

# HEARINGS COMMITTEE

## AGENDA

Hearing to be held

**THURSDAY 12 OCTOBER 2017**

**9.00AM**

In the Manawatu District Council Chambers,  
135 Manchester Street, Feilding

A handwritten signature in black ink that reads "R.G. Templer".

*R.G. Templer*

Dr Richard Templer  
Chief Executive

## **HEARING PANEL**

### **Chairperson**

Councillor Shane Casey

### **Members**

Councillor Hilary Humphrey  
Councillor Alison Short

## ORDER OF BUSINESS

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# Hearings Committee

Meeting of 3 October 2017

Business Unit: Corporate and Regulatory  
Date Created: 27 September 2017

## Hearing of Objection to Classification of Dog

### Purpose

This report seeks the Hearings Committee’s consideration and decision on the objection lodged by Breeanna EWANS against the issuing of a Menacing Dog Classification relating to both of her dogs known as “UNIT and “AVA”” pursuant to the provisions of Section 33A of the Dog Control Act 1996.

### Significance of Decision

The Council’s Significance and Engagement policy is not triggered by matters discussed in this report.

### Recommendations

That the “menacing” classification imposed on the dogs “UNIT” and “AVA” belonging to Breanna EWANS, pursuant to Section 33A of the Dog Control Act 1996, be upheld.

Report prepared by:  
Robert Peterson  
Senior Animal Control Officer

Approved for submission by:  
Karel Boakes  
Acting General Manager - Corporate and Regulatory

## 1 Contribution to the Council Vision and Council Outcomes

### 1.1 Relationship to the Council Outcomes that underpin the Council’s Vision:

*Connected, vibrant and thriving Manawatu – the best rural lifestyle in New Zealand*

Manawatu District will improve the natural environment, stewarding the district in a practice aligned to the concept of kaitiakitanga.	The Manawatu will attract and retain residents.	Manawatu district develops a broad economic base from its solid foundation in the primary sector.	Manawatu and its people are connected via quality infrastructure and technology.	Manawatu’s built environment is safe, reliable and attractive.	Manawatu District Council is an agile and efficient organisation.
					✓

## **2 Background**

- 2.1 Section 33A of the Dog Control Act 1996 provides that a Council may classify as menacing any dog that they consider may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of any observed or reported behaviour of the dog.
- 2.2 On 28 January 2017 at 10:20am, After Hours RFS 675657 was received from Breanna EWANS of 5 Aru Street, TANGIMOANA advising that her two dogs had escaped from her property and had harassed people riding horses and that both dogs were now back on her property. She stated she was calling to advise Council before the riders did.
- 2.3 At 11:33am on the same day, After Hours RFS 675697 was received from Eileen CLARKE advising that she and a friend had been riding by 5 Aru Street, TANGIMOANA when two dogs had charged the horses causing one to fall over and throw the rider. She also described the dogs biting the horse which managed to get back up and run away being chased by the dogs.
- 2.4 The On Call ACO Trevor GUNN attended and uplifted and impounded both dogs under Section 57 of the Dog Control Act 1996– Dog Attacking Persons or Animals. He spoke to both the complainant and the owner and advised them to provide statements as part of the investigation process. During this discussion, ACO GUNN checked the horse, did not see any bite marks and advised the parties as such.

## **3 Discussion and Options considered**

- 3.1 The evidence considered was:
  - a. 28 Jan 17: Statement from Eileen CLARKE, the owner of the horses who reported that;
    - i. both dogs attacked her and her horse from behind,
    - ii. both dogs attacked her friend Karin WEIDGRAAF and her horse, and
    - iii. both dogs chased Karin WEIDGRAAF's horse after she had fallen from it.
  - b. 30 Jan 17: Statement from Laura SOANES, a witness to the attack and friend of the dog owner, who observed:
    - i. Mrs Clarke kicking at the white dog while still in the saddle,
    - ii. one of the horses got away with the dogs chasing it.
  - c. 30 Jan 17: Statement from Karin WEIDGRAAF, the rider of a horse during the attack who reported that:
    - i. both dogs attacked her horse from behind
    - ii. the white dog became more aggressive during the attack, and
    - iii. after she fell from the horse the dogs continued to chase it.

