

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

Date: **Wednesday 22 January 2020**
Time: **9.30am**
Meeting Room: **Tasman Council Chamber**
Venue: **189 Queen Street**
Richmond

Animal Control Subcommittee

AGENDA

MEMBERSHIP

Cr Stuart Bryant
Cr Dana Wensley

(Quorum 2 members)

Contact Telephone: 03 543 8455
Email: julie.jar@tasman.govt.nz
Website: www.tasman.govt.nz

AGENDA

1 OPENING, WELCOME

2 REPORTS

2.1	Menacing Dog Classification.....	5
2.2	Menacing Dog Classification.....	25
2.3	Menacing Dog Classification.....	47

3 CONFIDENTIAL SESSION

Nil

2 REPORTS

2.1 MENACING DOG CLASSIFICATION

Decision Required

Report To:	Animal Control Subcommittee
Meeting Date:	16 January 2020
Report Author:	Ross Connochie, Administration Officer - Regulatory
Report Number:	RACS20-01-1

1 Summary

- 1.1 An objection to a “Menacing” classification of a dog has been lodged under section 33B of the Dog Control Act 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 Tyllly a black and white female Huntaway Cross. Tyllly 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, Tyllly 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 Tyllly and Luna (Luna belongs to Mr Toki), and eight puppies whelped by Tyllly. 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 Tyllly owned by Valentina Pembeci; or:**
- 2. Rescinds the menacing classification for the dog Tyllly 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 Tyllly.
- 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 Tyllly.
- 4.3 The evidence of the complainants is not in dispute.
- 4.4 Tyllly 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 Tyllly in a public area.
- 4.5 Having reviewed the statements of the two complainants and Ms Pembeci, staff believe that Tyllly 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 Tyllly 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 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 Tylly 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	11
2. ↓	Request for Hearing-Pembeci	15
3. ↓	Incident Report Redacted	17
4. ↓	Witness Statement Redacted	21
5. ↓	Service Request Redacted	23



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 Tyllly. The complainant alleges that on 2 October 2019, at Rototai Reserve, Tyllly 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 Tyllly, 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 Tyllly 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 Tyllly 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 Tylly 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.

Tylly is a really friendly but also shy with strangers. Once she gets used to someone it's all super ~~play~~ playful and always peaceful.

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 "sis" Luna, the second dog that was living with Tylly at that time, were going through an unusual situation. Tylly and Luna just had puppies. ~~The~~ The rushing up and barking I can't do to protect the puppies.

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

She is also known as a friendly and playful dog around town.

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

She is also wearing a lead.

Thank you in advance
Valentine Pembezi

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 PEMBEI

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 - Tyllly* - 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 PEMBEI. PEMBEI is living in the van and has two adult dogs with eight puppies staying in the van with her.

One of PEMBEI dogs 'Tyllly' 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 'Tyllly' 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: [REDACTED] – Dog Rushing SR: 1918862

03/10/19
1115hrs

Received dog rushing complaint from Tasman District Council, Takaka. Complaint alleged a dog from a van [REDACTED] 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 [REDACTED] 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 [REDACTED] parked nearby.

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

[REDACTED] 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.

[REDACTED] informed me the lady's name was [REDACTED] and she could be contacted on 03 [REDACTED]. 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 [REDACTED]. 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 PEMBEI and she said she was living in her van with her partner. She gave a mailing address as [REDACTED] [REDACTED], 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 'Tyly' 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

