



**Notice of the ordinary meeting of the  
Hearings Panel - Other  
*Rōpū Rongonga – Aha atu anō***

Date:	5 August 2020
Time:	9.00 a.m.
Location:	Council Chamber, Civic House 110 Trafalgar Street Nelson

## **Agenda**

### ***Rārangi take***

<b>Chair</b>	Cr Brian McGurk
<b>Members</b>	Cr Yvonne Bowater Cr Pete Rainey

**Pat Dougherty  
Chief Executive**

Nelson City Council Disclaimer

Please note that the contents of these Council and Committee Agendas have yet to be considered by Council and officer recommendations may be altered or changed by the Council in the process of making the formal Council decision.

## ***Hearings Panel – Other***

### **Functions:**

To conduct hearings and/or determine under delegated authority applications relating to the Dog Control Act 1996, all matters relating to Temporary Road Closures pursuant to Schedule 10 Clause 11(e) of the Local Government Act 1974, matters relating to naming features within the city, and any other matters required for determination by Council under legislation as determined by Council.

### **Membership:**

All elected members aside from the Mayor, in rotation. Each Hearings Panel-Other will be made up of three members.

The Group Manager Environmental Management may appoint one or more Independent Commissioners to either assist the Hearings Panel - Other or to hear and determine any particular application, such as when Council or a Council-Controlled Organisation or Council-Controlled Trading Organisation is (or could be perceived to be) an interested party, other than applications made for temporary road closure under Schedule 10 Clause 11(e) of the Local Government Act 1974.

### **Powers to Decide:**

The power to appoint a panel to hear and determine with any other consent authority any application requiring a joint hearing

The power to hear and recommend appropriate actions from hearings of designations and heritage orders

The power to hear, consider and attempt to resolve contested road stopping procedures

The power to consider and determine applications for temporary road closures made under Schedule 10 Clause 11(e) of the Local Government Act 1974

The power to hear and determine all matters arising from the administration of the Building Act 1991, and the Building Act 2004

The power to hear and determine objections to the classification of dogs, and all other procedural matters for which a right of objection and hearing is provided for under the Dog Control Act, 1996

The power to name all features within the city requiring naming including roads, streets, service lanes, plazas, parking areas, parks, reserves, gardens and all public facilities or infrastructure, aside from those impacted by the Naming Rights and Sponsorship Policy for Community Services Facilities

The power to provide advice to applicants on appropriate names for private roads, rights of way or other legal forms of private access to property

The power to make changes to the schedules to the Parking and Vehicle Control Bylaw that do not require public consultation

The power to hear submissions and recommendations on proposed changes to the schedules to the Parking and Vehicle Control Bylaw requiring public consultation

The power to administer the administering body functions under section 48 of the Reserves Act 1977 on proposed rights of way and other easements on reserves vested in Council

**1. Apologies**

Nil

**2. Confirmation of Order of Business****3. Interests**

3.1 Updates to the Interests Register

3.2 Identify any conflicts of interest in the agenda

**4. Public Forum****5. Confirmation of Minutes**

There are no minutes to be confirmed

**6. Street naming application - 3B Hill Street****5 - 11**

Document number R18094

Recommendation

***That the Hearings Panel - Other***

**1. Receives the report Street naming application - 3B Hill Street (R18094) and its attachment (A2396577); and**

**2. Approves the names of "Ara Kaitangata", "Ara Ngāti Koata", "Ara Te Ātiawa" and "Ara Ngā Hekenga for the roads as shown on Attachment 1 of report R18094 (A2396577)."**

**7. Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules****12 - 19**

Document number R16999

Recommendation

***That the Hearings Panel - Other***

1. ***Receives the report Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules (R16999) and its attachments (A2424883 and A2425269); and***
2. ***Approves amendments detailed in the report R16999 to the following Schedules of the Bylaw, Parking and Vehicle Control (2011), No 207:***
  - ***Schedule 8 – Nile Street Time Limited Mobility Parking***
  - ***Schedule 9 – Franklyn Street No Stopping.***