- d. 28 Jan 17: After Hours RFS 675657 confirmed from the dog's owner Breeanna EWANS that both dogs had escaped from her property and harassed people riding horses.
- 3.2 Because of this observed and reported behaviour, both dogs were classified as menacing in accordance with Section 33A on 1 Feb 17 and letters issued to the owner Breanna EWANS.
- 3.3 Although not the registered owner of the dogs, Mr Matthew LISSINGTON delivered a handwritten Objection to the Menacing Classification to Council on 13 Feb 17, this being the 12th day since both dogs were classified.
- 3.4 This letter accused Animal Control for failing to close a gate after conducting a Selected Owner inspection two days before the incident. The resolution determined that this was unlikely due to the timeframe of 44 hours passing between the ACO inspection and the dogs getting out.
- 3.5 Section 33B: Objection to classification of dog under section 33A, states:
- (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.
- 3.6 The Senior Animal Control Officer, accepted Matthew LISSINGTON's letter on behalf of Breanna EWANS as to not do so may have resulted in an objection from Breanna being received after the 14 day period as prescribed above.
- 3.7 The Hearings Committee in considering the objection may uphold or rescind the classification. In making its determination the committee must have regard to:
- (a) the evidence which formed the basis for the classification; and
- (b) the matters relied on in support of the objection; and
- (c) any other relevant matters.
- 3.8 Following the hearing of the objection the Hearings Committee 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.
- 3.9 The following statements of evidence are appended to this report:
- (a) Statement of Evidence – ACO Trevor GUNN
- (b) Statement of Evidence – Eileen CLARKE
- (c) Statement of Evidence – Karin WEIDGRAAF
- (d) Statement of Evidence - Laura SOANES

## 4 Operational Implications

- 4.1 There are no capital or operating expenditure implications or maintenance costs associated with this matter.

## 5 Financial implications

- 5.1 There are no financial implications associated with this matter.

## 6 Statutory Requirements

- 6.1 The provisions around classifying a dog as menacing are as follows:

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.

## 7 Delegations

- 7.1 Council has delegated authority to the Hearings Committee to hear the objection to the Menacing Dog Classification and to make its determination based on the case presented. The committee may either uphold or rescind the classification.

## **8 Consultation**

8.1 There are no community consultation requirements.

## **9 Cultural Considerations**

9.1 There are no cultural considerations to be taken into account in this matter.

## **10 Conclusion**

10.1 Manawatu District Council Animal Control staff have a duty to enforce the provisions of the Dog Control Act 1996.

10.2 Pursuant to the provisions of Section 33A of the Dog Control Act 1996, Manawatu District Council classified the dogs known as “UNIT” and “AVA” because of the observed and reported aggressive behaviour toward a horse whilst they were off their owner’s property.

## **11 Attachments**

- Annex A: RFS 675657 – Breeanna EWANS
- Annex B: RFS 675697 – Dog Attack
- Annex C: Statement of Evidence – ACO Trevor GUNN
- Annex D: Statement of Evidence - Karin WEIDGRAAF
- Annex E: Statement of Evidence – Eileen CLARKE
- Annex F: Statement of Evidence - Laura SOANES
- Annex G: Menacing Classification letter - UNIT
- Annex H: Menacing Classification letter - AVA
- Annex I: Objection to Classification Letter – Matthew LISSINGTON
- Annex J: Email 1– SACO / Matthew LISSINGTON dated 24 Feb 17
- Annex K: Email 2 – SACO / Matthew LISSINGTON dated 4 Apr 17

**Robert Peterson**

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**From:** KnowledgeBase <afterhours@pncc.govt.nz>  
**Sent:** Saturday, 28 January 2017 10:29 a.m.  
**To:** lou.fairest@mdc.govt.nz; trevor.gunn@mdc.govt.nz; Herb Verstegen;  
afterhours@mdc.govt.nz; Graham O'Hara; Robert Peterson  
**Subject:** New RFS 675657 Form: Animal Complaint

Attn: Manawatu Animal Control (Group)

A new RFS 675657 has been added with the following details:

Customer: Ewans, Bre  
CustomerAddress:  
(Unknown)

We have recorded the following information:

Issue Location: 5 Aru Street, Tangimoana Animal Type: dog Description of Animal: 2x English bull terriers ( one is a puppy) Tag No. If Known: n/a  
Problem: Other - Note what in details  
No. Of Stock (if applicable): n/a

RFS Started: 28-Jan-2017 10:20  
Call In: 1019  
Duty Officer Contacted: Spoke to Officer Prior History: (Unknown)  
Name/Number: 027 331 0566 - Trevor - 1025 Police Event Number: n/a

Details: Caller advised that about ten minutes before she called her two dogs have gotten out and have harassed horses with people riding on them. She is pretty shaken up because she didn't realise that they had gotten out. They are back on her property, and came to her when she went outside. She was wanting to call before the people on horses have called, so we have her details. She is wanting to be called back.