<p>10/10/19 0910hrs</p>	<p>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.</p> <p>'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'.</p> <p>The puppies starting crying, so I sat in the boot with them and 'Luna' to get her to feed them.</p> <p>Shortly after I heard a lady calling me to call my dog back, which I did. She came back instantly.</p> <p>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.</p> <p>The lady was walking while she was saying all this. We never had a standing conversation. PEMBECl signed my notebook as being correct.</p> <p>Note PEMBECl never saw the rushing incident.</p> <p>Phoned [REDACTED], Takaka, and asked her about the incident involving her and PEMBECl dog.</p> <p>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.</p> <p>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. [REDACTED] replied 'he had attempted to'.</p> <p>The van was parked over by the big pine tree in the middle of the reserve. [REDACTED] said she was concerned if the incident had involved a small child.</p>
	<p>Name: John Griffiths Position: Enforcement Officer Warrant No: Date: 10 October 2019</p> <p>Checked by: Position: Date:</p> <p>Page 2 of 3</p>

Mary ~~XXXXXX~~

~~XXXXXX~~
Tinkles
PO Box ~~XXXX~~

To Whom This Concerns

On the 2nd of October as I was walking on the beach at Pototai Rd a medium size short ^{haired} ~~headed~~ black and white dog ^{of slender build} dashed 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 ^{their} ~~the~~ dog ~~was~~ ~~not~~ ~~come~~ does not like people around it's puppies. Upon leaving I ran into Mary ~~XXXX~~ 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 Mary ~~XXXX~~



Tasman District Council

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

Request: 1918862

**To: Animal Control
Attn: Control Services**

Closed: 14/10/19 - 14.52

District: Golden Bay

Received by: Jenna North

Date & time received: 03/10/19 - 09.24

How received: Phone

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 : Tyly : 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.

2.2 MENACING DOG CLASSIFICATION**Decision Required**

Report To: Animal Control Subcommittee

Meeting Date: 16 January 2020

Report Author: Ross Connochie, Administration Officer - Regulatory

Report Number: RACS20-01-2

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 Jamie Couper. Ms Couper 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 Couper is the registered owner of Cobey a brown Labrador Retriever/ English Pointer resident at 29 McGlashen Street, Motueka. Cobey was classified as a menacing dog following a dog attack person incident on the 30 August 2019 the incident occurred at 40 Staples Street Motueka. At the time of the incident, Cobey was at large and not under control.
- 1.4 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 of the owner to adequately control the dog led to a decision to classify the dog as menacing. This decision is now under challenge.
- 1.5 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 Cobey owned by Jamie Couper; or:**
- 2. Rescinds the menacing classification for the dog Cobey owned by Jamie Couper.**

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 person 10.30am 30 August 2019. The complainant and her partner noticed two dogs on their property at 40 Staples Street Motueka. It was noticed that one dog was significantly older than the other. While the complainant was attempting to identify the older dog, the younger dog has rushed and then attacked the complainant inflicting minor bite injuries on her right arm.
- 4.2 The older dog was restrained by the complainant’s partner and later seized by the investigating Animal Control Officer. The dog was identified as Milo, a brown, male, Labrador retriever. Milo is owned by Duncan Barrett of 29 McGlashen Street, Motueka.
- 4.3 The younger dog was not able to be secured. On the 2 September 2019 the investigating office took a photo of Cobey. On viewing the photo the complainant was not 100% certain that it was the attacking dog, however, the partner of the complainant identified Cobey as the attacking dog.
- 4.4 At the time of the incident; Cobey was registered as being resident at 31 Poole Street Motueka. Milo was unregistered and resident at 29 McGlashen Street. Another dog ‘Chase’, a Black Border Collie Cross owned by Louise Nalder, was recorded as being resident at 29 McGlashen Street.
- 4.5 On investigation it was found that Cobey and Milo were resident at 29 McGlashen Street and the dog Chase was deceased. This explains some initial confusion as to the identity of the dogs.
- 4.6 In relation to the attack, Ms Couper was issued an Infringement Notice for failing to control a dog (Cobey). The infringement was not contested and the fine was paid on the 22 November 2019.
- 4.7 Having reviewed the statements of the complainant and the investigating Animal Control Officer, staff believe that Cobey was the attacking dog and that Cobey 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 Cobey 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 incident did take place.
- 6.2 Council staff are satisfied that Cobey and Milo were the dogs at large on 40 Staple Street and that Cobey was the dog who attacked the complainant.
- 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 general public is protected from nuisance or harm from dogs.
- 6.5 The imposition of a menacing classification, while not preventing Cobey from rushing a person, will prevent Cobey 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 19 September 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 is that Cobey must be muzzled when in public.

