

[REDACTED]

Newstead, Waikato 3286

Item 6

Attachment 4



161 Morrinsville Road
 Newstead, 3284
 Ph: 07 856 4522
 Fax: 07 856 9487
 Email: enquiries@newsteadvets.co.nz

Certificate of Sterilisation

This is to certify that Newstead Vets surgically sterilised the following animal on 03-12-2020.

Owner:	[REDACTED]
Address:	Newstead Hamilton, 3286
Home Phone:	
Mobile Phone:	[REDACTED]

Patient Name:	Stellar [REDACTED]
Breed:	St. Bernard
Sex:	Female Spayed
Colour:	Tri Colour

Signed: _____ Date: 06-12-2022

Bart Karalus

for

Newstead Vets

161 Morrinsville Road
 Newstead, 3284

Resolution to Exclude the Public

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. Confirmation of the Dog Control Hearings Panel Public Excluded Minutes 21 February 2023	) Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987	Section 48(1)(a)
C2. Confirmation of the Dog Control Hearings Panel Public Excluded Minutes 1 March 2023)	

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) (ii)
Item C2.	to maintain the effective conduct of public affairs through protecting persons from improper pressure or harassment	Section 7 (2) (f) (ii)