

Notice is given that an ordinary meeting of the Regulatory Committee - Hearing Panel will be held on:

Date: Tuesday 3 March 2020
Time: 12.30pm
Meeting Room: Heaphy Room
Venue: 189 Queen Street
Richmond

Animal Control Subcommittee

AGENDA

MEMBERSHIP

(Quorum 2 members)

Contact Telephone: 03 543 8455

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AGENDA

1 OPENING, WELCOME

2 REPORTS

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3 CONFIDENTIAL SESSION

Nil

2 REPORTS

2.1 MENACING DOG CLASSIFICATION HEARING

Decision Required

Report To:	Animal Control Subcommittee
Meeting Date:	3 March 2020
Report Author:	Ross Connochie, Administration Officer - Regulatory
Report Number:	RACS03 March 2020-1

1 Summary

- 1.1 An objection to a “Menacing” classification of a dog has been lodged under section 33B of the Dog Control Act (the Act) by Sandra Buyck, she has requested to be heard.
- 1.2 The objector’s dog, whilst under the control of her mother, inflicted a minor injury on a nine year old boy.
- 1.3 Punitive actions available to Council range from - prosecution and destruction of the dog, classification as dangerous, imposition of financial penalties, and classification as menacing. The scale of the injury and the associated factors led to a decision to classify the dog as menacing. This decision is now under challenge.
- 1.4 The Hearing Panel may uphold or rescind the classification.

2 Draft Resolution

That the Animal Control Subcommittee:

1. receives the Menacing Dog Classification Hearing RACS20-03-01; and
 Either:
 2. Upholds the menacing classification;
 - Or:
 3. Rescinds the menacing classification.

3 Purpose of the Report

- 3.1 To explain the process and reasoning behind the imposition of the ‘menacing’ classification on the dog Meisha and to allow the panel to decide on whether this is the appropriate classification in the circumstances.

4 Background and Discussion

- 4.1 At 0830hrs on 4 September 2018 a dog – **Meisha**, belonging to Sandra Buyck attacked a child on Templemore Drive, Richmond. At the time of the attack the dog was under the control of Tineke Buyck, the owner’s mother.
- 4.2 The victim and Mrs Buyck were travelling in opposite directions and as they passed, Meisha lunged at the boy and inflicted a minor bite or scratch to the right upper thigh. The wound was cleaned with antiseptic at a medical facility but did not require further medical attention.
- 4.3 These facts are not disputed.

5 Options

- 5.1 In considering the objection the Sub-committee may either uphold or rescind the classification. The Act indicates that the following must be considered:

33B Objection to classification of dog under section 33A

(1) If a dog is classified under section 33A as a menacing dog, the owner—

(a) may, within 14 days of receiving notice of the classification, object in writing to the territorial authority in regard to the classification; and

(b) has the right to be heard in support of the objection.

(2) The territorial authority considering an objection under subsection (1) may uphold or rescind the classification, and in making its determination must have regard to—

(a) the evidence which formed the basis for the classification; and

(b) any steps taken by the owner to prevent any threat to the safety of persons or animals; and

(c) the matters relied on in support of the objection; and

(d) any other relevant matters.

6 Key Points

- 6.1 The dog was on a leash, so under some control.
- 6.2 The boy “scooted” past the dog at a speed higher than walking pace.
- 6.3 There were a lot of people about at the time.
- 6.4 The dog was young – 14 months.

- 6.5 The contact did happen and the dog either nipped or scratched the boy.
- 6.6 There are suggestions that the dog has attacked before but we have no corroborated evidence to support this accusation.
- 6.7 The attitude of the dog walker seems to be somewhat flippant regarding the attack.

7 Decision on What Action to Take

- 7.1 Dogs attacking persons are considered to have committed a serious offence under the Act. The punitive options available to Council in this instance were:
 - 7.1.1 **Prosecution under s57** (Dogs attacking persons) which carries a maximum fine of \$3000 plus reparation to the victim. The dog involved must also be destroyed unless there are extenuating circumstances.
 - 7.1.2 **Classification as “Dangerous” under s31.** This puts requirements on the owner to ensure that there is a safe access way to their property, muzzling of the dog in public, neutering of the dog, increased registration fees, and consent from Council to transfer ownership to another person.
 - 7.1.3 **An Infringement Notice** for \$200 for failure to keep a dog under effective control.
 - 7.1.4 **Classification of the dog as “Menacing”.**
- 7.2 Given the facts, a decision was made by the Regulatory Manager on 10 October 2018 to classify the dog as “Menacing” under Section 33A(b) of the Act:
 - 33A Territorial authority may classify dog as menacing**
 - (1) *This section applies to a dog that—*
 - (a) *has not been classified as a dangerous dog under section 31; but*
 - (b) *a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of—*
 - (i) *any observed or reported behaviour of the dog; or*
 - (ii) *any characteristics typically associated with the dog’s breed or type.*
 - (2) *A territorial authority may, for the purposes of section 33E(1)(a), classify a dog to which this section applies as a menacing dog.*
- 7.3 A copy of the Menacing classification notice is attached as Attachment 1.
- 7.4 The primary effects of the classification are that Meisha must be muzzled when in public.

8 Process

- 8.1 The objector Sandra Buyck has the opportunity to make a statement to the Hearing Panel.
- 8.2 The Regulatory Manager will explain Council’s position.
- 8.3 Sandra has the right of reply.
- 8.4 At any time the panel may ask questions of those present.
- 8.5 The Hearing Panel will go into Committee and make its decision.

8.6 The objector is informed of the panel's decision.

9 Policy / Legal Requirements / Plan

9.1 Dogs attacking persons are considered to have committed a serious offence under the Act. The punitive options available to Council in this instance are shown in section 7 above.

9.2 Failure to take any action in such circumstances would be extremely unusual and would need to be justified by some form of extenuating circumstance, none was found.

9.3 After the panel makes its decision it must, as soon as practicable, give written notice to the owner of

(a) its determination of the objection; and

(b) the reasons for its determination.

10 Conclusion

10.1 Council has a responsibility to impose on the owners of dogs obligations designed to ensure that dogs do not cause a nuisance to any person and do not injure, endanger, or cause distress to any person. By upholding the menacing classification Council will be seen to be taking the action necessary to significantly reduce the chances of Meisha being involved in any future biting incident. If the classification is rescinded it would make it very difficult to consistently deal with any future dog attacks of a similar nature.

11 Next Steps / Timeline

11.1 Council must, as soon as practicable, give written notice to the owner of—

11.1.1 Council's determination of the objection; and

11.1.2 the reasons for Council's determination.

12 Attachments

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10 October
2018

D407

Direct Dial 03 5438407

Sandra Gerarda Elisabeth Buyck
C/- SKB Family Trust
7 Bellamona Way
Richmond 7020

Dear Sandra

**NOTICE OF CLASSIFICATION OF DOG AS
A MENACING DOG**

Section 33A Dog Control Act 1996

YOUR REFERENCE: 26004

DOG DESCRIPTION: Meisha, Collie, Border, Black/White

This is to notify you that your dog, **Meisha**, has been classified as a menacing dog under **Section 33A** of the Dog Control Act 1996. Tasman District Council considers this dog may pose a threat to any person, stock, poultry, domestic animal or protected wildlife because of:

Observed or reported behaviour of the dog in that on the 4 September 2018
your dog attacked a person

A summary of the effect of the classification and your right to object is provided on the following page.

This notice was delivered by post on the 26 February 2020



Adrian Humphries
Regulatory Manager

EFFECT OF CLASSIFICATION AS MENACING DOG

Sections 33 E&F, Dog Control Act 1996

1. **Section 33E.** If a dog is classified as a menacing dog under section 33A or section 33C, the owner of the dog—
 - a. must not allow the dog to be at large or in any public place or in any private way, except when confined completely within a vehicle or cage, without being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; and
 - ~~b. must, if required by the territorial authority, within 1 month after receipt of notice of the classification, produce to the territorial authority a certificate issued by a veterinarian certifying—
 - i. that the dog is or has been neutered; or
 - ii. that for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and~~
 - ~~c. must, if a certificate under paragraph (b)(ii) is produced to the territorial authority, produce to the territorial authority, within 1 month after the date specified in that certificate, a further certificate under paragraph~~

You will commit an offence and be liable on conviction to a fine not exceeding \$3000 if you fail to comply with any matters in paragraphs 'a' above.

In addition if you fail to comply with the above requirements a dog control officer or dog ranger may seize and remove the dog from your possession and retain custody of the dog until the Tasman District Council has reasonable grounds to believe that you will comply with these requirements.

2. **Section 33F.** Owner must advise person with possession of menacing dog of requirement to muzzle dog in a public place

This applies if the dog in the possession of another person not exceeding 72 hours. Failure to comply if convicted may result in a maximum fine of \$500.00

3. **Section 33B. Right of objection to classification.** You may within 14 days of receiving this Notice of Classification, object in writing to the Tasman District Council in regard to this classification. You have the right to be heard in support of your objection and you will be notified of the date, time and place when your objection will be heard.

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

Council offers a neutering service for dogs classified as Menacing the only cost is an admin fee of \$25.00
contact dogcontrol@tasman.govt.nz .

