

Agenda for a hearing by Commissioners of the Regulatory Subcommittee for Waikato District Council to be held in Boardroom, District Office, 15 Galileo Street, Ngaruawahia on **FRIDAY, 17 FEBRUARY 2023**, commencing at **10.00am**.

Information and recommendations are included in the reports to assist the Subcommittee in the decision-making process and may not constitute Council's decision or policy until considered by the Subcommittee.

1. APOLOGIES AND LEAVE OF ABSENCE

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GJ Ion
CHIEF EXECUTIVE

To	Policy and Regulatory Subcommittee
Report title	Objection to Menacing Classification
Date:	17 February 2023
Report Author:	Tracey Oakes, Animal Control Team Leader
Authorised by:	Sue O’Gorman, General Manager Customer Support

1. Purpose of the report

Te Take moo te puurongo

To provide information to the Policy and Regulatory Subcommittee to enable that committee to hear the objection to a Menacing Classification imposed on the dog (“Chloe”) belonging to Erin Bryant (“Ms Bryant”).

2. Executive summary

Whakaraapopotanga matua

Section 33A of the Dog Control Act 1996 (“the Act”) allows Waikato District Council (“Council”) to classify a dog as menacing if the dog is considered to pose a threat to a person or other animal due to observed or reported behaviour (Sections 33A and Section 33B of the Act annexed as Appendix 1).

Chloe, a white coloured female German Shepard, aged approximately 5 years and owned by Ms Bryant was involved in a rushing incident towards a member of the public and their child out for a walk with their dog on 30 October 2022. The incident occurred outside 10 Willow Lake Road, Huntly, Ms Bryant’s then residing address. As a response to the incident Animal Control attended the property. The attending Animal Control Officer (“ACO”) was rushed by Chloe with no contact made.

After investigation, Council advised Ms Bryant of the decision to classify Chloe as Menacing. In accordance with section 33B of the Act, Ms Bryant formally objected in writing to the menacing classification within the statutory time frame (annexed as Appendix 2).

Council considers that Chloe poses an ongoing threat to persons or animals given the reported behaviour, in relation to both the initial incident and Chloe’s behaviour when the ACO attended the property.

Council understands that Ms Bryant has since admitted the gate to her property was opened briefly the day of the incident, though Ms Bryant denies all other claims. Council submits that for public safety reasons Chloe should remain classified as menacing, requiring the dog to be muzzled when in public.

3. Staff recommendations Tuutohu-aa-kaimahi

- a. **THAT the Regulatory Sub-committee receives the report of the General Manager Customer Support – (Objection to Menacing Classification – Erin Bryant).**
- b. **THAT the Regulatory Sub-committee upholds the Menacing Classification of ‘Chloe’ under section 33(A)(1) of the Dog Control Act 1996.**

4. Background Koorero whaimaarama

On 30 October 2022 at 19:25 hours Council’s after hours call centre received a complaint from a member of the public, Ms Victoria Britton (“Ms Britton”). Ms Britton describes in her witness statement that she was out for her walk with her daughter and their dog (“Tahi”).

When walking on the foot path outside the driveway of 10 Willow Lake Road, Huntly, with her six-year-old daughter and Tahi, Ms Britton and Tahi were rushed by a white German Shepherd. Ms Britton’s daughter was ahead of her and Ms Britton told her daughter to ‘run’, which she did unattended, down the street. Chloe displayed aggressive behaviour by running without pause toward Tahi, not responding to Ms Britton’s screamed directive at Chloe and scream for assistance that went unattended. Chloe is described to have stopped only when Ms Britton kicked toward her.

Ms Britton then went in search for her daughter who was located 10 metres away and heard a woman’s voice call a name as the dog was heading back to 10 Willow Lake Road though no one came out of the property boundary. Ms Britton advised that the gate at 10 Willow Lake Road is a low farm gate and the driveway was clear of cars. Ms Britton continued home with her daughter and their dog to report the incident to Council. Ms Britton’s witness statement is attached (annexed as Appendix 3).

Officer Davis attended the call from the afterhours call centre advising of the incident on 30 October 2022 (annexed as Appendix 4). Considering the incident included endangerment of a child the severity of the incident was increased, and Animal Control exercised ‘Section 57A’ of the Act to seize Chloe as a matter of public safety (Section 57A annexed as Appendix 5).

On 30 October 2022 at approximately 8.15pm Officer Davis attended the property with Animal Control Team Leader Tracey Oakes and noted the farm gate providing access to the property was closed. Exercising caution Officer Davis and Officer Oakes called out and tapped on the gate to which Chloe ran out and started barking at them.

Officer Davis describes the response of the dog being guarding and fearful. (Annexed Officer Statement Appendix 6).

