



NAPIER
CITY COUNCIL
Te Kaunihera o Ahuriri

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HEARINGS COMMITTEE (DOG HEARING) Open Agenda

Meeting Date: Friday 17 May 2019

Time: 2.00pm

Venue: Council Chamber
Hawkes Bay Regional Council
159 Dalton Street
Napier

Committee Members Councillor Jeffery (In the Chair) Councillors Wise and Wright

Officer Responsible Director City Strategy

Administration Governance Team

Next Hearings Committee (Dog Hearing) Meeting to be confirmed

ORDER OF BUSINESS

Apologies

Nil

Conflicts of interest

Announcements by the Chairperson

Announcements by the management

Agenda items

- 1 Objection to classification of Dog under section 33A of the Dog Control Act 1996 3

AGENDA ITEMS

1. OBJECTION TO CLASSIFICATION OF DOG UNDER SECTION 33A OF THE DOG CONTROL ACT 1996

<i>Type of Report:</i>	Legal
<i>Legal Reference:</i>	Dog Control Act 1996
<i>Document ID:</i>	727472
<i>Reporting Officer/s & Unit:</i>	Rachael Horton, Manager Business Excellence & Transformation

1.1 Purpose of Report

The Hearings Committee has been delegated, by Council, the power to hear, consider and decide objections made under section 33B of the Dog Control Act 1996 ('the Act').

An objection has been made by Darren Melling in response to two dogs being classified as menacing dogs under section 33A of the Act; a Hearing is therefore required.

1.2 Status of Animal ID

The Hearing is in relation to two dogs.

The first dog is a male, named "Boss", aged 5 years. The dog is a Staffordshire Bull Terrier Cross. The dog usually resides in the Napier City Council territorial authority area.

Boss was first registered on 28 March 2017 and is registered by the Napier City Council for the 2018/19 registration year.

The second dog is a female, named "Maia", aged 6 years. The dog is a German Shepherd. The dog usually resides in the Napier City Council territorial authority area.

Maia was first registered on 18 October 2013 and is registered by the Napier City Council for the 2018/19 registration year.

1.3 Matters leading to classification

On 3 January 2019, both dogs were involved in three rushing incidents between the hours of 2.00am and 8.00am. The rushings occurred on Morris Spence Avenue and involved a man leaving for work, a boy riding his bike, and an elderly man walking a friend's dog.

Luke Barton, Animal Control Officer, arrived at Morris Spence Avenue at about 8.10am and investigated the incidents.

Following his investigation, the dogs were classified as menacing and a notice was sent to the owner of the dogs.

1.4 Classification under the Dog Control Act 1996

Under section 33A of the Act, the Napier City Council may classify a dog as menacing if it is not currently classified as dangerous under s31 of the Act, but the territorial authority considers it 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.

As required under section 33A(3) of the Act, the Council issued written notice of the classification of the two dogs as Menacing on 18 February 2019. Please refer to Attachments A and B for copies of these notices.

1.5 The objection

A written objection was received by Council on 1 March 2019, which is within the statutory 14 day objection period. Attachment C is a copy of the objection.

1.6 Hearings Committee jurisdiction

In considering the objection, the Committee must have regard to the following considerations, as set out in section 33B(2) of the Act:

- the evidence which formed the basis for the classification; and
- any steps taken by the owner to prevent any threat to the safety of persons or animals; and
- the matters relied on in support of the objection; and
- any other relevant matters.

The Committee may decide to uphold or rescind the classification once they have heard all the relevant information.

1.7 Officer's Recommendation

That the matter be heard.

1.4 Attachments

- A Attachment A: Notice of Classification Boss [↓](#)
- B Attachment B: Notice of Classification Maia [↓](#)
- C Attachment C: Letter of Objection [↓](#)

Owner No: 327986

18 February 2019

Darren Brian Melling
58 Morris Spence Avenue
Onekawa
Napier 4110

Dear Sir/Madam

NOTICE OF CLASSIFICATION OF A DOG AS A MENACING DOG

Section 33A, Dog Control Act 1996
Dog: Boss, Terrier, Staffordshire Bull/Cross,

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

1. (b) (i) any observed or reported behaviour of the dog, Council may, for the purpose of Section 33E (1) (a), classify a dog to which this section applies as a menacing dog.

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

Yours faithfully



Luke Burton
Animal Control Officer

*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, 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 the person under 16 years of age who is in possession of the dog and who is a member of your household living with and dependent on you.

Effect of Classification as Menacing Dog Sections 33E, 33F and 36A, Dog Control Act 1996

You:

- a. Must not allow the dog to be at large or in any public place or in any private way (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 Council, within one month after receipt of this notice, a certificate issued by a registered veterinary surgeon certifying:
 - i. That the dog is or has been neutered; or
 - ii. That for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and
- c. Where a certificate under paragraph (b) (ii) is produced to Council, produce to Council, within one month after the date specific 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 purpose of providing permanent identification of the dog, to arrange for the dog to be implanted with a functioning microchip transponder. This must be confirmed by making the dog available to Council in accordance with the reasonable instructions of Council for verification that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location.

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with this requirement within 2 months after the dog is classified as menacing.

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

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

Right of Objection to Classification under Section 33C Sections 33B, Dog Control Act 1996

You may object to the classification of your dog as menacing by lodging with Council a written objection addressed to the Team Leader, Animal Control, 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.

Owner No: 327986

18 February 2019

Darren Brian Melling
58 Morris Spence Avenue
Onekawa
Napier 4110

Dear Sir/Madam

NOTICE OF CLASSIFICATION OF A DOG AS A MENACING DOG

Section 33A, Dog Control Act 1996

Dog: Maia, Shepherd, German,

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

1. (b) (i) any observed or reported behaviour of the dog, Council may, for the purpose of Section 33E (1) (a), classify a dog to which this section applies as a menacing dog.

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

Yours faithfully



Luke Burton
Animal Control Officer

*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, 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 the person under 16 years of age who is in possession of the dog and who is a member of your household living with and dependent on you.

Effect of Classification as Menacing Dog Sections 33E, 33F and 36A, Dog Control Act 1996

You:

- a. Must not allow the dog to be at large or in any public place or in any private way (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 Council, within one month after receipt of this notice, a certificate issued by a registered veterinary surgeon certifying:
 - i. That the dog is or has been neutered; or
 - ii. That for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and
- c. Where a certificate under paragraph (b) (ii) is produced to Council, produce to Council, within one month after the date specific 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 purpose of providing permanent identification of the dog, to arrange for the dog to be implanted with a functioning microchip transponder. This must be confirmed by making the dog available to Council in accordance with the reasonable instructions of Council for verification that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location.

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

Right of Objection to Classification under Section 33C Sections 33B, Dog Control Act 1996

You may object to the classification of your dog as menacing by lodging with Council a written objection addressed to the Team Leader, Animal Control, 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.

01 MAR 2019

Luke Burton,
Animal Control Officer,
Napier City Council,
Private Bag 6010,
Napier 4142.

Dear Mr Burton,

Refer Infringement Notices 07761 & 07762 Dog Owner 327986.

I strongly disagree with this classification of my dogs being menacing. I also disagree with the \$200 fine for each dog.

My reasons for disagreeing are:

- 1/ This is the first time my dogs have rushed someone or another animal. Every animal control officer that we have met has commented on their good nature.
- 2/ You haven't stated which dog did what, they have just been coupled together.
- 3/ Boss & Mia are not one of the breeds listed on your list of menacing dogs.

I would appreciate your reviewing these notices and look forward to your reply.

With Regards



Darren Melling
58 Morris Spence Ave
Onekawa
Napier 4110