Part A: Personal Details		ACC Injury Claim Form		Part D: Injury Diagnosis and Assistance		Claim Form Number
Surname	COSTLEY	Gender	Male	NHI Number	TMJ1995	QD91194
Forenames	OLIVER	Home	5448656	Coding	TE60 (Dog bite)	Side
Date of Birth	13 October 2009	Ethnicity	11 NZ European/Pakeha	Diagnosis 1		Right
Address	17 Antoine Grove Richmond			Diagnosis 2		
Phone Work				Diagnosis 3		
				Injury Comments	(TE60.00) Confirmed	
Part B: Injury and Employment Details						
Accident Date	04 September 2018	Time	8:45 AM	Treatment injury claim	N	
Scene	30 Road Or Street	Location	Accident in NZ Y	Assistance Required	N	
Description	Scooting to school, lunged at by a dog who was on a lead, bitten on the back of the upper leg			Referral 1		
Road Accident	N	Occupation	Sport	Treatment Objectives		
Occupation	9997.001 Child	Employer Name	Paid Employment N	Referral 2		
Employer Status		Employer Address		Treatment Objectives		
Usual Work Type				Referral 3		
Work Accident	N			Treatment Objectives		
Employer Name						
Employer Address						
Part C: Patient Authorisation and Declaration						
To assess cover and/or entitlements, ACC may need to collect medical and other records about you from a third party.				Rehabilitation	1 No need for ACC to call Health Provider	
For more details see ACC's privacy notice at www.acc.co.nz/privacy .				Part E: Work Capacity		
I authorise:				Normal Hours	Y	
o ACC to collect medical and other records which are or may be relevant to my claim				Selective Hours	N	
o the treatment provider to lodge this claim for me.				Type		
I declare that the information I have given in this form is true and correct.				Hour per day	From	
Patients Signature: <i>[Signature]</i>				Restriction	From	
Date: 04/09/2018				Unfit for		
Authorised representative's Name				Return to work on	From	
Authorised representative's relationship to patient				Part F: Treatment Provider Declaration		
				ACC Provider No	13ETLB	
				Provider ID		
				Facility	Stoke Medical Centre Ltd	
				Agency	Stoke Medical Centre Ltd	
				Provider	Cheryl Winter	
				Provider's Signature: <i>[Signature]</i>		Date: 04/09/2018



Item 2.1

Attachment 3

Incident between child and dog

Date and Time: Tuesday, 4 September 2018 at approximate 8:30

Location: Concreted footpath opposite 42 Templemore Drive, approximately halfway between the bridge over Reservoir Creek and the turnoff to Kareti Drive.

Mrs B. was walking with her four grandchildren and the dog towards Kareti Drive. Two granddaughters, aged 12 and 7 were approximately 10 m ahead, one grandson, aged 9, was walking to her left and the dog was on a short leash walking on her right close to the grassed area. Her 5 year old grandson was walking approximately 4 m behind her. The footpath was crowded with a group of more than a dozen Garin College students walking in the same direction around Mrs B. and her grandchildren.

A mother and a child were walking on the same footpath, approaching the children from opposite direction. A boy riding a scooter was at least 10m ahead of the mother and child.

The boy on the scooter went through the group of children and passed Mrs B. on her right hand side very close to the dog and at a speed much faster than walking speed. Mrs B. had looked over her shoulder to check up her younger grandson. She did not see the actual contact made between the boy on the scooter and the dog, which happened very fast. She did hear the dog barking twice. The 9 year old grandson saw the boy on the scooter rushing past the dog. He saw the dog jumping up making contact with the boy on the scooter.

The boy on the scooter did not stop but continued riding against the prevailing traffic on the footpath. His mother started yelling "the dog bit him, the dog bit him". The mother then yelled to the boy on the scooter that he should stop, which he did. She then screamed to Mrs. B. that she did not control the dog. Mrs. B. gave the dog the command to sit, which the dog did. The mother continued to repeat the accusation that the dog had bitten the boy. The boy on the scooter did not speak or cry at all. None of the Garin College students stopped. The boy came back to his mother who pulled his shorts partly up. The skin on his hip showed some small indentations that may have been bite marks. The skin was still intact, no blood was seen. The mother then repeated to say that Mrs B. did not control the dog and she 'demanded an apology'. She did not ask for any personal details, nor did she identify herself. Mrs B. did say to be sorry about the encounter. Mrs B. maintained the dog on the leash at all times throughout the incident.

The mother approached the Principal of St Paul's school to try to obtain contact details of Mrs B., who she described as a Dutch grandmother. The Principal phoned Mrs B.'s daughter on Wednesday morning 5 September, with the message that Mrs B. should call the mother of the boy. As requested, Mrs B. called the mother of the boy. Mrs B. did say that she was sorry for what had happened. However, the mother said that 'the apology of the day before was not sincere enough and she demanded a formal apology and that she would make a formal complaint'. In this telephone call Mrs B. found the mother aggressive and intimidating. She seemed to be out on getting retribution. She did not say anything about how the boy was doing.

The dog is a 14 month old female Border Collie. Its registration and vaccinations are up to date. The dog belongs to Mrs B.'s daughter. Mrs B. takes her regularly for a walk. The dog is easy to handle and reacts promptly when told to wait or sit at road crossings and when cars

are coming. On the footpath she would normally be told to sit when a child approaches on a bike or scooter. When she sees other taller dogs she would lie down until the other dog has passed. She would try to sniff smaller dogs.

Conclusion:

The incident was a minor contact between dog and boy. It happened while the boy was riding his scooter too fast for the conditions at the time. The dog felt threatened and reacted possibly with snapping once. The only way Mrs B. could have prevented the incident was if she had carried the dog. The mother overreacted grossly. The mother could have prevented the incident if she had exercised better control over the behaviour of the boy.

Lincoln Bryck

T. Bryck

1.20pm

6 September 2018

17 Antoine Grove, Richmond

My full name is Deborah May Costley, I am 41 years of age and I am full time mother. I reside at the above address and my cellphone is 0276115076.

I am speaking to John Griffiths a Dog Control Officer for Tasman Council about a dog bite incident involving my 8 year old son Oliver.

At about 8.35am on Tuesday 4th September I was walking to Henley School with my two children. We were on Templemore Drive, almost opposite Stillwater gardens. My older son Oliver was on a scooter and about 10 to 15 metres ahead of me. My other son who is 6 years old was on a scooter just in front of me.

My older son approached a lady walking a black and white medium sized dog which was on a lead. I'm not sure whether it was a Border Collie or not. She had her grandchildren with her. They go to St Pauls School. They were walking towards him.

As Oliver scooted past them the dog lunged at him and bit him on the upper thigh just below the buttock. I saw the look on his face as he moved away from the dog. I yelled at him to keep moving to get away from the dog. The lady just kept walking towards me as if nothing had happened.

I said to her, "Your dog has just bitten my son." She said words to the effect that it didn't happen. She had a dutch accent.

I caught up to Oliver and he was crying. I looked under his shorts and could clearly see a large graze as well as a bit of blood.

I said again to the lady that her dog had bitten Oliver and she denied it again, so I held his shorts up and showed her what had happened. She still denied it. I said again, you need to look what has happened. Finally she admitted that, "yes you are right the dog had bitten him."

I wasn't sure whether anything else was said but she left and went on her way.

Oliver was limping so I was half supporting him and we returned home. I rung Stoke Medical Centre and explained to them he had been bitten by a dog and they said they would like to see him. The nurse cleaned it and the doctor checked it. They told me to monitor it and gave a prescription for some antiseptic. This was all covered by ACC.

I spoke to a friend of mine and told her what had happened. Her children attend St Pauls. She told me she was aware of the dog and the lady. The same dog had lunged at her daughter some time ago. She was also aware the dog had also bitten another child outside the school on another occasion.

I rang St Pauls and asked whether they were able to pass information on to me that would per help identify the owner. The lady I spoke to said she knew exactly who I was talking about but was unsure whether she could divulge that information. She said she would speak to the principal and ask her to call me.

About two hours or so later the phone rang and it was the lady owner of the dog. I'm confused as to how she got my number. She said she was given my number to call and because of her accent I knew she was the dog owner.

I told her I had reported the incident to the council and was she willing to give me her details. She said the dog belonged to her daughter and that she would tell her daughter about the incident and get her to call me.

When we had finished I asked her if she had anything else to say to me? And I think she asked something like, "What do you mean?" I said, "an apology for the dog biting my son." She said she thought she apologised at the time. She didn't offer any further apology.

That was about the end of our conversation.

I have read this statement and it is true and correct to the best of my knowledge.



Deborah Costley

deborahcostley@gmail.com

ADDITIONAL SUBMISSION BY PERSON IN CONTROL OF DOG

THE FOLLOWING IS ADDITIONAL TO THE STATEMENT PREPARED EARLIER AS A COMMENT ON THE TDC REPORT RACS18-11-1 CONTAINED IN THE AGENDA FOR THE 15 NOVEMBER 2018 HEARING.

The menacing dog classification is objected to because there is no reliable observed or reported behaviour of the dog (Meisha) to justify that the dog may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife.

In particular

- The statement of the claimant that the dog did bite is unreliable as the evidence of the alleged injury, the photograph and medical treatment, indicates a scratch.
- The traffic violation by the alleged victim was the sole cause for the possible contact between him and the dog.
- The owner of the dog has taken all possible steps that can be taken to avoid future incidents.
- The classification is not an effective means in preventing injury from scratches. Scratches from paws are still possible when a dog wears a muzzle and is subjected to situations where it has to take evasive action from persons moving at speed towards the dog.
- The Council's report mentions punitive actions available to the territorial authority. The Dog Control Act does not specify or prescribe punitive actions. The purpose of menacing dog classification in the Dog Control Act does not include an element of punishment.
- TDC Council stated that the menacing dog classification is one of the least imposing actions the Council could take. Perhaps for the life of the dog, however the impact of the classification on the dog's owner is far reaching and more costly than any of the infringement penalties available to TDC under the Act.
- Each classification should be based on observed or reported behaviour of only the dog in question. The Council's conclusion that a menacing classification will significantly reduce the chances of Meisha being involved in any future biting incident is unsupported by the evidence and circumstances of the incident. Namely that the physical evidence itself does not support the allegation of a bite rather, if anything, a scratch from the dog's paw.