Referred By: Elizabeth Jennens

Thank you

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The sender's email address in this message may constitute a designation of an information system for the purposes of section 11(a) of the Electronic Transactions Act 2002 (New Zealand). You agree that, in sending an email message to that address, the time of receipt will be when the message actually comes to the attention of the addressee, not the time the message enters the designated information system. Thank You.

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## Annex B

### Robert Peterson

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**From:** KnowledgeBase <afterhours@pncc.govt.nz>  
**Sent:** Saturday, 28 January 2017 11:47 a.m.  
**To:** lou.fairest@mdc.govt.nz; trevor.gunn@mdc.govt.nz; Herb Verstegen;  
afterhours@mdc.govt.nz; Graham O'Hara; Robert Peterson  
**Subject:** New RFS 675697 Form: Animal Complaint

Attn: Manawatu Animal Control (Group)

A new RFS 675697 has been added with the following details:

Customer: Clarke, Eileen Theresa  
CustomerAddress:  
(Unknown)

We have recorded the following information:

Issue Location: 5 Aru Street, Tangimoana Animal Type: dog Description of Animal: 2 x bull mastiff cross, 1 x brown, 1 x white Tag No. If Known: (Unknown)  
Problem: Dog Attack on Animal  
No. Of Stock (if applicable): (Unknown)

RFS Started: 28-Jan-2017 11:33  
Call In: 1134  
Duty Officer Contacted: Spoke to Officer Prior History: (Unknown)  
Name/Number: 027 331 0566 - Trev - 1137 Police Event Number: (Unknown)

Details: Eileen was out riding there horse with a friend about 10.10am this morning as they were walking past this address 2 x dogs came charging at the horses and on of the horse fell over throwing the rider of the horse, the dogs then started attacking the horse biting his leg, shoulder and face, the horse managed to get up and run away in which the dogs chased him. Eileen has also lodged this with lodged this with police also, and is still quite shaken about the incident.

Referred By: Helen Kohunui

Thank you

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My name is Trevor GUNN, I am a warranted Animal Control Officer for both the Rangitikei and Manawatu District Councils.

On Saturday 28 January 2017 at approximately 1020am I received a call as the ON CALL Animal Control officer to a dog attack in Tangimoana. The call stated that the attack was dogs versus two horses outside 5 Aru Street.

I arrived at 5 Aru Street and the owner, Breanna EWANS accepted responsibility for the dogs actions immediately. I inspected the property and observed that it had excellent fencing and assumed that a gate must have been left open.

Breanna EWANS was compliant, helpful and very tearful. I advised her of normal proceedings regarding an investigation and asked her to write a statement. She has had a supporting email from a Mr Hunter who has kindly offered to assist in familiarizing dogs with his stock. This and some intensive training should appease the concerns of both complainants.

I then spoke to both complainants who were adamant that the dogs should not be destroyed but were very concerned with the aggressive behaviour of both animals.

I asked for statements from both complainants which would be sent via email sometime in the near future.

I seized both dogs under Section 57 (Dogs attacking persons or animals) and impounded them in the AWA St dog pound.

I sent an email to the After Hours contact and handed the task over to the day staff to follow up on Monday.

This statement is true and correct to the best of my knowledge.



ACO Trevor GUNN

1/02/17

## Annex D

### Robert Peterson

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**From:** Trevor Gunn  
**Sent:** Monday, 30 January 2017 1:44 p.m.  
**To:** Leslie Butler; Robert Peterson  
**Subject:** Fwd: dogs attacking horse

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----- Forwarded message -----

**From:** "Weidgraaf, Karin"  
**Date:** Mon, Jan 30, 2017 at 1:41 PM +1300  
**Subject:** dogs attacking horse  
**To:** "Trevor Gunn" <[Trevor.Gunn@rangitikei.govt.nz](mailto:Trevor.Gunn@rangitikei.govt.nz)>

Hi Trevor,

Just came back from Tangimoana. We have no internet there so could only now write my email.