**8. Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.**

**20 - 55**

Document number R17007

Recommendation

***That the Hearings Panel - Other***

1. ***Receives the report Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels. (R17007) and its attachments (A2370278, A2370259, A2426520, A2134555, A2415873 and A2426645); and***
2. ***Dismisses the objection of Kyran Taylor and Talia Samuels to the Classification of dogs Boston and Rarka as menacing; and***
3. ***Upholds the classification of both dogs Boston and Rarka as menacing.***



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## **Street naming application - 3B Hill Street**

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### **1. Purpose of Report**

- 1.1 To approve or decline an application for the names of "Ara Ngāti Tama", "Ara Ngāti Koata", "Ara Te Ātiawa" and "Ara Ngā Hekenga" for the roads within the subdivision development at 3B Hill Street shown on the attached scheme plan (Attachment 1).

### **2. Summary**

- 2.1 Three of the four names proposed for the subdivision meet the criteria of the Road Naming Guidelines. An alternative is recommended for the fourth street, to avoid confusion for the community and emergency services with a very similar existing street name.

### **3. Recommendation**

#### ***That the Hearings Panel - Other***

- 1. Receives the report Street naming application - 3B Hill Street (R18094) and its attachment (A2396577); and***
- 2. Approves the names of "Ara Kaitangata", "Ara Ngāti Koata", "Ara Te Ātiawa" and "Ara Ngā Hekenga" for the roads as shown on Attachment 1 of report R18094 (A2396577).***

### **4. Background**

- 4.1 The applicant, Wakatū Incorporation, has requested the names of "Ara Ngāti Tama", "Ara Ngāti Koata", "Ara Te Ātiawa" and "Ara Ngā Hekenga" for the roads shown on the attached scheme plan (Attachment 1). Note the plan has not been updated since Land Information New Zealand (LINZ) advised the term "Ara" or "Te Ara" can be used instead of Street or Lane.
- 4.2 Wakatū has approximately 4,000 shareholders who descend from the original Māori land owners of the Nelson, Tasman and Golden Bay Regions – Te Tau Ihu. Wakatū Incorporation membership comprises of descendants of four iwi, Ngāti Rārua, Ngāti Koata, Ngāti Tama and Te

## Item 6: Street naming application - 3B Hill Street

Ātiawa. Their arrival in Te Tau Ihu during the 1800s is recorded as Ngā Hekenga (the migrations) and was undertaken over a series of migrations from the Taranaki and Kāwhia regions.

- 4.3 The applicant advises that due to the collective nature of the naming concept, to exclude one of the iwi from this group may cause slight to the mana of the excluded iwi. The names should be considered collectively and not in part.
- 4.4 There is an existing Ngati Rarua Street off Champion Road (that will be extended into the development at 3B Hill Street), Ngatitama Street off Hampden Street and Ngatiawa Street also off Hampden Street in Nelson.
- 4.5 The Council has the authority to name roads, pursuant to Section 319(j) of the Local Government Act 1974. Each proposed road name is assessed according to the criteria in the Road Naming Guidelines, as follows:
  - a) The name should not be the same as or similar to any other street in the Nelson and Tasman Regions.
  - b) Where appropriate, due regard should be given to historical associations within the City.
  - c) Where possible, the name should be consistent with other names in the area, or consistent with a theme in the area/subdivision.
  - d) The name should not be likely to give offence.
  - e) The name should not be commercially based.
  - f) The length of the name should be appropriate to the length of the street (i.e. short names for short streets - for mapping purposes).
  - g) The name should not be likely to cause semantic difficulties, i.e. spelling, pronunciation, or general understanding.
  - h) As a general rule, the proposed name should not be that of a living person, except in exceptional circumstances.
- 4.6 LINZ has advised that it is incorporating the use of "Ara" or "Te Ara" as road types in conjunction with Māori road names and there are several roads using this format including in Waikanae and Hastings. Road names using these road types are still checked against current criteria to ensure there is no duplication or similarities that could cause confusion or location problems.