8 Process

8.1 Ms Couper has the opportunity to make a statement to the Hearing Panel.

8.2 The Regulatory Manager will explain Council's position.

8.3 Ms Couper 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 Couper 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 Cobey 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 pose a significant reputational risk to council should Cobey bite 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 Cobey	31
2. ↓	Infringement Notice Couper	35
3. ↓	Request for hearing Couper	37
4. ↓	Complainant Statement Redacted	39
5. ↓	Couper letter to complainant Redacted	41
6. ↓	Email Memo Control Services Redacted	43
7. ↓	Couper Incident Report Redacted	45



D407

Writer's Direct Dial: 03 5438407

19 September 2019

Jamie Couper
29 McGlashen st
Motueka 7120

Dear Jamie

Dog Attack Person Incident

As you are aware council has received a complaint alleging a dog attack person incident attributed to your dog Cobey. The complainant alleges that on 30 August 2019, at 40 Staples Street Motueka, Cobey attacked her.

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 30 August 2019 at approximately 1030hrs the complainant and her partner noticed two dogs on their property at 40 Staples Street Motueka. It was noticed that one dog was significantly older than the other. While the complainant was attempting to identify the older dog the younger dog has rushed and then attacked the complainant inflicting minor bite injuries on her right arm.
- The older dog was seized by the investigating Animal Control Officer and identified as Milo, a brown, male, Labrador retriever. Milo resides at 29 McGlashen Street.
- Having viewed a photograph taken by the investigating Animal Control Officer the complainant's partner has identified the younger dog as your dog Cobey.

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 Cobey as a Menacing Dog under Section 33A(1)(b) of The Act and the issuing of a Infringement Notice under Section 53(1) of The Act for failing to control a dog is an appropriate course of action to take. The notice of Menacing Classification and Infringement Notice are enclosed. Information concerning your rights is contained on the reverse of the notice.

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

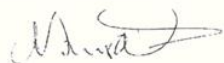
Motueka
7 Hickmott Place
PO Box 123
Motueka 7143
New Zealand
Phone 03 528 2022
Fax 03 528 9751

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

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.

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 the gate and fencing on your property is adequate to contain Cobey in such a manner that she cannot freely leave the property.

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



19 September 2019

D407

Direct Dial 03 5438407

Jamie Couper
29 McGlashen st
Motueka 7120

Dear Ms Couper

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

Section 33A Dog Control Act 1996

YOUR REFERENCE: 24225

DOG DESCRIPTION: Cobey, Retriever, Labrador/Pointer, English, Brown

This is to notify you that your dog, **Cobey**, 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 30 August 2019 at approximately 1030hrs at 40 Staples Street Motueka Cobey has rushed and then 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 19 September 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.

In addition if you fail to comply with the above requirement 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.

Animal Control Section INFRINGEMENT NOTICE

(Issued under authority of Section 66
of the Dog Control Act 1996)



Owner Details: Jamie Couper 29 McGlashen st Motueka 7120		Infringement: 102932
Date of Birth:	23/05/1999	
ALLEGED INFRINGEMENT OFFENCE DETAILS		
Date: 30/08/2019	Time: 10.30am	Day of Week: Friday
Road/Street: 40 Staples Street Motueka		Locality: Motueka
Offence: Failure to keep dog under control Dog Control Act 1996 Section 53(1) did own a dog namely Cobey a brown female Labrador Retriever/English Pointer which you failed to keep under control. In that on the 30 August 2019 at approximately 1030hrs at 40 Staples Street Motueka Cobey has rushed and then attacked a person.		Infringement Fee Payable: \$ 200.00
Reg. No or Description of Dog: 2009864 Cobey : Retriever, Labrador/Pointer, English : Brown : Female		
Issuing Officer: Sally Quickfall		
PAYMENT OF INFRINGEMENT FEE		
The infringement fee is payable within 28 days after: (Earliest date notice is delivered personally, or posted)		19/09/2019
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 payable 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.