Saturday morning 28 January around 9.30am when I was out riding with my friend Eileen (who owns both horses) through the streets of Tangimoana, we were attacked by two bull terriers ( a brown with white and a white male).

We had passed 5 Tangimoana road when I saw from behind 2 dogs charging out of the property driveway and charging towards us. I commented that they were coming and did not think much of it, I thought the dogs would just bark and go back home. This was not the case. The dogs did not even bark but started attacking my horse from behind. The little brown one started it. First I could only see the brown one. I kept on turning my horse towards the dogs to scare them off, but they kept jumping up at the hind and front legs of the horse. My horse stood on the brown one's foot pretty much straight away and it started yelping and wanted to walk away. This is when I noticed the white dog starting being more aggressive in his attempts of jumping up at the horse which made the brown one starting up again too.

My friend was yelling: Whose dogs are they and yelled at the dogs. But initially no one came and I went into the property two houses along in the hope the dogs would stop. There were

people there and I hoped they could help. But they stayed behind their fence. My horse started spinning and both front legs and hind legs were busy stomping and kicking. But the dogs never stopped. The dogs also had chosen my horse and they stuck to it.

Not sure how long it took. At first I wanted to jump off and scare away the dogs but then thought the dogs could turn their biting towards me. So I tried to stay on the horse for as long as possible. I tried hitting them, but my whip was not long enough and I think initially I yelled at them. When I was back on the road I could not stay on any longer and thought if the horse runs of he probably is better of getting rid of the dogs anyway. The tar seal was where I fell onto, but I did not fall too badly and the horse did not stomp on me and took off. I have now only a bit of a sore back and a graze on my hand. It could have been worse. I don't know how it ended. I did not get to look around the corner.

The scary thing was that the dogs never stopped.

I understand the dogs were supposed to be behind a fence and they were not. I think the owner in the end got out of her house (after her dogs were around the corner following my horse). I normally take my daughter with us on her bike. I was so lucky I did not do that this Saturday. She would then have been behind us and could probably have been the one being attacked.

My horse was bitten multiple times and is left with a few wounds on the nose, lower lip and on its front legs at two places.

I hope he is now not afraid of all dogs and I can ride along the road again.

I hope this is helpful and the dogs will get some serious training so this is not happening again.

Cheers,

Karin

Home Phone

Cellphone

Tangimoana

Dog Attack Tangimoana Saturday 28<sup>st</sup> January 2017

At approximately 9.30 /10.00am Karin and I arranged to meet at my address on Ripa Street Tangimoana.

We often worked my horses Taz and Stimpy together, either in the arena or by lunging. Often we would take them for a leisurely ride around the streets of Tangimoana. This was so good for the horses to get used to the noises of cars, lawn mowers and dogs barking at gates.

On this particular day we had turned down Aru Street off Punga. There were people in the yards, mowing lawns, doing other chores in their backyards. We waved to them and said good morning as we rode by.

As we passed 5 Aru St two dogs ran out at us and starting rushing at the heels of our horses.

The dogs rushed at Stimpy's hind legs, biting at his legs. I made a lot of noise yelling, whose bloody dogs are these; get the f...ken hell away you mongrels..... I just kept yelling and yelling. I had a riding whip which I managed to reach down and whack them. This would have gone on for say up to 5 to10 minutes seemed like a long time and still no sign of the owners.

Janine was mowing the lawns at Lance Payne's and ran across the road to the owners knocking on their door and yelling.

I think because I was making so much noise they moved on to the horse Karin was riding and started going for his hind legs. Karen managed to turn Taz around to face them, they were both jumping up biting him, his front shoulder, nose , lips and legs. Karen rode Taz into a property two driveways down, in the hope they might be able to help, but the dogs continued pursuing, jumping up and biting him. Taz managed to stand on one of them and this antagonised it and it became more aggressive.

Taz was terrified rearing up lashing out with his front legs to protect himself; he then dislodged Karen onto the road and ran off, with both dogs chasing him. I called out to Taz

he slowed down, went to stop but saw the dogs were still in pursuit and were catching up to him. Natural instincts were for him to run.

Karin had fallen quite hard on to the road and landed on her back and side.