The following pages give detailed comment on:

1. The statement from the mother of the alleged victim.
2. The report emailed by J. Griffiths to Ross Conochie, dated 14 Sept 2018.
3. TDC letter to the owner of the dog, dated 5 Oct 2018.
4. The medical evidence supplied by the claimant.

ADDITIONAL SUBMISSION BY PERSON IN CONTROL OF DOG

1 COMMENT ON THE STATEMENT FROM THE MOTHER OF THE ALLEGED VICTIM

1.1 SITUATION

"At about 8.35am on Tuesday 4th September I was walking to Henley School with my two children. We were on Templemore Drive, almost opposite Stillwater gardens. My older son [REDACTED] was on a scooter and about 10 to 15 metres ahead of me. My other son who is 6 years old was on a scooter just in front of me.

My older son approached a lady walking a black and white medium sized dog which was on a lead... ..She had her grandchildren with her."

Comments:

- *This paragraph only indicates that the mother with her two children was going one way and the (elderly) lady, Tineke Buyck (Mrs Buyck) with her grandchildren and the dog went the other way on the footpath. This description does not adequately reflect the conditions on this narrow footpath. The location was close to a lamp post on the creek side of the footpath and a warning sign for "Elderly Pedestrians" on a post on the street side. Approximately a dozen children were walking on this small section of the footpath in the same direction as the lady with the dog. Mrs Buyck with her two grandsons and the dog were closely surrounded by them. Her two granddaughters were ahead of the group of children.*

1.2 WHAT HAPPENED

"As [REDACTED] scooted past them the dog lunged at him and bit him on the upper thigh just below the buttock. I saw the look on his face as he moved away from the dog. I yelled at him to keep moving to get away from the dog."

Comments:

- *How could the mother have seen the look on the boy's face? By her accounts, she was 10 to 15 m behind him. The only way she could have seen his face was if the boy had looked back at her. If so, that would indicate that the boy was not looking where he was going. It is also not clear what she meant by this statement. Perhaps she noticed that the boy was frightened because he had or was just about to collide with a dog.*
- *One would expect that the victim of a dog bite would be the first to yell out. However, the boy said nothing and just moved on as if nothing had happened.*
- *The first thing that the lady in control of the dog heard was the mother yelling 'your dog bit him' not once, but at least twice. She then yelled at the boy to stop, apparently so that she could catch up. Nobody else stopped. The boy had not slowed down and eventually stopped. He did not say anything and only was heard crying after his mother approached him still yelling and started to pull up his shorts to inspect his leg. In the meantime the dog was commanded to lie down and remained lying down throughout the discussion.*

ADDITIONAL SUBMISSION BY PERSON IN CONTROL OF DOG

1.2 THE ALLEGED INJURY

"I looked under his shorts and could clearly see a large graze as well as a bit of blood."

Comments:

- *The mother also said "look, look" when pulling up the boys shorts, giving the impression that she already knew what she would find. Showing only a very light graze, she apparently was not satisfied and pulled up the shorts further to reveal the larger graze. From where the lady with the dog was there was no blood visible on the skin or the shorts, which were otherwise undamaged. If there was any blood then it could not have been more than a tiny drop, not visible from only a couple of meters away.*

1.3 DENIAL OF DOG BITE

"Finally she admitted that, "yes you are right the dog had bitten him."

Comments:

- *At no stage Mrs Buyck confirm that the dog had bitten the boy. She said that she had not seen it. The mother was very agitated and almost hysterical. To avoid a serious altercation Mrs Buyck calmly told the mother that 'if you say so, I am sorry for what has happened'. Apparently this was not enough for the mother. In the short phone call the following day she insisted that the 'apology was not sincere' and demanded a further formal apology. At the time of the incident Mrs Buyck only admitted that there was something visible on the boy's skin. Not only was the time that she could look at it not long enough to determine whether it was a recent bite or scratch mark, she also had keep an eye on her grandsons and the dog.*

2. COMMENTS ON REPORT EMAILED BY J. GRIFFITHS TO ROSS CONOCHIE, DATED 14 SEPT 2018

2.1 GENERAL COMMENT

- *The case manager John Griffiths did not make any notes during his visit to Mrs Buyck. Her husband Ed Buyck was also present. When Mr Griffiths was given her statement, he silently read it and commented that this was more or less the same as the mother's statement, without mentioning where it was not the same.*

2.2 TRAFFIC VIOLATION

- *Mrs Buyck emphasized that the footpath was crowded and that there was insufficient space for the boy to safely pass the large group of people including the dog. This was not mentioned in Mr Griffiths' report. A proper*

ADDITIONAL SUBMISSION BY PERSON IN CONTROL OF DOG

investigation, which would have included a site visit to the location where the incident took place, would have revealed that:

- *The footpath was too narrow to allow the boy to safely pass the group of people and dog; and*
- *The boy not only scooted too fast for the conditions on the footpath, but was in violation of the **Land Transport Act 1998** by not giving way: Under **Section 10** of the Act, road users and others are to comply with ordinary rules and emergency rules. The **Land Transport (Road User) Rule 2004: Part 11 Requirements for particular road users** specifies that:

 - 11.1 (4) A driver of a mobility device or wheeled recreational device on a footpath-
 - (a) must operate the device in a careful and considerate manner; and
 - (b) must not operate the device at a speed that constitutes a hazard to other footpath users
 - 11.1 (5) A person using a wheeled recreational device on a footpath must give way to pedestrians and drivers of mobility devices.*

2.3 SITE VISIT

- *Mr Griffiths indicated that he wanted to visit the place where the dog was kept and promised to phone Mrs Buyck so that she could show him. No phone call was received, but Mr Griffiths did go to the owner's place a couple of days later. He did not see the dog, only looked over the fence and told the owner's husband that everything was fine and there was nothing to worry about. "A slap on the wrist was probably all that would happen." This is totally different from recommending a menacing classification. The emailed report did not mention that Mr Griffiths' visit to the owner's residence.*

2.4 REVIEW OF EVIDENCE

- *The statement "injuries could have been a claw mark however I am not a medical expert" indicated that Mr Griffiths thought it was more likely a scratch than a bite. This should have been investigated further as it would have been important in determining whether or not there was an attack. It is unclear how he jumped from that position to the conclusion that there was a bite.*
- *Mr Griffiths did not see the dog at all. When he visited the owner's residence, she was at the Dog Behaviour Consultant with the dog to get training. If Mr Griffiths had seen the dog it may have been able to give him some insight whether the alleged injury was the result of a bite or a scratch by one of the paws of the dog, or by some other foreign object.*

2.5 HISTORICAL DOG BITE CASE

- *Mr Griffiths promised to look into what happened after a complaint was made by Mrs Buyck about a dog biting incident she experienced on 19 May 2013. She never received a response from him.*

ADDITIONAL SUBMISSION BY PERSON IN CONTROL OF DOG

2.6 INACCURACY

- *The investigator had access to Council Dog Register as shown by him referring to the dog by name and registration. In his report he incorrectly spelled the surname of Mrs Buyck, which is the same as the surname of the owner of the dog.*

2.7 FINAL REPORT CONCLUSION

- *The last line in the report “I would recommend the dog be classified as menacing not dangerous” is un-committal. Did he or didn’t he recommend?*
- *The final remark: “the dog still lunged at the child and caused injury” is completely based on the mother’s statement and ignores anything Mrs Buyck brought up. Referring only to Mrs Buyck’s conclusion without challenging the points on which that conclusion was based makes the report biased. The question is raised whether Mr Griffiths had already made up his mind before considering Mrs Buyck objections.*

2.8 PRIVACY

- *As Mrs Buyck felt threatened by the excited and rude behaviour of the complainant, immediately after the incident and in the later telephone call, she asked about privacy. Mr Griffiths assured her that TDC would respect the privacy of the individuals and would not give out any personal details. It is therefore concerning that Mrs Buyck’s full name and that of her daughter were subsequently published in the agenda and meeting minutes for the hearing. Also the name of the claimant, complete with address was published.*
- *It is noted that reports and statements in the recent agenda for hearings on 20th January 2020 were redacted.*

3 COMMENT ON TDC LETTER TO THE OWNER OF THE DOG, DATED 5 OCT 2018

3.1 MINOR BITE

- *“as they passed Meisha lunged at the boy and inflicted a minor bite wound to the right upper thigh”*

Comment:

It has not been proven that the injury was a bite. This is solely based on the debatable statement of the complainant.

3.1 DCA SECTION 57

- *I am satisfied that an offence under the Dog Control Act 1996 (The Act) Section 57, (Dogs attacking persons or animals) has been committed.*

Comment:

ADDITIONAL SUBMISSION BY PERSON IN CONTROL OF DOG

The reference to Section 57 is inappropriate. Section 57 prescribes actions that a person may take for the purpose of stopping an attack in circumstances where a person is being attacked or witnesses an attack on any other person, or any stock, poultry, domestic animal, or protected wildlife. It gives a person or a dog control officer the power to seize or destroy a dog if he or she has reasonable grounds to believe that an offence against Section 57 has been committed. The term 'reasonable grounds' suggest that there is factually objective information which leads to a certain conclusion being drawn. The facts in this situation do not support the finding that there was a dog bite, or that there was even an attack of the sort described in s 57. The only piece of evidence which supports that is the mother's statement, which would be fair to say is biased.

3.2 COUNCIL OPTIONS

- "Council is obliged under The Act to protect the general public from injury or distress caused by dogs, in cases such as this - where the victim suffered a minor injury, the imposition of a Menacing Classification is one of the least actions Council can take."

Comment:

This statement appears to be referring to Section 10(4) (a) of the DCA. Council (territorial authority) policies must also have regard to Section 10(4) (d) the exercise and recreational needs of dogs and their owners. The imposition of the menacing dog classification for a minor injury where the alleged victim was the main cause of the incident significantly and unfairly restricts the options for exercise and recreational needs for the owner. Further, it is not clear that there was even an attack, it is certainly not proven that there was a bite. What is clear is that there was an injury which more resembled a scratch from a claw.