As Officer Davis and Officer Oakes entered the premises a man exited the dwelling. Chloe retreated to him before Chloe turned and rushed aggressively towards Officer Davis. Whilst no contact was made Officer Davis had to use her bite stick and yell to deter Chloe and defend herself.

Once Chloe was secured by the man, Officer Davis identified herself and informed the male the reason Animal Control was at the property. He went to get the owner Ms Bryant. Officer Davis informed Ms Bryant of the complaint and explained Council will be seizing Chloe.

Ms Bryant denied it was Chloe, continued to blame a different dog then advise it was retaliation. Ms Bryant is described to then deter Officer Davis from seizing Chloe whilst also making suggestion of obstructing Council in carrying out its duty to ensure public safety. Officer Davis explained both the Council process for investigation and possible consequences for the suggested action of obstruction. Ms Bryant complied after reading the section of the Act referred to by Officer Davis (Section 57A annexed as Appendix 5).

Officer Davis then completed a Notice of Seizure and Removal of Dog and left this with Ms Bryant (Annexed as Appendix 7).

Chloe was then impounded by Officer Davis at the Ngaruawahia Dog Pound in pen 14 (Impound Photos annexed as Appendix 8).

On 31 October 2022 during normal working hours, Officer Davis checked the Council database and associated Chloe to the Service Request (Dog Details annexed as Appendix 9).

On 14 November 2022 Officer Davis advised Ms Bryant of the investigation outcome to classify Chloe and provided information on how to make an objection to the classification once it's received. Ms Bryant denied the incident happened and disagreed with the outcome.

Council issued a notice of menacing classification dated 1 December 2022 which was sent by signed courier to Ms Bryant (Annexed as Appendix 10).

A formal objection was received by Council on 15 December 2022 which is within the prescribed 14-day objection period (Annexed as Appendix 11).

Officer Davis's contemporaneous pocketbook notes are annexed as Appendix 12 for the fullness of this report.

Having received Ms Bryant's written objection to the menacing classification, the objection now needs to be determined in accordance with section 33B of the Act (sections 33A and 33B of the Act annexed as Appendix 1).

5. Discussion and analysis

Taataritanga me ngaa tohutohu

Section 33B(2) of the Act (Appendix 1) provides that in determining this objection the Committee shall 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.

As a result of this analysis, the Committee will have the following options:

- A. Uphold the classification of the dog as menacing; or
- B. Rescind the classification.

The Committee must give written notice of its decision and the reasons for it, under section 33B(3) of the Act to the objector.

The option preferred by staff is option A, and the reasons for this recommendation are discussed below.

5.1 Options

Ngaa koowhiringa

Staff recommend option A because:

- The Act states that the Territorial authority **MAY** classify a dog as menacing if the territorial authority considers the dog may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of any observed or reported behaviour of the dog.
- Chloe was free to leave the property and able to access a public place and exhibited behaviour which indicates she may pose a threat to any person or domestic pet.
- A menacing classification ensures that:
 - Chloe is muzzled when in public to help mitigate the threat the dog poses; and
 - Chloe will be desexed, preventing Chloe from having puppies and potentially passing on behavioural traits.
- Ms Bryant continues to deny her dogs involvement and does not believe Chloe is capable of the reported behaviour. Despite this viewpoint of Ms Bryant's, a menacing classification will ensure that Ms Bryant takes the appropriate steps to ensure any threatening behaviour is mitigated.

5.2 Financial considerations

Whaiwhakaaro puutea

There are no material financial considerations associated with the recommendations of this report.

5.3 Legal considerations **Whaiwhakaaro-aa-ture**

Staff confirm that the staff recommendation complies with the Council's legal and policy requirements. Legal Counsel will be available to assist the Committee with the matters of law as required.

5.4 Strategy and policy considerations **Whaiwhakaaro whakamaaherehere kaupapa here**

The report and recommendations are consistent with the Council's policies, plans and prior decisions.

5.5 Maaori and cultural considerations **Whaiwhakaaro Maaori me oona tikanga**

There are no wider Maaori or cultural considerations involved in the exercise of Council's legislative responsibilities under the Act.

5.6 Climate response and resilience considerations **Whaiwhakaaro-aa-taiao**

The matters in this report have no known impact on climate change or resilience for the Council.

5.7 Risks **Tuuraru**

Should the Committee uphold the classification and proceed with the staff recommendation, the classification stands with no further recourse for appeal by the objector.

Should the Committee rescind the classification, there is a risk that further breaches of the Act will occur, and members of the public could be further threatened or even harmed.

6. Significance and engagement assessment **Aromatawai paahekoheko**

6.1 Significance **Te Hiranga**

The decisions and matters of this report are assessed as of low significance, in accordance with the Council's [Significance and Engagement Policy](#).