I had at this stage dismounted and yelled to Karen are you OK. Karin answered I will be alright you go and find Taz.

I went off down Aru St. The white dog was heading home. As I passed it I was yelling at it and waving my whip, hoping it wouldn't attack me.

As I got to the corner of Aru and Punga Streets I could see that someone had caught Taz. The brown dog was now heading back towards me. I wasn't sure whether it was going to attack again or not, so I kept yelling at it and whacking it with my whip. It gave up and ran off.

As I got closer to Taz I could see blood on his shoulder legs and nose. I took the horses home checked them both out and as there was no visible torn skin just puncture wounds, a vet was not necessary unless they came up lame.

Both horses were checked twice daily and monitored, checking to see if there were any occurring injuries.

On the 3 February Stimpy came up lame and could hardly walk, I rang for one of the Vets from Totally Vets to come out. Katie treated Stimpy for suspected cellulitis. A copy of the account and Vet report will be forward coming.

One of my concerns is Karin often lets one of her girls ride her bike behind us when we ride around town. Could these dogs have attacked her.....?

This has had grave affects on both Karin and myself. We have never been in a situation where dogs have been pack attacking another animal.

Eileen Clarke

## Annex F

The incident between the horses and two dogs ended up at the property where I was located on Saturday 28/1/17. I witnessed Mrs Clarke kicking at the white dog with her boot while still in the saddle, and hitting him with her horse whip. She kept turning her horse into the path of the dog, causing the horse to rear up off the ground numerous times. At one point, the dog was struck by the horse's hooves when it came down, causing the dog to roll under its feet. The dog was unable to right itself to get out of the way. It obviously got hurt, because I heard it yelp. At this point, I contacted the police. My concern was that the situation was going to escalate and get out of control. While I was on the phone to the police, one of the horses got away, with the dog chasing it. I assumed that the rider had been booted, but my 10 year old daughter said both ladies dismounted from their horses. I remember Mrs Clarke walking around the property yelling for the horse, so I'm surmising that she lost hold of the reins, causing the horse to run off.

Prior to Saturday I have seen both dogs being walked by their owners a number of times. The dogs are always on leads and have never shown any signs of aggression or behaviour that would cause any concern.

I'm confident that had Mrs Clarke not aggravated the situation, I would have had the opportunity to grab one, if not both dogs, which would have avoided the situation escalating the way it did.

I also don't understand why an inexperienced rider would choose a residential road full of dogs to ride down, when the beach & river are so close by?

I am off work on Monday 30th Jan, please don't hesitate to contact me if you require further clarification.

Thanks

Laura Soanes



1 February 2017

Breeanna Ewans  
5 Aru Street  
Tangimoana 4822

Dear Madam

Please find attached your notice of classification of dog as a menacing dog.

Yours faithfully

A handwritten signature in blue ink, appearing to read "L. Butler".

Lesley Butler  
**Animal Control Officer**

## Manawatu District Council Notice of classification of dog as menacing dog

Section 33A, Dog Control Act 1996

**To:** Breeanna Ewans

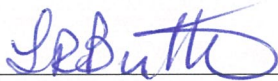
**Address:** 5 Aru Street TANGIMOANA

Dog: Unit a 1 Yr 7 Mths old White & Brown Male Terrier, Staffordshire Bull/.

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.. UNIT was witnessed off your property, rushing at and behaving aggressively toward two ladies on horseback, biting one of the horses causing the horse to bolt and the rider to fall off.

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



Signature of officer of Manawatu District Council

1<sup>st</sup> February 2017

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

- you own the dog; or
- you have the dog in your possession (otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, or damage, or distress, or for the sole purpose of restoring a lost dog to its owner); or
- you are the parent or guardian of 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.

## Effect of classification as menacing dog



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

You—

- a) must not allow the dog to be at large or in any public place or in any private way (other than when confined completely within a vehicle or cage) without the dog being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; and
- b) must, if required by the Manawatu District Council, produce to the Manawatu District Council, within 1 month after receipt of this notice, 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) where a certificate under paragraph (b)(ii) is produced to the Manawatu District Council, produce to the Manawatu 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).

As from 1 July 2006, you are also required, for the purpose of providing permanent identification of the dog, to arrange for the dog to be implanted with a functioning microchip transponder. This must be confirmed by making the dog available to the Manawatu District Council in accordance with the reasonable instructions of the Manawatu 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 is classified as menacing if your dog is classified as menacing after 1 July 2006.