## 5. Evaluation

- 5.1 Officers indicated to the applicant that Ara Ngāti Tama may not be approved as it is too similar to the existing Ngatitama Street. The applicant feels that as Ngatitama Street in Nelson City is in a different

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suburb and is spelt as one word, the name "Ara Ngāti Tama" would be sufficiently different and should therefore be considered.

- 5.2 Officers consider that criteria a) is not met for Ara Ngāti Tama as it is too similar to Ngatitama Street. While Ara is different to Street the main name Ngāti Tama sounds the same as Ngatitama. Ngatitama Street is in the Nelson South suburb and Ara Ngāti Tama will likely be given the Richmond postcode. However, the use of suburb names in the Nelson Richmond area is not as common as in larger centres. Even with this difference the names are checked for similarities within the Nelson and Tasman regions.
- 5.3 Officers requested an alternative name as a second option for the Hearings Panel to consider should "Ara Ngāti Tama" not be approved. The alternative name is outlined in section 6.
- 5.4 Criteria a) is met for all other proposed names including the alternative name. All other criteria are met for all proposed names.

### **6. Alternative names**

- 6.1 The applicant has provided one alternative name for Ara Ngāti Tama being "Ara Kaitangata".
- 6.2 Kaitangata is the name of a Pa site in Collingwood and a reference to a group of original peoples from the Ngāti Mutunga region in Taranaki. They are informally identified within Wakatū as the fifth iwi.

### **7. Options**

- 7.1 The Hearings Panel has three options:
- a) To approve the names of "Ara Ngāti Tama", "Ara Ngāti Koata", "Ara Te Ātiawa" and "Ara Ngā Hekenga"; or
  - b) To approve the names of "Ara Kaitangata", "Ara Ngāti Koata", "Ara Te Ātiawa" and "Ara Ngā Hekenga"; or
  - c) To decline some or all of the proposed names and to ask the applicant to submit alternative names.
- 7.2 Council officers recommend approving option b), the names of "Ara Kaitangata", "Ara Ngāti Koata", "Ara Te Ātiawa" and "Ara Ngā Hekenga". While the application to name the roads in a collective manner to recognise the migration of those iwi is understood, officers consider that "Ara Ngāti Tama" is too similar to the existing Ngatitama Street and would cause confusion and location problems for the community and emergency services.

Item 6: Street naming application - 3B Hill Street

**Author:**        **Mandy Bishop, Manager Consents and Compliance**

**Attachments**

Attachment 1:    A2396577 3B Hill Street - plan of proposed names [↓](#)

<b>Important considerations for decision making</b>	
<b>1. Fit with Purpose of Local Government</b>	The Council has the authority to name roads, pursuant to s 319(j) of the Local Government Act 1974.
<b>2. Consistency with Community Outcomes and Council Policy</b>	The decision in this report supports the community outcome that our Council provides leadership and fosters partnerships, a regional perspective and community engagement.
<b>3. Risk</b>	The recommended names will avoid confusion but there is a high risk that Ara Ngāti Tama will cause confusion if this name is approved. Should this lead to problems in the future for emergency services this could lead to reputational damage for the Hearings panel and the street naming process.
<b>4. Financial impact</b>	No additional resources are required.
<b>5. Degree of significance and level of engagement</b>	This matter is of low significance because there is no impact on any private person if the recommendation is approved. No consultation is required. If the Hearings Panel was considering approval of Ara Ngāti Tama then potentially all residents and owners of Ngatitama Street properties would be impacted. Engagement with them, emergency services and postal services would be warranted before a decision is made.
<b>6. Climate Impact</b>	Not applicable for the naming of roads in an approved subdivision.
<b>7. Inclusion of Māori in the decision making process</b>	No engagement with Māori by staff has been undertaken in preparing this report. The applicant has consulted with the Boards of Ngāti Rārua, Ngāti Koata, Ngāti Tama and Te Ātiawa.
<b>• Delegations</b>	The Hearings Panel has the following delegations to consider

## Item 6: Street naming application - 3B Hill Street

### Areas of responsibility:

- *Matters relating to naming features within the city*

### Powers to decide:

- *The power to name all features within the city requiring naming including roads, streets, service lanes, plazas, parking areas, parks, reserves, gardens and all public facilities or infrastructure, aside from those impacted by the Naming Rights and Sponsorship Policy for Community Services Facilities (5.19.3)*