dmnoticeBack 15/12/03

I have received a letter of infringement for my dog Cobey I wish to object to the charge that she is a menacing dog, she was accused of attacking a woman because another dog from our property was identified on the scene. I how every I don't believe that she was with him. I have a witness that saw another dog that looks similar to Cobey with milo, down staple street at around 1pm on the day of the incident, first of all the control officer said it was chase, a dog that used to live at the property, she said it was him as he lives with milo, she was told he doesn't live here, and than asked if we have any other dogs so we told her we had Cobey, she than said it was her that did it, this leads me to believe that she was just accusing any dog that lived at the property, as chase doesn't look like Cobey so how could it have been him. Also the dog that was seen looked like my dog and I believe that the officer would have convinced the witness that it was Cobey because she lives with milo. She probably thought it was Cobey but I don't. I know my dog doesn't leave the property, we have previously lived at properties without fencing and she never left. I don't want to have to muzzle my dog in public because of the actions of another dog, my dog has never been aggressive towards any member of the public, human or animal.

Jamie couper

Cobey couper 09864

Time: 3.13pm

Date: 04/09/2019

Place: ~~XXXXXXXXXX~~ Motueka 7120

My full name is ~~XXXXXXXXXX~~ 63 years of age and live at ~~XXXXXXXXXX~~ Motueka 7120 and my phone number is 03 ~~XXXXXXXXXX~~

About 10.30am on 30th August 2019 at ~~XXXXXXXXXX~~ Motueka 7120 there were two dogs sighted on our property.

We have a five wire electric fence around our property which also goes over the driveway, so when dogs enter they tend not to leave and we have to call dog control. We try to establish if they have collars and are registered so that we can give the number.

~~XXXXXX~~ went out into the paddock to try and get reg numbers. They ran away from him.

The older dog then turned back up by our solar panels so I went through the pool fence to see if it had a collar. I did not see the younger dog as it was the other side of the fence behind the solar panels. As I approached the older dog the younger one jump the fence and came at me barking. I turned to walk back and it grabed my elbow in its mouth. I shouted No in the hope it would back off. It did and I returned to safety the other side of the pool fence.

The younger dog left the property and the older dog ended up at the front door and wanted in. We gave him some water, which he needed, and he settled outside at the front door until Sally came and took him away. He was not a problem at all.

I have two puncture wounds around my elbow and it is bruised.

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



~~XXXXXXXXXX~~

To whom it may concern, I have written you this letter about my dog Cobey, on the 30th of August my dog was accused of attacking you, I believe that this was not my dog. My flat mate came home at 1pm and she was home and also a family member saw Milo (the older dog) walking down the street around 1pm with a Vizla type dog that looked similar to my dog, it wasn't her as he would have picked her up. I am just concerned about this and wish that you would take some time to look at pictures of Vizlas and see if you think it could be a different dog. My dog is kind and not aggressive towards any people or animals. At this point in time your statement can help me as my dog has been classed as menacing and has to now wear a muzzle in public. This is very upsetting to me as in my heart I know it wasn't her and she is now not able to live a normal life and socialise with other dogs and play in public normally, I know that you were attacked and that is horrible I just want to make sure we have the right dog, I don't want my dog to be blamed just because she lives with Milo and the dog ranger said that it would of been her because she lives with him. I feel like you could have possibly been pushed into thinking it was her because of the circumstances as the two dogs look similar, as that would seem like the most logical thing because milo was there, however my dog doesn't run away, I have lived at properties with no fence and she still doesn't run away, I would just like you to have a think about that day and what happened as my dog is very important to me and I don't think she did this. I know that you didn't want to take action and that it was dog control, but you are the only one that can help me at the moment.