4. MEDICAL EVIDENCE SUPPLIED BY THE CLAIMANT

4.1 ACC FORM

The complainant submitted an ACC form.

Comment:

The form, signed by the claimant and a nurse, contains the ACC reading code for dog bites. The form is a notification to ACC that a claim is made by the service provider. This will be used by ACC to approve further treatment in accordance to standards set for each reading code. Of the more than 33000 ACC reading codes, only two relate to dogs, one for bites and one for infected bites. So if a person mentions an injury alleged to be caused by a dog, the service provider can only use the reading code for dog bites. The form is not an expert medical opinion as to what caused the injury. It is merely a statement by the claimant.

ADDITIONAL SUBMISSION BY PERSON IN CONTROL OF DOG

4.2 MEDICAL TREATMENT

TDC letter of 5 Oct 2019: "The complainant sought medical attention however the injury did not require any treatment."

Claimant statement: "The nurse cleaned and the doctor checked it. They told me to monitor it and gave me a prescription for some antiseptic."

Comment:

Dog bites are taken seriously by the medical profession. The standard treatment is a tetanus injection, irrespective of when the last tetanus injection had been given, and a course of oral anti-biotics. Despite the ACC form, the treatment/lack of treatment in this case indicates that the injury was not considered a dog bite.

2.2 MENACING DOG CLASSIFICATION**Decision Required**

Report To:	Animal Control Subcommittee
Meeting Date:	16 January 2020
Report Author:	Ross Connochie, Administration Officer - Regulatory
Report Number:	RACS20-03-2

1 Summary

- 1.1 An objection to a “Menacing” classification of a dog has been lodged under section 33B of the Dog Control Act 1996 (DCA) by Valentina Pembeci. Ms Pembeci has requested that she be heard.
- 1.2 The DCA Section 33A(1)(b) allows Territorial Authorities to classify a dog as menacing if they consider the dog may pose a threat to any person, stock, poultry, domestic animal or protected wildlife. The effects of a menacing classification is that the owner of the dog must not allow the dog to be at large in any public place or in any private way, except when confined completely within a vehicle or cage without being muzzled in such a way as to prevent the dog from biting but to allow it to breathe and drink without obstruction.
- 1.3 Ms Pembeci is the registered owner of Tyly a black and white female Huntaway Cross. Tyly was classified as a menacing dog following a dog attack person incident on the 28 September 2019 and a dog rushing incident on the 2 October 2019; both incidents occurred at Rototai Reserve. At the time of both incidents, Tyly was at large and not under control.
- 1.4 At the time of both incidents, Ms Pembeci was living in a van with her partner Mr Lewis Toki, two adult dogs Tyly and Luna (Luna belongs to Mr Toki), and eight puppies whelped by Tyly. Neither dog was registered at the time of the incidents.
- 1.5 Punitive actions available to Council range from - prosecution and destruction of the dog, classification as dangerous, imposition of financial penalties, and classification as menacing. The nature of the incidents and failure/reluctance of the owner to adequately control the dog led to a decision to classify the dog as menacing. This decision is now under challenge.
- 1.6 The Hearing Panel may uphold or rescind the classification.

2 Draft Resolution

That the Animal Control Subcommittee receives the Menacing Dog Classification Hearing report REP; and either:

- 1. Upholds the menacing classification for the dog Tylly owned by Valentina Pembeci; or:**
- 2. Rescinds the menacing classification for the dog Tylly owned by Valentina Pembeci.**

3 Purpose of the Report

- 3.1 To explain the process and reasoning behind the imposition of the “Menacing” classification on the dog and to allow the panel to decide on whether this is the appropriate classification in the circumstances.

4 Background and Discussion

- 4.1 Dog attack/dog rushing incident mid-morning 28 September 2019. The complainant was walking on the beach near Rototai Reserve when a black and white dog rushed at the complainant grabbing her by her jersey (elbow area). The owner of the van where the dog came from spoke to the complainant. The owner was later identified as Mr Lewis Toki and the dog as Tylly.
- 4.2 Dog rushing incident mid-morning 2 October 2019. The complainant was walking on the beach near Rototai Reserve. The complainant noticed a van parked in the reserve, a black and white dog came from the van and rushed aggressively at the complainant and attempted to bite her. The dog was later identified as Tylly.
- 4.3 The evidence of the complainants is not in dispute.
- 4.4 Tylly had recently whelped and would have been protective of her pups. The dog owner displayed a level of recklessness in not adequately confining and controlling Tylly in a public area.
- 4.5 Having reviewed the statements of the two complainants and Ms Pembeci, staff believe that Tylly poses a threat to the general public and that the requirement to wear a muzzle would mitigate that threat. Accordingly, the decision has been made to classify Tylly as a menacing dog.

5 Options

- 5.1 In considering the objection, the Sub-committee may either uphold or rescind the classification. The DCA indicates that the following must be considered:

33B Objection to classification of dog under section 33A

(1) If a dog is classified under section 33A as a menacing dog, the owner—

(a) may, within 14 days of receiving notice of the classification, object in writing to the territorial authority in regard to the classification; and

(b) has the right to be heard in support of the objection.

(2) The territorial authority considering an objection under subsection (1) may uphold or rescind the classification, and in making its determination must have regard to—

(a) the evidence which formed the basis for the classification; and

(b) any steps taken by the owner to prevent any threat to the safety of persons or animals; and

(c) the matters relied on in support of the objection; and

(d) any other relevant matters.

Item 2.2

6 Key Points

- 6.1 The evidence of the complaints is not in dispute, the dog rushing/attack incidents did take place.
- 6.2 In both instances, Tyllly was at large and not under control.
- 6.3 The imposition of a menacing classification is the least punitive action available to Council.
- 6.4 Council is obliged to ensure that the general public is protected from nuisance or harm from dogs.
- 6.5 The imposition of a menacing classification, while not preventing Tyllly from rushing a person, will prevent Tyllly from inflicting any bite injury.

7 Decision on What Action To Take

- 7.1 Dogs attacking persons are considered to have committed a serious offence under the Act. The punitive options available to Council in this instance are:
 - 7.1.1 **Prosecution under s57** (Dogs attacking persons) which carries a maximum fine of \$3000 plus reparation to the victim. The dog involved must also be destroyed unless there are extenuating circumstances.
 - 7.1.2 **Classification as “Dangerous” under s31.** This puts requirements on the owner to ensure that there is a safe access way to their property, muzzling of the dog in public, neutering of the dog, increased registration fees, and consent from Council to transfer ownership to another person.
 - 7.1.3 **An Infringement Notice** for \$200 for failure to keep a dog under effective control.
 - 7.1.4 **Classification of the dog as “Menacing”.**
- 7.2 Given the facts, a decision was made by the Regulatory Manager on 10 October 2019 to classify the dog as “Menacing” under Section 33A(b) of the DCA:
 - 33A Territorial authority may classify dog as menacing**
 - (1) *This section applies to a dog that—*
 - (a) *has not been classified as a dangerous dog under section 31; but*
 - (b) *a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of—*
 - (i) *any observed or reported behaviour of the dog; or*
 - (ii) *any characteristics typically associated with the dog’s breed or type.*
 - (2) *A territorial authority may, for the purposes of section 33E(1)(a), classify a dog to which this section applies as a menacing dog.*
- 7.3 A copy of the Menacing classification notice is attached as Attachment 1.
- 7.4 The primary effects of the classification are that Tyllly must be muzzled when in public.

8 Process

- 8.1 Ms Pembeci has the opportunity to make a statement to the Hearing Panel.
- 8.2 The Regulatory Manager will explain Council's position.
- 8.3 Ms Pembeci has the right of reply.
- 8.4 At any time the panel may ask questions of those present.
- 8.5 The Hearing Panel will go into Committee and make its decision.
- 8.6 Ms Pembeci is informed of the panel's decision.

9 Policy / Legal Requirements / Plan

- 9.1 Dogs attacking/rushing persons are considered to have committed a serious offence under the DCA. The punitive options available to Council in this instance are shown in section 7 above.
- 9.2 Failure to take any action in such circumstances would be extremely unusual and would need to be justified by some form of extenuating circumstance, none was found.
- 9.3 After the panel makes its decision it must, as soon as practicable, give written notice to the owner of:
 - (a) its determination of the objection; and
 - (b) the reasons for its determination.

10 Conclusion

- 10.1 Council has a responsibility to impose on the owners of dogs obligations designed to ensure that dogs do not cause a nuisance to any person and do not injure, endanger, or cause distress to any person. By upholding the menacing classification, Council will be seen to be taking the action necessary to significantly reduce the chances of Tyllly being involved in any future biting incident. If the classification is rescinded it would make it very difficult to consistently deal with any future dog attacks of a similar nature. It would also put council at significant reputational risk if Tyllly were to attack someone again.

11 Next Steps / Timeline

- 11.1 Council must, as soon as practicable, give written notice to the owner of -
 - 11.1.1 Council's determination of the objection; and
 - 11.1.2 The reasons for Council's determination.

12 Attachments

- | | | |
|----|--------------------------------|----|
| 1. | Menacing Classification Tyllly | 35 |
| 2. | Request for Hearing-Pembeci | 39 |
| 3. | Incident Report Redacted | 41 |

Item 2.2

- | | | |
|----|----------------------------|----|
| 4. | Witness Statement Redacted | 45 |
| 5. | Service Request Redacted | 47 |



D407
Writer's Direct Dial: 03 5438407

13 November 2019

Valentina Pembeci
70 Abel Tasman Drive
RD 1
Takaka 7183

Dear Valentina

Dog Rushing Person Incident

As you are aware council has received a complaint alleging a dog rushing person incident attributed to your dog Tylly. The complainant alleges that on 2 October 2019, at Rototai Reserve, Tylly rushed her in an aggressive manner.