6.2 Engagement Te Whakatuutakitaki

This is a regulatory/operational matter concerning an individual and we do not propose to inform more broadly than necessary to give effect to the classification, if upheld.

7. Next steps Ahu whakamua

Should the classification be upheld, it will apply at a national level.

Council's role will be to update the relevant records and enforce the requirements of the classification.

8. Confirmation of statutory compliance Te Whakatuuturutanga aa-ture

As required by the Local Government Act 2002, staff confirm the following:

The report fits with Council's role and Committee's Terms of Reference and Delegations.	Confirmed
The report contains sufficient information about all reasonably practicable options identified and assessed in terms of their advantages and disadvantages (<i>Section 5.1</i>).	Confirmed
Staff assessment of the level of significance of the issues in the report after consideration of the Council's Significance and Engagement Policy (<i>Section 6.1</i>).	Low
The report contains adequate consideration of the views and preferences of affected and interested persons taking account of any proposed or previous community engagement and assessed level of significance (<i>Section 6.2</i>).	Confirmed
The report considers impact on Maaori (<i>Section 5.5</i>)	Not applicable
The report and recommendations are consistent with Council's plans and policies (<i>Section 5.4</i>).	Confirmed
The report and recommendations comply with Council's legal duties and responsibilities (<i>Section 5.3</i>).	Confirmed

9. Attachments Ngaa taapirihanga

Attachment 1 – Section 33A and Section 33B of the Act

Attachment 2 – Formal Objection Ms Bryant

Attachment 3 – Witness Statement Ms Britton

Attachment 4 – Service Request 30 October 2022

Attachment 5 - Section 57A of the Act

Attachment 6 - Officer Statement

Attachment 7 - Notice of Seizure and Removal of Dog

Attachment 8 - Impound Photos

Attachment 9 – Dog Details

Attachment 10 - Menacing Classification

Attachment 11 - Acknowledgement of Formal Objection

Attachment 12 – Pocket Book Notes

Menacing dogs

Heading: inserted, on 1 December 2003, by [section 21](#) of the Dog Control Amendment Act 2003 (2003 No 119).

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.
- (3) If a dog is classified as a menacing dog under subsection (2), the territorial authority must immediately give written notice in the prescribed form to the owner of—
 - (a) the classification; and
 - (b) the provisions of [section 33E](#) (which relates to the effect of classification as a menacing dog); and
 - (c) the right to object to the classification under [section 33B](#); and
 - (d) if the territorial authority's policy is not to require the neutering of menacing dogs (or would not require the neutering of the dog concerned), the effect of [sections 33EA](#) and [33EB](#) if the owner does not object to the classification and the dog is moved to the district of another territorial authority.

Section 33A: inserted, on 1 December 2003, by [section 21](#) of the Dog Control Amendment Act 2003 (2003 No 119).

Section 33A(3): amended, on 1 November 2004, by [section 10](#) of the Dog Control Amendment Act 2004 (2004 No 61).

Section 33A(3)(c): amended, on 28 June 2006, by [section 13](#) of the Dog Control Amendment Act 2006 (2006 No 23).

Section 33A(3)(d): added, on 28 June 2006, by [section 13](#) of the Dog Control Amendment Act 2006 (2006 No 23).

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.
- (3) The territorial authority 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.

Section 33B: inserted, on 1 December 2003, by [section 21](#) of the Dog Control Amendment Act 2003 (2003 No 119).

Tracey Oakes

From: Waikato DC <INFO@WAIDC.GOV.T.NZ>
Sent: Thursday, 15 December 2022 4:07 pm
To: Tracey Oakes
Subject: FW: Written Objection to classification under Section 33A - Menacing Dog CRM: DOGS1178/23 [#40CD3G]

Kia Ora Tracey, Please see below

-----Original Message-----

From: 4in5yr@gmail.com
Sent: Thursday, 15 December 2022 2:55:51 pm
To: "Waikato DC" <info@waidc.govt.nz>
Subject: Written Objection to classification under Section 33A - Menacing Dog CRM: DOGS1178/23

Reference to:

CRM: DOGS1178/23

Person ID: 149066

Dog ID: 148969

To Whom It May Concern,

I am writing this to lodge my objection to the territorial authority to the classification under Section 33A - Menacing dog classification put on my dog Chloe, White Female German Shepherd and received by me on Friday 9/12/2022.

The grounds of which I object are:

1. I believe this to be a totally false claim.

2. Chloe is a well socialized, highly exercised 4 year old mature very well trained, clever dog with a clean record.

3. I am a pro-active owner, who has owned many dogs, with never any issues and in fact because of this classification I have now moved my entire family away from the area, as to make sure this 'Guilty till proven innocent' classification does not happen again.