Could you please contact me on ~~0800 123 456~~

Yours sincerely

Jamie ~~0800 123 456~~

Ross Connochie

From: Ross Connochie
Sent: Wednesday, 11 September 2019 3:33 PM
To: Ross Connochie
Subject: FW: Dog Attack - [REDACTED] SR1916524.
Attachments: Statement from [REDACTED] Docx

Ross Connochie | Environment & Planning
 Regulatory Support Officer
 Extension 807 | DDI 03 543 8407

From: controlservices@kinect.co.nz <controlservices@kinect.co.nz>
Sent: Friday, 6 September 2019 11:07 AM
To: Ross Connochie <Ross.Connochie@tasman.govt.nz>
Subject: Dog Attack - [REDACTED], SR1916524.

Hi Ross,

I'm forwarding on [REDACTED] statement and my incident report for your consideration as to what happens next for SR1916524. [REDACTED] due to the traumatic experience could not give a 100% ID on the dog from a photo but her partner [REDACTED] said it was most definitely that dog, as he had also had a good look at it while it was on their property. I think if the dog owner wants to bring in a witness to say it was not her dog that was seen wandering down the street with Milo then we should challenge that as I do not believe that statement. The gate was left open at the back of the property by person unknown to dog owner and when the two guys came to the pound to collect Milo, they thought that I also had Cobey. When next time I spoke to Jamie [REDACTED] she said that Cobey was home on the deck when the boys returned from the pound. This indicates to me that Cobey was not restrained on the property and the chances of him not following Milo off the property are highly unlikely. I am concerned that the owner and her partner and flatmate have not taken responsibility for the dog leaving the property and therefore more likely it could happen again.

Cheers, Sally.

Sally Quickfall
 Animal Control Officer
 Control Services (Tasman) Ltd
 Ph 03 [REDACTED]



Tasman District Council

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

Request: 1916524

To: Animal Control
Attn: Control Services

Closed: 10/09/19 - 12.30

District: Motueka

Received by: Ross Connochie

Date & time received: 30/08/19 - 11.28

How received: Phone

Date & time of incident: -

Action required: Investigate

Caller Information

Name: [REDACTED]
Address: [REDACTED] Motueka 7120
Phone: (Hm) 03 [REDACTED]
Email: [REDACTED]

Request

Type: Dog Attack - Human
Details: **SQ** Dogs wandering on property unable to identify, one of the dogs has attacked [REDACTED]

Dog Details

Owner: 24225 : Jamie [REDACTED] Motueka
Safety Risk: No
Safety-Note:
Dog: 2009864 : Cobey : Retriever, Labrador/Pointer, English : 4 yrs 07 mnths : Female : Brown
Dangerous Dog: No

Owner: 21303 : Duncan James [REDACTED] Motueka
Safety Risk: No
Safety-Note:
Dog: 1902486 : Milo : Retriever, Labrador : 10 yrs 03 mnths : Male : Brown
Dangerous Dog: No

Actions

Status: Investigate - Control Services - Arrived: 30/08/19 - 12.20 - Completed: 30/08/19 - 13.20
Details: SQ caught and impounded large chocolate Lab, other dog had left property. Lab was microchipped. Other dog was the one that bit [REDACTED] has a graze on her wrist, not requiring treatment. She is reluctant to do a statement, but I said we would send out a template for her to fill out. Waiting to hear from other owners.

Status: Investigate - Control Services - Arrived: 30/08/19 - 16.20 - Completed: 30/08/19 - 16.20
Details: Duncan called, he said Chase is no longer with them, and that the other dog belonged to Jamie [REDACTED] his flatmate. I said we would return Milo and that Jamie needed to come in also for a chat.

Request 1916524

Page 2

Actions cont..