I have investigated the complaint and considered evidence from the complainant, yourself, and the Animal Control Officer who investigated the incident and have determined that the following points are a true reflection of what happened:

- On the 2 October 2019 the complainant was walking on the beach adjacent to Rototai Reserve. The complainant noticed a van parked in the reserve, a black and white dog, later identified as Tylly, came from the van and rushed the complainant in an aggressive manner.

Council is also aware of another rushing incident in the same vicinity on the 1 October 2019 where Tylly is alleged to have rushed an elderly lady and bitten her on the elbow.

I am satisfied that an offence under the Dog Control Act 1996 (The Act) Section 57A, (Dogs rushing persons) has been committed.

Having given due consideration to the statements, I believe that rather than seeking prosecution under The Act, in this instance, the classification of Tylly as a Menacing Dog under Section 33A(1)(b) of The Act is an appropriate course of action to take. The notice of Menacing Classification is enclosed. Information concerning your rights is contained on the reverse of the notice.

Council is obliged under The Act to protect the general public from injury or distress caused by dogs, in cases such as this the imposition of a Menacing Classification is one of the least actions Council can take.

Tasman District Council
Email info@tasman.govt.nz
Website www.tasman.govt.nz
24 hour assistance

Richmond
189 Queen Street
Private Bag 4
Richmond 7050
New Zealand
Phone 03 543 8400
Fax 03 543 9524

Murchison
92 Fairfax Street
Murchison 7007
New Zealand
Phone 03 523 1013
Fax 03 523 1012

Motueka
7 Hickmott Place
PO Box 123
Motueka 7143
New Zealand
Phone 03 528 2022
Fax 03 528 9751

Takaka
78 Commercial Street
PO Box 74
Takaka 7142
New Zealand
Phone 03 525 0020
Fax 03 525 9972

The Act requires that dogs must at all times be under the control of a person capable of controlling them, or confined within the bounds of the property in such a manner as they cannot freely leave the property, to this end your cooperation in ensuring that Tylly is adequately controlled would be appreciated.

Yours sincerely



Adrian Humphries
Regulatory Manager

Tasman District Council
Email info@tasman.govt.nz
Website www.tasman.govt.nz
24 hour assistance

Richmond
189 Queen Street
Private Bag 4
Richmond 7050
New Zealand
Phone 03 543 8400
Fax 03 543 9524

Murchison
92 Fairfax Street
Murchison 7007
New Zealand
Phone 03 523 1013
Fax 03 523 1012

Motueka
7 Hickmott Place
PO Box 123
Motueka 7143
New Zealand
Phone 03 528 2022
Fax 03 528 9751

Takaka
14 Junction Street
PO Box 74
Takaka 7142
New Zealand
Phone 03 525 0020
Fax 03 525 9972



13 November 2019

D407
Direct Dial 03 5438407

Valentina Pembeci
70 Abel Tasman Drive
RD 1
Takaka 7183

Dear Valentina

**NOTICE OF CLASSIFICATION OF DOG AS
A MENACING DOG**
Section 33A Dog Control Act 1996

YOUR REFERENCE: 27539
DOG DESCRIPTION: Tylly, Huntaway/Cross, Black/White

This is to notify you that your dog, **Tylly**, has been classified as a menacing dog under **Section 33A** of the Dog Control Act 1996. Tasman District Council considers this dog may pose a threat to any person, stock, poultry, domestic animal or protected wildlife because of:

Observed or reported behaviour of the dog in that on the 2 October 2019, at Rototai Reserve, Tylly rushed a person in an aggressive manner.

A summary of the effect of the classification and your right to object is provided on the following page.

This notice was delivered by leaving it at the address/ by post/ by registered post on the 13 November 2019

Adrian Humphries
Regulatory Manager

Tasman District Council
Email info@tasman.govt.nz
Website www.tasman.govt.nz
24 hour assistance

Richmond
189 Queen Street
Private Bag 4
Richmond 7050
New Zealand
Phone 03 543 8400
Fax 03 543 9524

Murchison
92 Fairfax Street
Murchison 7007
New Zealand
Phone 03 523 1013
Fax 03 523 1012

Motueka
7 Hickmott Place
PO Box 123
Motueka 7143
New Zealand
Phone 03 528 2022
Fax 03 528 9751

Takaka
78 Commercial Street
PO Box 74
Takaka 7142
New Zealand
Phone 03 525 0020
Fax 03 525 9972

EFFECT OF CLASSIFICATION AS MENACING DOG*Sections 33 E&F, Dog Control Act 1996*

1. **Section 33E.** If a dog is classified as a menacing dog under section 33A or section 33C, the owner of the dog—
- a. must not allow the dog to be at large or in any public place or in any private way, except when confined completely within a vehicle or cage, without being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; and
 - ~~b. must, if required by the territorial authority, within 1 month after receipt of notice of the classification, produce to the territorial authority a certificate issued by a veterinarian certifying—~~
 - ~~i. that the dog is or has been neutered; or~~
 - ~~ii. that for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and~~
 - ~~c. must, if a certificate under paragraph (b)(ii) is produced to the territorial authority, produce to the territorial authority, within 1 month after the date specified in that certificate, a further certificate under paragraph~~

You will commit an offence and be liable on conviction to a fine not exceeding \$3000 if you fail to comply with any matters in paragraphs a above.

In addition if you fail to comply with the above requirements a dog control officer or dog ranger may seize and remove the dog from your possession and retain custody of the dog until the Tasman District Council has reasonable grounds to believe that you will comply with these requirements.

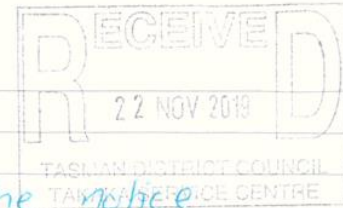
2. **Section 33F.** Owner must advise person with possession of menacing dog of requirement to muzzle dog in a public place

This applies if the dog in the possession of another person not exceeding 72 hours. Failure to comply if convicted may result in a maximum fine of \$500.00

3. **Section 33B. Right of objection to classification.** You may within 14 days of receiving this Notice of Classification, object in writing to the Tasman District Council in regard to this classification. You have the right to be heard in support of your objection and you will be notified of the date, time and place when your objection will be heard.

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

To whom it may concern,



On the 13th of November I received the notice from Adrian Humphries, Tasman District Council, that my dog Tilly is classified as a menacing dog. She now has to wear a muzzle at all times (public)

I would like to oppose to that notice.

Tilly is a really friendly but also shy with strangers. Once she gets used to someone its all super ~~playfull~~ playfull and always peacefull.

She is a lovely nature with high energy that loves to chase the ball.

On the 1st and 2nd of October, when she rushed up to people around the beach she and her "sister" Luna, the second dog that was living with Tilly at that time, were going through an unusual situation. Tilly and Luna just had puppies. ~~The~~ The rushing up and barking I count as to protect the puppies.

The rushing up or being any kind of aggressive is not in Tilly's nature and she has never shown any of this kind again.

She is also known as a friendly and playfull dog around Town.

I also would like to let you know our new living situation. Tilly is living with me in a lovely room with garden near Town. (Only Tilly and me).

She is also wearing a lead.

Thank you in advance
Valentin Penzner

INCIDENT INVESTIGATION FORM



Tasman District Council Contact: SR 1918862 Control Services Officer investigating: John Griffiths

PARTICULARS OF INCIDENT

Date: 02/10/2019 Time: Location: Rototai Road Date reported: 03/10/2019

DETAILS OF INJURED PERSON/ANIMALS

Name: Mary [redacted] Age: Adult Date of Injury: 02/10/19 Contact number: [redacted]

Address: [redacted] Takaka Other relevant details: Another rushing incident to: Kay [redacted] - [redacted] on 28/09/19

Type of injury and where on body: N/A
Animals injured/killed: N/A

DETAILS OF ATTACKING DOG(S) OWNER

Name: Valentina PEMBECI Age: 25yrs Other owners (if any): Contact number: [redacted]

Address: In van [redacted] with partner Other relevant details: Close friends address: [redacted] Takaka

Attacking dog(s) details (Type/Rego Number/Classification etc) Rego – 2009131 - Tylly* - Huntaway/Cross - Black/White – Female - 1 Years
2009132 - Luna* - Terrier, American Staffordshire/Cross – Brindle - Female - 8 Months

Where is the dog now? With owner

THE INCIDENT

On 2 October 2019 the complainant [redacted] was walking on the beach near Rototai Reserve. There was a van parked at the end of the Reserve belonging to Valentina PEMBECI. PEMBECI is living in the van and has two adult dogs with eight puppies staying in the van with her. One of PEMBECI dogs 'Tylly' a black and white Huntaway/Cross rushed up to [redacted] in an aggressive manner. [redacted] is experienced with dogs and thought maybe the dog was trying to protect the puppies inside the van. No injuries resulted. [redacted] also informed us of another incident which happened a few days prior. Around midmorning on or about the 28 September 2019, the complainant [redacted] was walking along the beach near Rototai Reserve. The same black and white dog 'Tylly' ran up to her and grabbed her by the jersey near her elbow. No injuries resulted. [redacted] was concerned should the incident have involved a small child.

WHAT WERE THE CONTRIBUTING CAUSES OF THE INCIDENT?

Dog loose, slipped leash, protecting pups etc.

What has or will be done to prevent it occurring again in future?