I have various items to be heard:

1. Neighbours' statement hearing about this being a false allocation and why, (this also includes him witnessing Chloes, well trained manners over last 2 years).
2. German shepherd breeders statement about Chloe's well trained manner and their personal interactions with her over the years and their eagerness to breed her and shock at this classification.
3. Holiday kennel statement saying Chloe has never been an issue while in their care and amongst many other dogs of all breeds.
4. Fact that Chloe is not only kept on a chain but is also behind a fully fenced yard. (before and now)

Could you please reply and give me an outline of what I am expected to produce if any different to above? and also assure me that this is received and accepted as my written objection?

I look forward to hearing from you.

Kind regards

Erin Bryant

021 319004

Old address of 10 Willow Lake Road, Huntly but now residing at
81 Bailey Street, Huntly

COMPLAINANT

PERSONAL DETAILS	
<input type="checkbox"/> Complainant	<input checked="" type="checkbox"/> Victim <input type="checkbox"/> Victim's parent / guardian (select all that apply)

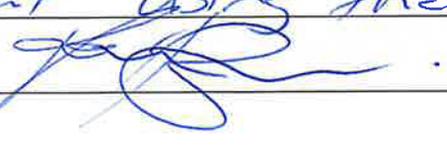
Title	Victoria Britton	Date of birth	[REDACTED]
Name	[REDACTED]		
Address	[REDACTED]		
Home phone		Work phone	
Mobile phone	[REDACTED]		
Email			

DOG DETAILS			
Number of dogs involved: <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 or more (attach separate sheet)			
Dog 1		Dog 2	
Gender	Female	Gender	
Size	large	Size	
Ears	pointed	Ears	
Tail	up high	Tail	
Breed	german shepherd	Breed	
Colour	white	Colour	
Collar	didn't notice	Collar	
ID features	pure white	ID features	

COMPLAINANT STATEMENT	
[REDACTED] and I (16 year old daughter) and Tahi my dog he is an english setter. we were walking back from lake Hatawa Tahi was on lead. I was on Willow lake road heading towards Ryever Road on the left hand side of the street. I was talking to [REDACTED] who was about 1 metre in front of me. Tahi my dog stopped moving when I said it pulled me on the lead. I then turned and saw the described dog come running at full	
Signature:	[Signature]

COMPLAINANT STATEMENT (continued)

speed, it flew around the corner at its own property. I could see all the way down the driveway at number 10 Willow Lake road from where I was standing on the concrete footpath. I was just about a foot or two in front of a patch of long grass outside number 10 Willow Lake road. I heard the dogs feet but no barking or growling. The described dog ran at full speed towards my dog Tahiri. I told my daughter [redacted] to run. The described dog ran straight for Tahiri still, Tahiri hid between my legs. I screamed 'Fudge Ah' at the top of my lungs and to 'come and get your fucking dog' I kicked at the dog as well to stop it. The described dog stopped within less than 1 metre of me and Tahiri. When I kicked at the described dog she stopped and paused for a second then turned and ran home. I started running up Willow Lake road looking for my daughter [redacted] who was about 10 metres up the road by now. I heard a female voice calling my name, unsure of the name of the dog, back to its property as it was heading back. No one came out from the property to check. The gate on the property is a low farm gate that was wide open and there were no cars in the driveway. I took my daughter [redacted] and my dog Tahiri home called animal control. I am scared and terrified of big dogs my daughter [redacted] was scared. I am scared the dog will jump their fence, and now have concerns about using that route to walk

Signature: 

COMPLAINANT DECLARATION

This statement is true, and I have made it with the knowledge that it may be used in court proceedings (pursuant to section 82 of the Criminal Procedure Act 2011).

Name	VICTORIA BRITTON
Signature	
Name of parent / guardian <i>(where complainant is less than 16 years old)</i>	
Signature of parent / guardian <i>(where complainant is less than 16 years old)</i>	
Date	1/11/2022

INTERPRETER DECLARATION *(if applicable)*

- I know *(name of complainant / victim)*
- He / she *(delete one)* is my *(relationship to person)*
- My mother tongue is *(language)*
- I can read and speak in English because I *(give a reason, e.g. attended an English school in NZ, grew up in NZ, etc.)*
- On *(date)* ACO *(name)* interviewed him / her *(delete one)* in my presence.
- I interpreted and translated all information and the questions put to and the answers given by him / her *(delete one)* from *(language)* into English and vice versa to the best of my skill and ability.
- The officer recorded the information I supplied in writing.
- I translated the completed statement back to *(name of complainant / victim)*
....., who confirmed that the content is true and correct.

