

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

**Date:** Thursday 15 November 2018  
**Time:** 10.00am  
**Meeting Room:** Tasman Council Chamber  
**Venue:** 189 Queen Street  
Richmond

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## **Animal Control Subcommittee**

### **AGENDA**

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#### **MEMBERSHIP**

**Cr P Sangster**  
**Cr K Maling**

(Quorum 2 members)

Contact Telephone: 03 543 8455  
Email: [glenda.crichton@tasman.govt.nz](mailto:glenda.crichton@tasman.govt.nz)  
Website: [www.tasman.govt.nz](http://www.tasman.govt.nz)

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**Note:** The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted.



## **AGENDA**

**1 OPENING, WELCOME**

**2 REPORTS**

2.1 Menacing Dog Classification Hearing ..... 5

**3 CONFIDENTIAL SESSION**

3.1 Procedural motion to exclude the public..... 21

3.1 Deliberations of Panel for Animal Control Subcommittee Hearing..... 21



## 2 REPORTS

### 2.1 MENACING DOG CLASSIFICATION HEARING

**Decision Required**

<b>Report To:</b>	Animal Control Subcommittee
<b>Meeting Date:</b>	15 November 2018
<b>Report Author:</b>	Ross Connochie, Administration Officer - Regulatory
<b>Report Number:</b>	RACS18-11-1

#### 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 RACS18-11-01; 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

- |                      |                                       |    |
|----------------------|---------------------------------------|----|
| 1. <a href="#">↓</a> | Menacing Classification Notice        | 9  |
| 2. <a href="#">↓</a> | Medical Report on Injury              | 11 |
| 3. <a href="#">↓</a> | Photos of Injury                      | 13 |
| 4. <a href="#">↓</a> | Statement of Objector's Mother Part 1 | 15 |
| 5. <a href="#">↓</a> | Statement of Objector's Mother Part 2 | 17 |
| 6. <a href="#">↓</a> | Statement of Victim's Mother          | 19 |



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.

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**This notice was delivered by post on the 8 November 2018**

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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](mailto: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	
<b>Part B: Injury and Employment Details</b>						
Accident Date	04 September 2018	Time	8:45 AM	Treatment injury claim	N	
Scene	30 Road Or Street	Accident in NZ	Y	Assistance Required	N	
Location	352 Nelson City	Description	Scotting 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			Treatment Objectives		
Occupation	9997.001 Child			Referral 2		
Employer Status				Treatment Objectives		
Usual Work Type				Referral 3		
Work Accident	N			Treatment Objectives		
Employer Name				Rehabilitation	1 No need for ACC to call Health Provider	
Employer Address				Part E: Work Capacity		
<b>Part C: Patient Authorisation and Declaration</b>						
To assess cover and/or entitlements, ACC may need to collect medical and other records about you from a third party.						
For more details see ACC's privacy notice at <a href="http://www.acc.co.nz/privacy">www.acc.co.nz/privacy</a> .						
I authorise:						
<ul style="list-style-type: none"> <li>ACC to collect medical and other records which are or may be relevant to my claim</li> <li>the treatment provider to lodge this claim for me.</li> </ul>						
I declare that the information I have given in this form is true and correct.						
Patients Signature: <i>[Signature]</i>		Date: 04/09/2018				
Authorised representative's Name		Stoke Medical Centre Ltd				
Authorised representative's relationship to patient		Cheryl Winter				
Provider's Signature: <i>[Signature]</i>				Date: 04/09/2018		







### 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 4<sup>th</sup> 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

### 3 CONFIDENTIAL SESSION

#### 3.1 Procedural motion to exclude the public

The following motion is submitted for consideration:

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

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

#### 3.1 Deliberations of Panel for Animal Control Subcommittee Hearing

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	48(i)(d) - To deliberate in private in a procedure where a right of appeal lies to a Court against the final decision.	s48(1)(a)  The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.