TREATMENT

Type of treatment given: Name of first aider: Doctor/hospital:

Attach any relevant photos, reports and statements to this form and give to TDC Regulatory Manager
WITNESS STATEMENT

WITNESS DETAILS

Name: [REDACTED]	Age: Adult	Date of incident: 28/09/19	Contact number: [REDACTED]
Address: [REDACTED] Takaka		Other relevant details:	

THE INCIDENT

Describe what happened:

[REDACTED] was walking along the beach near Rototai Reserve. She thought it was around midday and possibly on a Saturday around the 28th September 2019. She saw a van parked in the middle of the Reserve by the big pine tree.

A black and white dog belonging to the van ran up to her at speed. It happened so quick she never had a chance to tell the dog to go away. The dog jumped at her and tried to bite her. It grabbed her by the jersey near her elbow. There was no injury.

[REDACTED] yelled at the dog "you bitch". A male person from the van asked her if the dog had bitten her. She replied "the dog attempted to". She didn't stop and just kept on walking.

[REDACTED] was concerned if the dog had jumped at a small child in that manner.

Would you be willing to appear in Court if required? YES/NO *delete one

Date: _____ Signature: _____

JOB SHEET



Subject: ██████████ – Dog Rushing SR: 1918862

03/10/19
1115hrs

Received dog rushing complaint from Tasman District Council, Takaka. Complaint alleged a dog from a van ██████████ parked at Rototai Reserve rushed at a lady who was walking past. It was also alleged the day before another lady was grabbed on the arm by the same dog.

I spoke to Mary ██████████ the complainant. She said she was walking along the beach and was at the very end of Rototai Reserve on the sandy part of the beach. She saw a teal coloured van ██████████ parked nearby.

A black and white dog from the van rushed up to her in an aggressive manner. ██████████ was aware there were a number of puppies in the back of the van and she thought maybe the dog was protecting its puppies.

██████████ also told me she was aware of another elderly lady who had been in the same location the day before. The same dog grabbed her on the elbow but there was no injury due to the lady wearing a thick jersey.

██████████ informed me the lady's name was ██████████ and she could be contacted on 03 ██████████. I tried to call that number but there was no answer. I left a message for them to contact me, however to date no one has returned my call.

1215hrs

I drove down the main street of Takaka and located the van ██████████. I spoke with the young female with the van and she gave her name as Valentina PEM.

I told her the reason I was speaking to her and the fact her 2 x dogs were not registered. I asked her back to the TDC office in Takaka to register the dogs and I would microchip them as well. I followed her back to the office and the dogs were registered and microchipped.

She gave her full name as Valentina PEMBECI and she said she was living in her van with her partner. She gave a mailing address as ██████████, Takaka. This address belongs to a close friend.

I took a notebook statement from her.

States:

I was at Rototai Reserve yesterday morning around 8.40am to 11.00am. I had my two dogs 'Luna' and 'Tylly' with me as well as 'Luna's' eight puppies.

Name: John Griffiths
Position: Enforcement Officer
Warrant No:
Date: 10 October 2019

Checked by:
Position:
Date:

Page 1 of 3

JOB SHEET - Continued

I was parked at the end near the beach, as close as I could without getting stuck. I had the boot open to get some sun for the puppies.

'Luna' and 'Tylly' were playing around the van. A lady came past and commented on the puppies and the dogs. I think she tried to pat the dogs. She walked away down the beach and I sat there with 'Luna' and 'Tylly'.

The puppies starting crying, so I sat in the boot with them and 'Luna' to get her to feed them.

Shortly after I heard a lady calling me to call my dog back, which I did. She came back instantly.

The lady then said to me it was irresponsible to bring puppies to the beach because it is a public place and the dogs would get protective. I probably answered her back something like, "its none of your business and the puppies need sun". I'm not sure.

The lady was walking while she was saying all this. We never had a standing conversation. PEMBECEI signed my notebook as being correct.

Note PEMBECEI never saw the rushing incident.

10/10/19
0910hrs

Phoned ██████████, Takaka, and asked her about the incident involving her and PEMBECEI dog.

She said the incident happened on a Saturday maybe the 28th September 2019 and it was around mid morning. She was walking along the beach near Rototai Reserve, a black and white dog ran up to her at speed. She said it happened so quickly she never had a chance to tell the dog to go away. It jumped at her and grabbed her jersey by the elbow. There was no injury but she had sand from the dogs mouth on her jersey.

She yelled at the dog, 'you bitch'. A male in the van where the dog was from, asked me if the dog had bitten her. ██████████ replied 'he had attempted to'.

The van was parked over by the big pine tree in the middle of the reserve. ██████████ said she was concerned if the incident had involved a small child.

Name: John Griffiths
Position: Enforcement Officer
Warrant No:
Date: 10 October 2019

Checked by:
Position:
Date:
Page 2 of 3

Mary ~~XXXXXXXXXX~~

~~XXXXXXXXXX~~
 Inkaia
 PO Box ~~XXXXXX~~

To Whom This Concerns

On the 2nd of October as I was walking on the beach at Pototai Pt a medium size short ^{haired} ~~haired~~ black and white dog ^{of slender build} ~~clashed~~ ~~at~~ ran at me and tried to bite me as I know dogs I knew to keep my side to him the whole time. I then had to call the owner to come and get her dog. She was at her vehicle with a heap of puppies with the mother dog. I ~~said~~ ~~to~~ the lady who had the dogs that she should not leave them here as ~~the~~ ^{their} dog ~~was~~ ~~not~~ ~~come~~ does not like people around it's puppies. Upon leaving I ran into Kay ~~XXXXXX~~ when she told me that the same dog ran and bit her on the elbow on the 1st October ²⁰¹⁹ ~~1920~~ ~~2021~~ also at Pototai Reserve

Yours ~~M.A. XXXXX~~



Tasman District Council

189 Queen Street, Richmond
Private Bag 4, Richmond 7031
Telephone (03) 543 8400 - Facsimile (03) 543 9524

Request: 1918862	District: Golden Bay
To: Animal Control	Received by: Jenna North
Attn: Control Services	Date & time received: 03/10/19 - 09.24
	How received: Phone
Closed: 14/10/19 - 14.52	Date & time of incident: -
	Action required: Investigate

Caller Information	
Name	Mary [REDACTED]
Address	[REDACTED] Takaka 7142
Phone	(Hm) 03 [REDACTED] (Mob) 02 [REDACTED]
Email	

Request	
Type	Dog Attack - Human
Details	Dog had a go at Mary yesterday. Rego [REDACTED] - teal van Camping at Rototai Reserve, has 2 adult dogs, one that is attacking people. Mary believes she is protecting the puppies that are in the van which has been there for 2-3 days. Its a non camping area. Has bitten an elderly lady on the elbow and had a go at Mary, who was almost bitten but she called the owner who came and got the dog.

Dog Details	
Owner	27539 : Valentina Pembeci : [REDACTED], RD 1, Takaka
	Safety Risk: No
	Safety-Note:
Dogs	2009131 : Tylly : Huntaway/Cross : 1 yrs 00 mnths : Female : Black/White Dangerous Dog: No
	2009132 : Luna : Terrier, American Staffordshire/Cross : yrs 8 mnths : Female : Brindle Dangerous Dog: No

Actions	
Status	Investigate - Control Services - Arrived: 03/10/19 - 09.44 - Completed: 03/10/19 - 09.44
Details	Caller phoned back to say that the van has just left the area.
Status	Investigate - Control Services - Arrived: 03/10/19 - 09.53 - Completed: 03/10/19 - 09.53
Details	[REDACTED] van 2.0 litre petrol SWB light van Valentina Pem [REDACTED] Motueka
Status	Investigate - Control Services - Arrived: 06/10/19 - 09.22 - Completed: 06/10/19 - 09.22
Details	Dog owner spoken to. Dogs now registered and microchipped. Statement taken. Still trying to contact alleged other elderly victim.

Request 1918862

Page 2

Actions cont..

Status Investigate - Control Services - Arrived: 08/10/19 - 10.11 - Completed: 08/10/19 - 10.11

Details Waiting to hear back from Kay [REDACTED] (elderly lady allegedly bitten on elbow)

Status Investigate - Control Services - Arrived: 14/10/19 - 14.52 - Completed: 14/10/19 - 14.52

Details With Ross for decision.



2.3 MENACING DOG CLASSIFICATION**Decision Required**

Report To:	Animal Control Subcommittee
Meeting Date:	16 January 2020
Report Author:	Ross Connochie, Administration Officer - Regulatory
Report Number:	RACS20-03-3

1 Summary

- 1.1 An objection to a “Menacing” classification of a dog has been lodged under section 33B of the Dog Control Act 1996 (DCA) by Lewis Toki. Mr Toki has requested that he be heard.
- 1.2 The DCA Section 33A(1)(b) allows Territorial Authorities to Classify a dog as menacing if they consider the dog may pose a threat to any person, stock, poultry, domestic animal or protected wildlife. The effects of a menacing classification is that the owner of the dog must not allow the dog to be at large in any public place or in any private way, except when confined completely within a vehicle or cage without being muzzled in such a way as to prevent the dog from biting but to allow it to breathe and drink without obstruction.
- 1.3 Mr Toki is the registered owner of Luna a black and white female Huntaway Cross. Luna was classified as a menacing dog following a dog attack stock incident on 6 November 2019 at 1890 Taka Valley Highway. At the time of the incident, Luna was at large and not under control.
- 1.4 At the time of the incident, Mr Toki was living in a van at Paynes Ford Takaka. Luna was not registered at the time of the incident.
- 1.5 Punitive actions available to Council range from - prosecution and destruction of the dog, classification as dangerous, imposition of financial penalties, and classification as menacing. The nature of the incidents and failure/reluctance of the owner to adequately control the dog led to a decision to classify the dog as menacing. This decision is now under challenge.
- 1.6 The Hearing Panel may uphold or rescind the classification.