A2396577



REVISION DETAILS		BY	DATE
1	ISSUED FOR APPROVAL	MRM	4/06/20

SURVEYED	-	3B HILL STREET NORTH RICHMOND 7020
DESIGNED	MC	
DRAWN	MRM	
CHECKED	MRM	
APPROVED	MC	
		WOODS.CO.NZ

NGATI RARUA

ROAD NAMES

STATUS	ISSUED FOR APPROVAL	REV
SCALE	1:2000 @ A3	1
COUNCIL	NELSON CITY COUNCIL	
DWG NO	P18-278-00-943-MSC	

Document No. C:\120 SYNERGY\DATA\WP-PEN-APP-01\18-278 - NGATI RARUA\_245\CAD\ENGP18-278-00-943-MSC\_ROAD NAMES.DWG



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## **Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules**

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### **1. Purpose of Report**

- 1.1 To approve proposed alterations to Schedules of the Parking and Vehicle Control Bylaw (2011), No 207, to give effect to minor safety and parking improvements, roading improvements carried out as part of the capital works programme and changes from new subdivisions.

### **2. Recommendation**

***That the Hearings Panel - Other***

- 1. Receives the report **Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules (R16999) and its attachments (A2424883 and A2425269); and*****
- 2. Approves amendments detailed in the report **R16999 to the following Schedules of the Bylaw, Parking and Vehicle Control (2011), No 207:*****
  - **Schedule 8 – Nile Street Time Limited Mobility Parking*****
  - **Schedule 9 – Franklyn Street No Stopping.*****

### **3. Background**

- 3.1 The Parking and Vehicle Control Bylaw 2011 allows for the Council by resolution, to add, amend or delete specifications contained within the Schedules. The Council has delegated this power to the Hearings Panel - Other. To ensure that the Bylaw is enforceable it is important to ensure that the Schedules are updated on a regular basis. The Bylaw Schedules were last updated in February 2020.



## Item 7: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules

- 3.2 Minor alterations and additions are proposed to Schedules 8 and 9 of the Bylaw as detailed in section 4.
- 3.3 The proposed alterations and additions are shown for indicative purposes only by plans attached to this report. The purpose of these plans is to assist the panel to easily and quickly understand the nature of the changes proposed. These plans will not form part of the final bylaw. The actual changes as they will be incorporated into the final Bylaw, and with the level of detail required for enforcement purposes, are set out in the schedule of changes appended as Attachment 2.

### **4. Discussion**

#### **Schedule 8 – Time Limited Parking Areas**

- 4.1 Nelson Centre of Musical Arts (NCMA) Time Limited Mobility Parking
  - 4.1.1 Council recently installed a mobility carpark on Nile Street near the NCMA following request from patrons (this was approved by the Hearing Panel – Other on the 20 June 2019). Since installation, the mobility carpark has been occupied by one particular permit holder almost 100% of the time, thus making it unavailable for other patrons of the NCMA who also hold mobility permits and require nearby parking. Officers have been asked by the original applicant to make the current mobility carpark time limited. Officers propose installing a P180 time limit to the current mobility carpark to create turnover and to function as originally intended. No feedback was sought for this minor change given support for the original installation of the mobility carpark. The proposed parking alteration is shown in Attachment 1, titled 4.1.

#### **Schedule 9 – No Stopping and No Parking Areas**

- 4.2 Franklyn Street No Stopping
  - 4.2.1 Following a request from members of the Hampden Street School community for improved pedestrian safety on walking routes to school at the Franklyn Street/Waimea Road intersection, officers have worked through a number of options. This was most recently discussed at the 2 July 2020 Infrastructure Committee.
  - 4.2.2 The longer term solution is subject to the outcome of the Nelson Future Access study, but as an interim measure the current preferred officer option is the installation of a pedestrian refuge in Franklyn Street near the intersection with Waimea Road approximately 30m west of the intersection. This option has been subject to a road safety audit which shows that in order to safely accommodate a pedestrian refuge, the current traffic lanes must be diverted around the pedestrian refuge which has the effect of pushing the traffic lanes toward the kerb. To address this and

## Item 7: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules

due to the limited road width, this will result in the net loss of approximately eight carparks and will require the installation of no stopping lines. The proposed installation of no stopping is shown in Attachment 1, titled 4.2

4.2.3 Officers have sought feedback regarding the installation of no stopping, and subsequent loss of parking as detailed below. Officers note that if traffic signals are progressed at this intersection as part of any long term solution, it is unlikely that the parking could be retained.