1 February 2017

Breeanna Ewans  
5 Aru Street  
Tangimoana 4822

Dear Sir/Madam

Please find attached your notice of classification of dog as a menacing dog.

Yours faithfully

A handwritten signature in blue ink that reads "L. Butler".

Lesley Butler  
**Animal Control Officer**

## Manawatu District Council Notice of classification of dog as menacing dog

*Section 33A, Dog Control Act 1996*

**To:** Breeanna Ewans

**Address:** 5 Aru Street TANGIMOANA

Dog: Ava a 7 Mths old Brown & White Female Terrier, Bull/.

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 AVA was witnessed off your property, rushing at and behaving aggressively toward two ladies on horseback, biting one of the horses causing the horse to bolt and the rider to fall off.

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



\_\_\_\_\_  
Signature of officer of Manawatu District Council

01 February 2017

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

- you own the dog; or
- you have the dog in your possession (otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, or damage, or distress, or for the sole purpose of restoring a lost dog to its owner); or
- you are the parent or guardian of 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.

## Effect of classification as menacing dog

*Sections 33E, 33F, and 36A, Dog Control Act 1996*

You—

- a) must not allow the dog to be at large or in any public place or in any private way (other than when confined completely within a vehicle or cage) without the dog being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; and
- b) must, if required by the Manawatu District Council, produce to the Manawatu District Council, within 1 month after receipt of this notice, 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) where a certificate under paragraph (b)(ii) is produced to the Manawatu District Council, produce to the Manawatu 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).

As from 1 July 2006, you are also required, for the purpose of providing permanent identification of the dog, to arrange for the dog to be implanted with a functioning microchip transponder. This must be confirmed by making the dog available to the Manawatu District Council in accordance with the reasonable instructions of the Manawatu 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 is 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 the classification of a dog as menacing 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 the Manawatu 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.

13 FEB 2017

Manawatu District Council

13 FEB 2017

Manawatu District Council

IN DOC No 132506

FILE No.: 6/0035

To Whom it may concern

I Matthew Lissington am writing this letter as I don't agree with our dogs being put under the menacing dog act.

The person who laid the complaint about the dogs died so I have two letters from eye witness stating this. Secondly our dogs only got out due to the animal control officer not shutting the gate properly the day before. Trevor has checked over the horse and found no bite marks. I have sent two emails wanting a reply to my complaints which seem to be ignored.

I want a reply to this & my emails so I can take the next course of action

signed



Matthew Lissington

From: matt lizzy  
Sent: Sunday, 29 January 2017 8:24 p.m.  
To: MDC Public Enquiries <[public@mdc.govt.nz](mailto:public@mdc.govt.nz)<<mailto:public@mdc.govt.nz>>>  
Subject: Animal control and mdc service fault

I matthew lissington of 5 aru st tangimoana am laying a complaint about the service of the animal control service this council provides i had a check on the 26 1 2017 to become a preferred dog owner upon this request the person lesley from animal control has not correctly shut one of our gates upon the visit resulting in our show dogs english bull terrior dogs getting out of our property and causing an accident i have proof of this .another person trevor gunn has now taken my dogs due to lesley the staff member not correctly shutting the left front gate in the property i would like this resolved before i have to take more action and want a response asap emailed to me feel free to contact me on \_\_\_\_\_ signed matthew lissington

Sent from my Samsung Galaxy smartphone.

24 Feb 17

Good afternoon Matthew

Please accept my apologies for the lateness of my reply but unfortunately it has been unavoidable, however I had hoped to reply earlier. I did look into this matter on the day I received the original email and had to wait for a few days before I had the statements I required however I have not been able to reply until now.

Initially I could not find you in our dog register and when checking your address noted that you were referring to the dogs AVA and UNIT who are registered to Breeanna Ewans of the same address.