2 Draft Resolution

That the Animal Control Subcommittee receives the Menacing Dog Classification Hearing report REP; and either:

- 1. Upholds the menacing classification for the dog Luna owned by Lewis Toki;**
or:
- 2. Rescinds the menacing classification for the dog Luna owned by Lewis Toki.**

3 Purpose of the Report

- 3.1 To explain the process and reasoning behind the imposition of the “Menacing” classification on the dog and to allow the panel to decide on whether this is the appropriate classification in the circumstances.

4 Background and Discussion

- 4.1 Dog attack on stock incident - 5.00pm 6 November 2019 at 1890 Takaka Valley Highway Luna, being at large and not under control, has attacked and injured two goats belonging to the complainant.
- 4.2 The goats required the attention of a veterinarian and Mr Toki’s parter Valentina Pembeci has paid the associated fees.
- 4.3 The evidence of the complainant is not in dispute.
- 4.4 Having reviewed the evidence, staff believe that Luna poses a threat to stock, domestic pets and protected wildlife and that the requirement to wear a muzzle would mitigate that threat. Accordingly the decision has been made to classify Luna as a menacing dog.

5 Options

- 5.1 In considering the objection the Sub-committee may either uphold or rescind the classification. The DCA indicates that the following must be considered:

33B Objection to classification of dog under section 33A

(1) If a dog is classified under section 33A as a menacing dog, the owner—

(a) may, within 14 days of receiving notice of the classification, object in writing to the territorial authority in regard to the classification; and

(b) has the right to be heard in support of the objection.

(2) The territorial authority considering an objection under subsection (1) may uphold or rescind the classification, and in making its determination must have regard to—

(a) the evidence which formed the basis for the classification; and

(b) any steps taken by the owner to prevent any threat to the safety of persons or animals; and

(c) the matters relied on in support of the objection; and

(d) any other relevant matters.

6 Key Points

- 6.1 The evidence of the complainant is not in dispute, the dog attack stock incident did take place.
- 6.2 Luna was at large and not under control.

- 6.3 The imposition of an infringement notice and menacing classification is the least punitive action available to Council.
- 6.4 Council is obliged to ensure that the stock, domestic pets and protected wildlife are protected from nuisance or harm from dogs.
- 6.5 The imposition of a menacing classification, while not preventing Luna from attacking stock, will prevent Luna from inflicting any bite injury.

7 Decision on What Action To Take

- 7.1 Dogs attacking stock are considered to have committed a serious offence under the Act. The punitive options available to Council in this instance are:
 - 7.1.1 **Prosecution under s57** (Dogs attacking persons or animals) which carries a maximum fine of \$3000 plus reparation to the victim. The dog involved must also be destroyed unless there are extenuating circumstances.
 - 7.1.2 **Classification as “Dangerous” under s31.** This puts requirements on the owner to ensure that there is a safe access way to their property, muzzling of the dog in public, neutering of the dog, increased registration fees, and consent from Council to transfer ownership to another person.
 - 7.1.3 **An Infringement Notice** for \$200 for failure to keep a dog under effective control.
 - 7.1.4 **Classification of the dog as “Menacing”.**
- 7.2 Given the facts, a decision was made by the Regulatory Manager on 13 November 2019 to classify the dog as “Menacing” under Section 33A(b) of the DCA:
 - 33A Territorial authority may classify dog as menacing**
 - (1) *This section applies to a dog that—*
 - (a) *has not been classified as a dangerous dog under section 31; but*
 - (b) *a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of—*
 - (i) *any observed or reported behavior of the dog; or*
 - (ii) *any characteristics typically associated with the dog’s breed or type.*
 - (2) *A territorial authority may, for the purposes of section 33E(1)(a), classify a dog to which this section applies as a menacing dog.*
- 7.3 A copy of the Menacing classification notice is attached as Attachment 1.
- 7.4 The primary effects of the classification are that Luna must be muzzled when in public.

8 Process

- 8.1 Mr Toki has the opportunity to make a statement to the Hearing Panel.
- 8.2 The Regulatory Manager will explain Council’s position.
- 8.3 Mr Toki has the right of reply.
- 8.4 At any time the panel may ask questions of those present.

- 8.5 The Hearing Panel will go into Committee and make its decision.
- 8.6 Mr Toki is informed of the panel's decision.

9 Policy / Legal Requirements / Plan

- 9.1 Dogs attacking stock persons are considered to have committed a serious offence under the DCA. The punitive options available to Council in this instance are shown in section 7 above.
- 9.2 Failure to take any action in such circumstances would be extremely unusual and would need to be justified by some form of extenuating circumstance, none was found.
- 9.3 After the panel makes its decision it must, as soon as practicable, give written notice to the owner of:
 - (a) Its determination of the objection; and
 - (b) The reasons for its determination.

10 Conclusion

- 10.1 Council has a responsibility to impose on the owners of dogs obligations designed to ensure that dogs do not cause a nuisance to or injure, endanger, or cause distress to stock. By upholding the menacing classification, Council will be seen to be taking the action necessary to significantly reduce the chances of Luna being involved in any future harm to stock. If the classification is rescinded it would make it very difficult to consistently deal with any future dog attacks of a similar nature. It would also pose a significant reputational risk to Council if Luna was to be involved in a similar incident again.

11 Next Steps / Timeline

- 11.1 Council must, as soon as practicable, give written notice to the owner of -
 - 11.1.1 Council's determination of the objection; and
 - 11.1.2 The reasons for Council's determination.

12 Attachments

1.	Menacing Classification Luna	55
2.	Hearing Request Toki	61
3.	Service Request Redacted	63



D407
Writer's Direct Dial: 03 5438407

13 November 2019

Lewis Kerry Toki
70 Abel Tasman Drive
Takaka 7110

Dear Lewis

Dog Attack Stock Incident

As you are aware Council has received a complaint alleging a dog attack stock incident attributed to your dog Luna.

Having considered the statements from the complainant and the animal control officer investigating I am satisfied that on the 8 November 2019 at 1890 Takaka Valley Highway Luna, being at large and not under control, has attacked and injured two goats belonging to the complainant.

The goats required the attention of a veterinarian and I understand that your partner has paid the associated fees.

I am satisfied that an offence under the Dog Control Act 1996 (The Act) Section 57, (Dogs attacking persons or animals) has been committed.

Having given due consideration to the statements, I believe that rather than seeking prosecution under The Act, in this instance, the classification of Luna as a Menacing Dog under Section 33A(1)(b) of The Act and the issuing of an infringement Notice under Section 53 of the Act (Failing to control a dog) is an appropriate course of action to take. The notice of Menacing Classification and Infringement notice is enclosed. Information concerning your rights is contained on the reverse of the notices.

The Act requires that dogs must at all times be under the control of a person capable of controlling them, or confined within the bounds of the property in such a manner as they cannot freely leave the property, to this end your cooperation in ensuring that Luna is adequately controlled would be appreciated.

Yours sincerely

Adrian Humphries
Regulatory Manager

Tasman District Council
Email info@tasman.govt.nz
Website www.tasman.govt.nz
24 hour assistance

Richmond
189 Queen Street
Private Bag 4
Richmond 7050
New Zealand
Phone 03 543 8400
Fax 03 543 9524

Murchison
92 Fairfax Street
Murchison 7007
New Zealand
Phone 03 523 1013
Fax 03 523 1012

Motueka
7 Hickmott Place
PO Box 123
Motueka 7143
New Zealand
Phone 03 528 2022
Fax 03 528 9751

Takaka
78 Commercial Street
PO Box 74
Takaka 7142
New Zealand
Phone 03 525 0020
Fax 03 525 9972



13 November 2019

D407

Direct Dial 03 5438407

Lewis Kerry Toki
70 Abel Tasman Drive
Takaka 7110

Dear Lewis

**NOTICE OF CLASSIFICATION OF DOG AS
A MENACING DOG**
Section 33A Dog Control Act 1996

YOUR REFERENCE: 27601

DOG DESCRIPTION: Luna, Terrier, American Staffordshire/Cross, Brindle

This is to notify you that your dog, **Luna**, has been classified as a menacing dog under **Section 33A** of the Dog Control Act 1996. Tasman District Council considers this dog may pose a threat to any person, stock, poultry, domestic animal or protected wildlife because of:

Observed or reported behaviour of the dog in that on the 8 November 2019 at 1890 Takaka Valley Highway Luna, being at large and not under control, has attacked and injured two goats.

A summary of the effect of the classification and your right to object is provided on the following page.

This notice was delivered by leaving hand on the 13 November 2019

Adrian Humphries
Regulatory Manager

Tasman District Council
Email info@tasman.govt.nz
Website www.tasman.govt.nz
24 hour assistance

Richmond
189 Queen Street
Private Bag 4
Richmond 7050
New Zealand
Phone 03 543 8400
Fax 03 543 9524

Murchison
92 Fairfax Street
Murchison 7007
New Zealand
Phone 03 523 1013
Fax 03 523 1012

Motueka
7 Hickmott Place
PO Box 123
Motueka 7143
New Zealand
Phone 03 528 2022
Fax 03 528 9751

Takaka
78 Commercial Street
PO Box 74
Takaka 7142
New Zealand
Phone 03 525 0020
Fax 03 525 9972

EFFECT OF CLASSIFICATION AS MENACING DOG*Sections 33 E&F, Dog Control Act 1996*

1. **Section 33E.** If a dog is classified as a menacing dog under section 33A or section 33C, the owner of the dog—
- a. must not allow the dog to be at large or in any public place or in any private way, except when confined completely within a vehicle or cage, without being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; and
 - b. ~~must, if required by the territorial authority, within 1 month after receipt of notice of the classification, produce to the territorial authority a certificate issued by a veterinarian certifying—~~
 - i. ~~that the dog is or has been neutered; or~~
 - ii. ~~that for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and~~
 - c. ~~must, if a certificate under paragraph (b)(ii) is produced to the territorial authority, produce to the territorial authority, within 1 month after the date specified in that certificate, a further certificate under paragraph~~

You will commit an offence and be liable on conviction to a fine not exceeding \$3000 if you fail to comply with any matters in paragraph a above.