Name of interpreter	
Signature of interpreter	
Date	

ACO VERIFICATION

Statement recorded at <i>(place)</i>	Huntly				
ACO Full Name	Amanda Davis				
ACO Signature					
ACO Number	7	Date	1/11/2022	Time	10:45am

Request details for DOGS1178/23

Request Number	DOGS1178/23	Priority
Date Received	30/10/2022	Completed On
Source	AftHours	Resp Workgroup
Status	P	Raised By
Group	DOGSCRM	Resp User
Category	DogAggCurr	Call Back?
Process Counter	580932	

Related Property & Customer

DOGS1178/23

Property Address	[REDACTED]		
Home Telephone	[REDACTED]	Mobile Telephone	[REDACTED]
Caller Name	Victoria Pamela Britton		
Caller Address			
Caller Email	[REDACTED]		

Request Details

Description

Resolution Description

Resolution Details

Memo Details

Medium

30/10/2022

Dogs

CCRUZ001

AFORB001

False

Work Telephone

████████████████████ 3700

Dogs Aggression - Current -

Incident Date and Time: 30/10/2022 19:25HRS

Details: Victoria was walking her dog with her daughter when a german shepherd dog from 10 Willow Lake Road, Huntly came rushing out of the driveway and tried to attack her dog. She kicked it and it went back to the property. The lady across the dog may have seen the incident. She's home now, no bite, no injury. Phoned ACO to advise

Completed

white shephred loose on section, dog barked at gate at us territorial behaviour. Entered property, male appeared from house and dog then flew at me in an aggressive manner i had to use my bite stick and strike at the dog to stop it, Male then secured dog. explained to him and dog owner why i was there. after some time and a formal caution the dog was placed in my vehicle and impounded in NGA, photos taken
after discussion with team leader decision made to infringe and classify the dog as menacing.
14/11 - Erin advised of decision

Dogs rushing at persons, animals, or vehicles

This section applies to a dog in a public place that—

- (a) rushes at, or startles, any person or animal in a manner that causes—
 - (i) any person to be killed, injured, or endangered; or
 - (ii) any property to be damaged or endangered; or
- (b) rushes at any vehicle in a manner that causes, or is likely to cause, an accident.

If this section applies,—

- (a) the owner of the dog commits an offence and is liable on conviction to a fine not exceeding \$3,000 in addition to any liability that he or she may incur for any damage caused by the dog; and
- (b) the court may make an order for the destruction of the dog.

A dog control officer or dog ranger who has reasonable grounds to believe that an offence has been committed under subsection (2)(a) may, at any time before a decision of the court under that subsection, seize or take custody of the dog and may enter any land or premises (except a dwellinghouse) to do so.

Section 57A: inserted, on 1 December 2003, by [section 36](#) of the Dog Control Amendment Act 2003 (2003 No 119).

Section 57A(2)(a): amended, on 1 July 2013, by [section 413](#) of the Criminal Procedure Act 2011 (2011 No 81).

Officers Evidential Statement

My full name is Amanda Davis

I am the senior Animal Control Officer for the Waikato District Council

My officer number is 7

On the 3rd of January 2022 at approx. 7:50pm I received a service request via the Hamilton City Council after hours call centre. The request was for a German Shepherd that rushed out and tried to attack her dog.

I contacted ACO 17 to assist. We arrived at 10 Willow Lake Drive Huntly at approximately 8.15pm. There was a farm gate closed down the driveway. We parked in the driveway and approached the gate. I called out and tapped the gate. I heard a dog barking and then a white shepherd came from around the corner of the fence that borders the neighbouring property. We were unable to see the dog until it rounded the corner of the boundary fence. The dog rushed up to the gate and continued to bark loudly at us.

We called out again as we moved forward to open the gate and enter the property. We pushed the dog back with our presence so we could enter the property. She was guarding but fearful and continued to bark.

A male person then appeared out of the house. The dog had retreated to the male as he came out but then turned and flew at me barking, making direct eye contact and came at me in an extremely aggressive manner. I had to pull my bite stick and deter the dog from attacking me by swinging my bite stick in front of me to prevent her from making contact. I also yelled at the dog. She stopped; the male person then secured her to a tether at the front door.

I then began to introduce myself and why we were here. The male person was not the dog owner and went inside to get her. A female appeared from the house now known to me as 'Erin'.

I explained that we received a complaint of aggression from a member of the public about her dog leaving her property and trying to attack another dog, and that the owner had to kick the dog to prevent contact being made. I explained that I would be seizing the dog due to the seriousness of the incident while I conducted my investigation.