After receiving your email I requested that ACO Lesley Butler provide me with a statement of the events surrounding her visit to your home and a brief summary is as follows:

1. On Thursday 26 Jan 17 at approx. 2:30pm, ACO Butler conducted a Selected Owner Policy check on your address 5 Aru St, Tangimoana
2. She noted that the section was well fenced with wood panelling approx. 6ft high surrounding the property
3. She said there were no dogs present and she went through the front gate, and walked up to another tall green/blue fence that was very obviously dog proof.
4. After completing her inspection ACO Butler stated that she exited through the same gate she had entered the property
5. She recalled that the two doors to your gate were difficult to close as they were out of alignment, however she did manage to close the gate and then proceeded to write the note she left in your mailbox advising you that you had passed with "flying colours" and that a letter confirming this would follow
6. She then departed your property

On Saturday 28 January at approx. 10:10am, the On Call ACO Trevor Gunn received a task through the after-hours service provider of a dog attack outside of your address involving two dogs described

as mastiff crosses, and two horses with riders. The outcome based on the witness statements received resulted in both dogs being classified as menacing by Animal Control.

- It is because of this timeline and ACO Butlers recollection of her visit that I am unable to accept that ACO Butler left the gate open. The reasons for this are because:
  1. Nearly two full days had passed since ACO Butlers inspection
  2. I would expect that if the gates had been left open, then you or Breeanna would have noticed within the 44 hours, and
  3. It is conceivable that any person could have entered the property between ACO Butlers visit and the time the dogs were involved in the incident

I do note that you mention in your email that you have proof that ACO Butler left your gate open. Can you please provide this as I did not have that available when I looked at your request.

Thank you

Regards

Robert Peterson	Senior Animal Control Officer
Rangitikei District Council	46 High Street, Private Bag 1102, Marton 4741
PH 06 327 0099 or 0800 422 522	[www.rangitikei.govt.nz](http://www.rangitikei.govt.nz)

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**From:** matt  
**Sent:** Monday, 27 February 2017 1:01 p.m.  
**To:** Robert Peterson <[Robert.Peterson@rangitikei.govt.nz](mailto:Robert.Peterson@rangitikei.govt.nz)>  
**Subject:** Re: Animal Control Complaint

Thankyou for replying the concerns i still have is my neighbour seen your staff member go through the left gate and will stand up in court saying this,also the front gate is very easy to shut i would like to know were in your companys standard of practice were its ok to not correctly shut gates when dogs were on the property.

2nd concern is i have two witness statements stating that my dogs which are english bull terriers did not jump up at the horse nor did they bite the horses trevor gunn checked the horses found no bites and the riders got off the horses all this is written in the statements i sent in.

The person who laid these false compliants has a history with the police for false complaints and also has a history with your department involving hiding a dog

If the menacing dog act is not reversed i will have to take the next course of action going to court and the media

Signed matthew lissington

4 Apr 17

Hello again Matthew

Thank you for your reply.

I do not dispute what your neighbour has said regarding seeing ACO Butler entering the property as it agrees with what I replied to you and also what ACO Butler said in her statement.

*"She recalled that the two doors to your gate were difficult to close as they were out of alignment, however she did manage to close the gate and then proceeded to write the note she left in your mailbox advising you that you had passed with "flying colours" and that a letter confirming this would follow"*

The gate shown below is the gate ACO Butler entered and exited by and she placed the note acknowledging her visit in the mailbox at the right of the photo.



ACO Butler has over seven years' of experience as an Animal Control Officer and prior to this served as an SPCA Inspector. She has entered many properties as part of her duties and I have no hesitation in accepting her statement as I have already said because:

1. Nearly two full days had passed since ACO Butler inspected your property
2. I expected that if the gates had been left open, then you or Breeanna would have noticed this within the 44 hour timeframe, and
3. It is conceivable that any person could have entered the property between ACO Butlers visit and the time the dogs were involved in the incident

Your personal comments regarding the complainant are not for me to comment on.

I did note that both of your witness statements confirmed that they saw Breeanna's dogs present with the horses and the complainant.

As per page 4 of the Menacing Classification letter that Breeanna received as the registered owner of AVA and UNIT, she had the right to object to the classification which has been accepted as received (although signed by you) on 13 Feb 17.

Breeanna has the right to be heard in support of her objection and she will be notified of the time and place at which her objection will be heard by the Manawatu District Council Hearings Committee. This committee is the only authority that is able to reverse the classification decision.

If there are any other queries you have, can you please ask Breeanna, as the registered owner of the dogs, to send me an email (to this address) stating she is happy for you to represent her in matters and discussions regarding AVA and UNIT and then we can continue. I would suggest that she will be required at the Hearing however.