As from the 1 July 2006, you are also required, for the purpose of providing permanent identification of the dog, to arrange within 2 months after classification for the dog to be implanted with a functioning microchip transponder. This must be confirmed by the Tasman District Council. 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.

2. **Section 33F.** Owner must advise person with possession of menacing dog of requirement to muzzle dog in a public place

This applies if the dog in the possession of another person not exceeding 72 hours. Failure to comply if convicted may result in a maximum fine of \$500.00

3. **Section 33B. Right of objection to classification.** You may within 14 days of receiving this Notice of Classification, object in writing to the Tasman District Council in regard to this classification. You have the right to be heard in support of your objection and you will be notified of the date, time and place when your objection will be heard.

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

**Animal Control Section
INFRINGEMENT NOTICE**
(Issued under authority of Section 66
of the Dog Control Act 1996)



Owner Details: Lewis Kerry Toki 70 Abel Tasman Drive Takaka 7110		Infringement: 102936
Date of Birth:	28/10/1992	
ALLEGED INFRINGEMENT OFFENCE DETAILS		
Date:	8/11/2019	Time: 5.00pm
		Day of Week: Friday
Road/Street: 1890 Takaka Valley Highway		Locality: Takaka
Offence:	Failure to keep dog under control Dog Control Act 1996 Section 53(1) did own a dog namely Luna which you failed to keep under control in thaton the 8 November 2019 at 1890 Takaka Valley Highway Luna, being at large and not under control, has attacked and injured two goats.	Infringement Fee Payable: \$ 200.00
Reg. No or Description of Dog:	2009132 Luna : Terrier, American Staffordshire/Cross : Brindle : Female	
Issuing Officer:	Adrian Humphries	
PAYMENT OF INFRINGEMENT FEE		
The infringement fee is payable within 28 days after: (Earliest date notice is delivered personally, or posted)		13/11/2019
The infringement fee may be paid to either: <ul style="list-style-type: none"> • In person at Tasman District Council Offices: <ul style="list-style-type: none"> ◦ Richmond: 189 Queen Street ◦ Takaka: 78 Commercial Street ◦ Motueka: 7 Hickmott Place ◦ Murchison: 92 Fairfax Street • By posted cheque made payabel to Tasman District Council and crossed "Not Transferrable". • By electronic bank transfer to ASB Bank Acct 12-3193-0002048-03, include the Notice Number and surname of the addressee in the reference. (For international bank transfers the SWIFT Code is "ASBBNZ2A"). 		

IMPORTANT - PLEASE READ THE SUMMARY OF RIGHTS PRINTED OVERLEAF

SUMMARY OF RIGHTS INFORMATION ABOUT DOG CONTROL ACT 1996 INFRINGEMENT OFFENCES

NOTE: If, after reading these notes, you do not understand anything in the notes, you should consult a lawyer immediately.

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

PAYMENTS

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

DEFENCES

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

FURTHER ACTION

4. If you wish to:
 - (a) raise any matter relating to the alleged offence for consideration by the territorial authority; or
 - (b) deny liability for the offence and request a court hearing (refer to paragraphs 5 and 6 below); or
 - (c) admit liability for the offence, but wish to have a court consider written submissions as to penalty or otherwise (refer to paragraphs 6 and 9 below),-
 you should write to the territorial authority at the address shown on the front page of this notice. Any such letter should be personally signed.
5. You have a right to a Court hearing. If you deny liability for the offence and request a hearing, the informant will serve you with a notice of hearing setting out the place and time at which the matter will be heard by the Court (unless it decides not to start Court proceedings).
NOTE that if the Court finds you guilty of the offence, costs will be imposed in addition to any penalty.
6. If you admit the offence but want the court to consider your submission as to penalty or otherwise, you should in your letter-
 - (a) ask for a hearing; and
 - (b) admit the offence; and
 - (c) set out the written submissions you wish to be considered by the Court.
 The territorial authority will then file your letter with the Court (unless it decides not to commence Court proceedings). There is no provision for an oral hearing before the Court if you follow this course of action.
NOTE that costs will be imposed in addition to any penalty.

NON-PAYMENT OF FEE

7. If you do not pay the infringement fee and do not request a hearing within 28 days after the issue of this notice, you will be served with a reminder notice (unless the territorial authority decides otherwise).
8. If you do not pay the infringement fee and do not request a hearing within 28 days after being served with the reminder notice, the territorial authority may file the reminder notice in the Court and you will become liable to pay **costs in addition to the infringement fee** under Section 21(5) of the Summary Proceedings Act 1957.

QUERIES/CORRESPONDENCE

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

NOTICE OF LIABILITY FOR CLASSIFICATION AS A PROBATIONARY OWNER OR A DISQUALIFIED OWNER

If you commit 3 or more infringement offences (not relating to a single incident or occasion) over a period of 24 months, the territorial authority may classify you as-

- * a probationary owner; or
- * a disqualified owner.

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

- * have been ordered to pay a fine and costs under Section 78A(1) of the Summary Proceedings Act 1957, or are treated as having been so ordered under Section 21(5) of that Act; or
- * pay the infringement fee specified in the infringement notice.

Probationary ownership starts from the date of the third infringement offence in the 24 month period. Unless terminated earlier by the territorial authority, probationary ownership runs for a period of 24 months.

Disqualification as a dog owner starts from the date of the third infringement offence in the 24 month period. The length of disqualification is determined by the territorial authority but may be no longer than 5 years.

CONSEQUENCES OF CLASSIFICATION AS A PROBATIONARY OWNER OR DISQUALIFIED OWNER

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

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

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

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

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

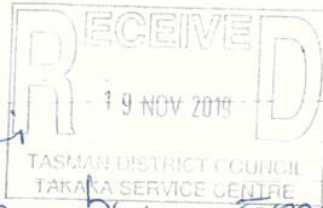
Full details of classification as a probationary owner or a disqualified owner, and the effects of those classifications, are provided in the Dog Control Act 1996.

FULL DETAILS OF YOUR RIGHTS AND OBLIGATIONS ARE IN SECTION 66 OF THE DOG CONTROL ACT 1996 AND SECTION 21(10) OF THE SUMMARY PROCEEDINGS ACT 1957.

NOTE: ALL PAYMENTS, ALL QUERIES, AND ALL CORRESPONDENCE REGARDING THIS INFRINGEMENT MUST BE DIRECTED TO THE INFORMANT AT THE ADDRESS SHOWN.

d:\office\Back\15/12/03

Lewis Kerry Toki



19/11/19

2.10pm

Statement taken by Emma Gee.

- Lewis would like to object to the classification of Luna wearing a muzzle. The muzzle is intimidating, Luna is well known around town for being cuddly, bubbly, friendly and not aggressive what so ever to any human or most animals. Lewis agrees to the dog collar, but does not agree with the muzzle. Lewis has said that she does not like the muzzle and is chewing and eating the plastic. Luna's mother died from eating plastic.

Lewis is monitoring constantly, Luna and has always, but without a collar and chain. Lewis has said again that he agrees with collar and chain, he said the muzzle is a form of cruelty. Lewis offered to bring Luna in to staff so he can show her kind nature. Luna is not an aggressive dog. She is surrounded by love, care and attention, and is exercised regularly, daily.

Lewis is regretful of the situation that took place where Luna had bitten the goats, but because of this one mistake Lewis does not believe Luna should be muzzled as it is a primitive dog nature. This is why Lewis will ensure

that luna will wear a collar.



A handwritten signature or set of initials, possibly 'JT', written in blue ink.

* Please advise service centre staff of response so that this can be passed onto Lewis.



Tasman District Council

189 Queen Street, Richmond
 Private Bag 4, Richmond 7031
 Telephone (03) 543 8400 - Facsimile (03) 543 9524

Request: 1921503	District: Golden Bay
To: Animal Control	Received by: John Griffiths
Attn: Control Services	Date & time received: 08/11/19 - 14.25
Priority: 4:1 Week	How received: Phone
Deadline: 12/11/19 - 12.16	Date & time of incident: -
	Action required: Investigate

Caller Information

Name Ruben Takaka Police Ruben
Address , Takaka
Phone (Wk) 03 [redacted] (Mob) [redacted]
Email [redacted]

Request

Type Dog Attack - Stock
Details **JG** Lewis [redacted] dogs have attacked goats at [redacted] today. This pty is at Paynes Ford. Spoke to Tony [redacted] who will need to up-lift the dogs from Takaka Police Station

Location

Street [redacted] Takaka Valle

Property

Location [redacted] Takaka Valley
Valuation No 187 [redacted]
Ratepayer [redacted] - C/- [redacted]

Dog Details

Owner 27539 : Valentina [redacted] RD 1, Takaka
 Safety Risk: No
 Safety-Note:
Dogs 2009131 : Tylly : Huntaway/Cross : 1 yrs 01 mnths : Female : Black/White
 Dangerous Dog: No
 2009132 : Luna : Terrier, American Staffordshire/Cross : yrs 9 mnths : Female : Brindle
 Dangerous Dog: No

Actions

Status Investigate - Control Services - Arrived: 08/11/19 - 15.31 - Completed: 08/11/19 - 15.31
Details Goats belong to [redacted] Dogs attacked 3 goats at Ms [redacted] pty [redacted] Takaka, with the brindle bitch grabbing 1 goat holding it down and the B&W dog biting at another goat's legs Incident happened on Wednesday 6th November 2019 at about 5.00 to 5.30pm.
Status Investigate - Control Services - Arrived: 11/11/19 - 16.00 - Completed: 11/11/19 - 16.01
Details Luna - impounded