Erin immediately said it was not her dog and must be the other white shepherds on the east side. After some discussion about our Council process and the legislation that enables an Animal Control Officer to seize a dog for public safety while the investigation is conducted. Erin was given the section of legislation to look up (section 57A of the Dog Control Act 1996).

Erin stated ACO Ally and ACO Adrienne knew her dog and tried to call both. I said they were not working, and this was not relevant to the current incident, and they could not be contacted. Erin then talked about retaliation from a complaint she had placed about a dog nearby. I tried to assure Erin that was not the case, she then said someone else on Rayner Road.

Erin was not happy about her dog being seized. She did not believe it was her dog. She also disclosed that she had trained her dog to guard.

I explained to Erin that was fine, but her gate must be shut/locked and that the dog was not allowed access to a public place unsupervised. I advised her to lock her gates as Shepherds are a territorial breed.

Erin stated she was going to give the dog to a friend to hide. At this point I formally cautioned Erin that she was obstructing me in my duties and that if she did so she would be infringed \$750 and then we would have to get a search warrant and return with police.

By this stage she has managed to find the relative section of legislation she was given on her phone (section 57A). Once she had read this, she then placed the dog identified as 'Chloe' into the vehicle. Once the dog was in the vehicle the seizure notice was handed over.

ACO 17 and I left the property. I arrived at the pound in Ngaruawahia when Erin called me. It was a very bad connection but she disclosed that the front gate was left open when her daughter left the property for 10 minutes around 6:45 possibly? She asked me to check the dog for any marks where it was kicked. I advised it was unlikely to have a mark but I would look and that I would have more information once I get a formal statement.

I used a catch pole to remove the dog from my vehicle as she was not able to be handled. I photographed the dog and her microchip number. I looked for marks but was unable to get too close as the dog will bite. She was placed in her kennel.

On 1 November 2022 I took a statement from the victim. She was visibly upset relaying the incident to me and stated it has affected her PTSD. She no longer feels safe walking her dog.

On 14 November 2022 I called Erin to advise her of the menacing classification for Chloe and the infringement she would receive. Erin disagreed and stated it never happened as her neighbours did not see, that another ACO told her I seized the dog illegally. Erin also stated she would not be paying the \$300 fine. I made sure Erin was aware of the 14 day time frame she had to appeal the classification (on receipt). Erin acknowledged this and hung up on me.

I then presented my Team Leader Tracey Oakes with the file. After some discussion it was decided that a classification was appropriate enforcement action to ensure the safety of the public. As the dog had been seized and Erin had paid the impound fee, my Team Leader decided not to issue an infringement.



Animal Control

Notice of seizure and removal of a dog



Date 30/10/22 Time 8:40
 To The dog owner
 Address 10 Willow lake rd
 Tag no. _____ ANI no. white
 Name _____ Breed german shepherd M / E

This is to notify you that this dog has been seized and removed from this address under the section of the Dog Control Act 1996 indicated below:

Section 15 (1)		Without access to food, water or shelter
Section 20	<input checked="" type="checkbox"/>	Failure to comply with Bylaw
Section 28 (7)		Disqualification of dog owner
Section 33E (2)		Failing to comply with menacing classification requirements
Section 42 (2)(a)		Failing to register dog
Section 52 (3)	<input checked="" type="checkbox"/>	Failing to control dog
Section 52 (A)(4)(a)	<input checked="" type="checkbox"/>	Failing to confine or control dog on owner's property
Section 56(2)		Removal of barking dog causing distress
Section 57 (5)(a)		Dog attacking person or animals
Section 57A (3)	<input checked="" type="checkbox"/>	Dog <u>rushing at</u> persons, animals or vehicle

The details of these offences are listed on the reverse of this notice.

You may apply for the return of the dog and should contact amanda at the Ngaruawahia / Tuakau Office on 0800 492 452, fax 07 824 8091 within seven days of the date of this notice. You may be required to pay any fees incurred in the seizure, custody, sustenance and transport of the dog.

Note: The dog may be sold, destroyed or otherwise disposed of unless the dog is claimed and all fees owing are paid within seven days from the date of this notice. Disposal of the dog may not exempt the owner from fees owing or from possible prosecution.

Animal Control Officer [Signature]

Date 30/10/22

0800 492 452

■ If calling from overseas +64 7 824 8633
 ■ publicenquiries@waic.govt.nz

■ www.waikatodistrict.govt.nz
 ■ www.facebook.com/WaikatoDistrictCouncil

Postal Address
 Waikato District Council
 Private Bag 544
 Ngaruawahia 3742

Huntly Office
 142 Main Street
 Huntly

Ngaruawahia Office
 15 Galileo Street
 Ngaruawahia

Raglan Office
 7 Bow Street
 Raglan

Te Kauwhata Office
 1 Main Road
 Te Kauwhata

Tuakau Office
 2 Dominion Road
 Tuakau

PEN NUMBER: 14

PHOTO!!!!