Status Investigate - Control Services - Arrived: 30/08/19 - 17.03 - Completed: 30/08/19 - 17.03

Details Duncan collected Milo, paid drop off fee and registered dog.

Jamie [REDACTED] partner came in to discuss his dog, believed it was not his dog, but a few inconsistencies in his claim. I said we would be checking the dog next week, so will photograph dog and show complainants for ID. Further follow up reqd.

Status Investigate - Control Services - Arrived: 02/09/19 - 15.38 - Completed: 02/09/19 - 15.38

Details SQ visited dogs and photographed second dog. [REDACTED] partner [REDACTED] ID'd the dog as the one that had a go at [REDACTED]. She now has bruising apparent and small graze and a tooth mark. Photograph taken of minor injury. Discussed difficulty of taking this too much further due to us not catching the dog at the time, but that a record will go on its history.

Status Investigate - Control Services - Arrived: 03/09/19 - 11.45 - Completed: 04/09/19 - 08.43

Details Jamie [REDACTED] phoned, She has said that she does not believe that her dog left the property with 'Milo'.

She knows of someone that saw 'Milo' with another dog that day. That person would of stopped and picked up 'Cobey' if it was her and returned her, but said it was not 'Cobey'.

SQ does not believe this. Forwarding to Ross for consideration with statement.

Status Investigate - Control Services - Arrived: 05/09/19 - 12.23 - Completed: 05/09/19 - 12.23

Details Statement received by Toni Elliot

Status Investigate - Control Services - Arrived: 06/09/19 - 11.13 - Completed: 06/09/19 - 11.13

Details Passed to TDC for consideration with incident report and [REDACTED] statement.

Status Investigate - Control Services - Arrived: 10/09/19 - 12.30 - Completed: 10/09/19 - 12.30

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: RACS20-01-3

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. Download | Menacing Classification Luna | 51 |
| 2. Download | Hearing Request Toki | 57 |
| 3. Download | Service Request Redacted | 59 |



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.

dmcc/Buck 15/12/2013

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.



[Handwritten signature]

* 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

To: Animal Control

Attn: Control Services

Priority: 4:1 Week

Deadline: 12/11/19 - 12.16

District: Golden Bay

Received by: John Griffiths

Date & time received: 08/11/19 - 14.25

How received: Phone

Date & time of incident: -

Action required: Investigate

Caller Information

Name Ruben Takaka Police Ruben

Address , Takaka

Phone (Wk) 03 ~~XXXXXXXXXX~~ (Mob) ~~XXXXXXXXXX~~

Email ~~XXXXXXXXXX~~

Request

Type Dog Attack - Stock

Details **JG** Lewis ~~XXXXXXXXXX~~ dogs have attacked goats at ~~XXXXXXXXXX~~ today. This pty is at Paynes Ford. Spoke to Tony ~~XXXXXXXXXX~~ who will need to up-lift the dogs from Takaka Police Station

Location

Street ~~XXXXXXXXXX~~ Takaka Valle

Property

Location ~~XXXXXXXXXX~~ Takaka Valley

Valuation No 187 ~~XXXXXXXXXX~~

Ratepayer ~~XXXXXXXXXX~~ - Cl- ~~XXXXXXXXXX~~

Dog Details

Owner 27539 : Valentina ~~XXXXXXXXXX~~ 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 ~~XXXXXXXXXX~~ Dogs attacked 3 goats at Ms ~~XXXXXXXXXX~~ pty ~~XXXXXXXXXX~~ 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

Request 1921503

Page 2

Actions cont..

Status Investigate - Control Services - Arrived: 12/11/19 - 11.16 - Completed: 12/11/19 - 11.16
Details Lewis ~~W~~ called into Takaka office to see if he could get dog back - or visit.
Spoke with JG but ~~W~~ did not want to talk.

This Action

Arrived

Completed

Further action required?

Officer

Complainant advised?