Date: 30/10/22

Name: Chloe

Breed: swiss shepherd

Colour: white

Gender: Male----Female (Circle)

Location: William lake Drive Huntly

Seized: Yes----No (Circle)

Microchip #: 4A900 141000011309

Requires Microchipping: Yes----No (Circle)

Dog Poled: YES----NO (Circle)

Weight:

Food: Adult Food / Puppy Food

Tag Colour: RED YELLOW GREEN

Red/Yellow Tag Dogs **DO NOT** get blankets

ACO Comments:

Rushed Nap off properly
very fear assressive had
crack at ACO do not Handle

24

14

**DOG
BITES
PEOPLE**



148969 Chloe Bryant Details

Animal Ctr	Animal Name	Animal Class	Chip No.	Licence No.	Licence Expiry Date	Licencing Council Desc	Last Years Licence No.	Date First Licenced	Status	Deactivated Desc	Date of Birth	Gender
148969	Chloe Bryant	Approved	900141000011309	20430	30/06/2023		15763	01/07/2019	Active		01/12/2018	F

Desexed?	Description	Breed	Secondary Breed	Colour	Secondary Colour	Distinguishing Marks	Permanent Identifier	Classification	Classification Section	Destruction Order Date
N		GERS		WHI				M	33A1bi	

Current Owner:

Name ID	Given Names	Name	Date of Birth
149066	Erin Pamela	Bryant	06/01/1975

Current Registered Address:

Property No	Date Effective	Formatted address
2009107	28/06/2021	10 Willow Lake Road HUNTLY

Previous Registered Addresses:

Property No	Date Effective	Date Ended
1003749	01/07/2019	28/06/2021

Previous Owners:

Name Id	Given Names	Name	Date of Birth
149066	Erin Pamela	Bryant	06/01/1975

Desexed?
N

Formatted address
30 Ohinewai South Road OHINEWAI

Erin Pamela
10 Willow Lake Road
Huntly 3700

Chloe
German Shepherd
Female, White

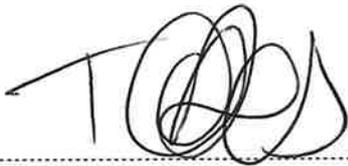
NOTICE OF CLASSIFICATION OF DOG AS MENACING DOG

Section 33A, Dog Control Act 1996

This is to notify you that this dog has been classified as a menacing dog under section 33A(2) of the Dog Control Act 1996.

This is because reported behaviour of the dog leads us to believe that it may pose a threat to public safety; being any person, stock, poultry, domestic pet, or protected wildlife.

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



Tracey Oakes
Animal Control Team Leader

1/12/2022

Date

*For the purposes of the Dog Control Act 1996, you are the owner of a dog if-

- you own the dog
- 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 dependant on you

Effect of classification as menacing dog

Section 33E, 33F and 36A, Dog Control Act 1996

You—

- (a) must not allow the dog to be at large or in any public place or in any private way (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, produce to Waikato District Council, within 1 month after receipt of notice of the classification, a certificate issued by a registered veterinary surgeon certifying—
 - (i) that the dog is or has been neutered; or
 - (ii) that for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and
- (c) where a certificate under paragraph (b)(ii) is produced to Waikato District Council, produce to Waikato District Council, within 1 month after the date specified in that certificate, a further certificate under paragraph (b)(i).

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with all of the matters in paragraphs (a) to (c) above.

A dog control officer or dog ranger may seize and remove the dog from you if you fail to comply with all of the matters in paragraphs (a) to (c) above. The officer or ranger may keep the dog until you demonstrate that you are willing to comply with paragraphs (a) to (c) above.

As from 1 July 2006, you are also required for the purpose of providing permanent identification of the dog, arrange for the dog to be implanted with a functioning microchip transponder. This must be confirmed by making the dog available to the Waikato District Council in accordance with reasonable instructions of the Waikato District Council for verification that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location.

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with this requirement-

- within 2 months from 1 July 2006 if your dog is classified as menacing on or after 1 December 2003 but before 1 July 2006;
- or
- within 2 months after the dog has been classified as menacing if your dog is classified as menacing after 1 July 2006.,

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

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

Right of objection to classification under Section 33A

Section 33B, Dog Control Act 1996

You may object to the classification of your dog as menacing by lodging with Waikato District Council a written objection within 14 days of receipt of this notice setting out the grounds on which you object.

You have the right to be heard in support of your objection and will be notified of the time and place at which your objection will be heard.

Tracey Oakes

From: Tracey Oakes
Sent: Thursday, 15 December 2022 4:24 pm
To: 'Erin Bryant'
Cc: Democracy
Subject: FW: Written Objection to classification under Section 33A - Menacing Dog CRM: DOGS1178/23 [#40CD3G]

Categories: ECM

Good afternoon Erin,

We have received your objection and it has been passed to the democracy team. Your objection has been received within the required timeframe. The democracy team handle the objection and will be in contact with you with the process information and the date of the hearing.

Kind regards,

Tracey Oakes \$

Animal Control Team Leader \$

Waikato District Council

Te Kaunihera aa Takiwaa o Waikato

Nama waea: 0800 492 452

Pouaka Poutaapeta: Private Bag 544, Ngaruawahia 3742

Waahi Mahi: 15 Galileo Street, Ngaruawahia



From: Waikato DC <INFO@WAIDC.GOV.T.NZ>
Sent: Thursday, 15 December 2022 4:07 pm
To: Tracey Oakes <Tracey.Oakes@waidc.govt.nz>
Subject: FW: Written Objection to classification under Section 33A - Menacing Dog CRM: DOGS1178/23 [#40CD3G]

Kia Ora Tracey, Please see below

-----Original Message-----

From: 4in5yr@gmail.com
Sent: Thursday, 15 December 2022 2:55:51 pm
To: "Waikato DC" <info@waidc.govt.nz>
Subject: Written Objection to classification under Section 33A - Menacing Dog CRM: DOGS1178/23

Reference to:

CRM: DOGS1178/23

Person ID: 149066

Dog ID: 148969

To Whom It May Concern,

I am writing this to lodge my objection to the territorial authority to the classification under Section 33A - Menacing dog classification put on my dog Chloe, White Female German Shepherd and received by me on Friday 9/12/2022.

The grounds of which I object are:

1. I believe this to be a totally false claim.

2. Chloe is a well socialized, highly exercised 4 year old mature very well trained, clever dog with a clean record.

3. I am a pro-active owner, who has owned many dogs, with never any issues and in fact because of this classification I have now moved my entire family away from the area, as to make sure this 'Guilty till proven innocent' classification does not happen again.

I have various items to be heard:

1. Neighbours' statement hearing about this being a false allocation and why, (this also includes him witnessing Chloes, well trained manners over last 2 years).

2. German shepherd breeders statement about Chloe's well trained manner and their personal interactions with her over the years and their eagerness to breed her and shock at this classification.

3. Holiday kennel statement saying Chloe has never been an issue while in their care and amongst many other dogs of all breeds.

4. Fact that Chloe is not only kept on a chain but is also behind a fully fenced yard. (before and now)

Could you please reply and give me an outline of what I am expected to produce if any different to above? and also assure me that this is received and accepted as my written objection?

I look forward to hearing from you.

Kind regards

Erin Bryant

021 319004

Old address of 10 Willow Lake Road, Huntly but now residing at
81 Bailey Street, Huntly

30/1/72 Rushing at 10 Willow Lane
 Huntly, assisted by ACSTF. Farm
 gate closed on arrival. Topped
 gate white shepherd came
 running barking at us. Guarding
 but fearful. We entered property
 called out and pushed dog
 back. Male came out at
 horse dog then flew at
 me in an extremely aggressive
 manner. I had to pull
 my bite stick and enter the
 dog by swinging my stick in
 front of me & yelling at
 the dog. The dog then
 retreated & the male secured
 her on the rope by the

kernel by front door. Began to introduce myself & ask when & explain why I was there. He went & got the dog owner. Female appeared now known to me as Erin. Explained complaint & that I would be seizing the dog pending investigation. She disagreed that it was not her dog that there was another white Shepherd on east side. She was given legislation to look up as she did not believe we were able to remove the dog. She said Ally & adherence law her dog. Tried to call them. I told her I was on call & they would not be able to be contacted. She talked about retaliation from her complaint about rage at 1A Willow Lake. I assured her it was not those people. She then said it was someone ~~else~~ else on Rayner rd. She at one point stated she would give the dog to a friend if ~~had~~. I tentatively cautioned her that if she

was to do so she would
 be intruded \$750 & we would
 have to return with police &
 a warrant. She then read the
 act section 57A and placed
 the dog in my vehicle. She
 was not happy & did not
 believe it was her dog. She
 did disclose the gate was
 open for 10 minutes while
 her daughter left. She also
 stated she trained her dog
 to guard. I explained access
 to the front door & to
 get a pedicel for her gate
 or double gates & locks as
 the dog was very territorial.
 Erin called me when I was
 at park. very bad connection
 she asked me to check her
 for which marks and stated
 her daughter left around
 6:45? 1st unsure as she was
 bed. I told her I would
 take photos & have more
 info once I got a statement.