- Feedback was received from the manager of Franklyn Village who was against the installation of no stopping. The manager's view was that Franklyn Village needed more car parking, not less. The manager also felt that there was insufficient demand from pedestrians crossing the road to warrant the proposed level of investment
- Feedback was received from the Hampden Street School Principal who supported the installation of a refuge, stating that anything that made walking or scootering to school safer would have the schools support.
- Feedback was received from the Public Health Unit of the Nelson Marlborough District Health Board (NMDHB) who were in support of the installation. The Public Health Unit staff supported making it easier for children to cross the road as well as those accessing the hospital. Staff requested that the refuge be wide enough for two prams/wheelchairs (which officers have allowed for) and to request that Council consider installing traffic signals at the Waimea Road/Franklyn Street intersection in the future to assist safe active modes crossing.

4.2.4 Officers support the installation of no stopping, noting the safety of pedestrians outweighs the loss of parking.

## 5. Options

5.1 There are limited options for the items presented in this report as the majority in schedules 8 and 9 are proposed changes to improve safe and efficient traffic movement. Option 1 is the preferred option.

<b>Option 1: Adopt changes as attached for Schedules 8 and 9 without changes</b>	
Advantages	<ul style="list-style-type: none"><li>• Changes to Schedules are designed to improve safety and efficiency</li></ul>

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Risks and Disadvantages	<ul style="list-style-type: none"><li>• Minor loss of parking in some places</li></ul>
<b>Option 2: Do not adopt changes as attached for Schedules 8 and 9</b>	
Advantages	<ul style="list-style-type: none"><li>• There are no identified advantages</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>• Failure to approve changes could result in unsafe and inefficient use of the roading network.</li><li>• Failure to update Schedules will open enforcement to challenge.</li></ul>

**Author:** Matt Bruce, Team Leader Transport and Solid Waste

**Attachments**

Attachment 1: A2424883 - Proposed changes shown indicatively on aerials [↓](#)

Attachment 2: A2425269 - Schedule of proposed changes to the Parking and Vehicle Control Bylaw [↓](#)

Item 7: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules

<b>Important considerations for decision making</b>	
<b>1. Fit with Purpose of Local Government</b>	The report recommendation meets current and future needs of communities in contributing to the safe use of the roading and parking network in the City.
<b>2. Consistency with Community Outcomes and Council Policy</b>	The content and recommendations of this report are consistent with Council's Community Outcomes – "Our Infrastructure is efficient, cost effective and meets current and future needs". In particular that we have good quality, affordable and effective infrastructure and transport networks. This report is directly aligned to the requirements of the Parking Policy, the Parking and Vehicle Control Bylaw and with Council's strategic direction through the Regional Land Transport Strategy.
<b>3. Risk</b>	To ensure that the Bylaw is enforceable, it is important to ensure that the Schedules are updated on a regular basis. Failure to update Schedules will open enforcement up to challenge.
<b>4. Financial impact</b>	Costs are within allocated annual budgets for road maintenance or capital projects.
<b>5. Degree of significance and level of engagement</b>	This matter is of low significance. Nearby businesses and residents that could be affected, have been consulted.
<b>6. Climate Impact</b>	This decision will have no impact on the ability of the Council or District to proactively respond to the impacts of climate change now or in the future.
<b>7. Inclusion of Māori in the decision making process</b>	No engagement with Māori has been undertaken in preparing this report.
<b>8. Delegations</b>	<p>The Hearings Panel - Other has the following delegations to consider changes to the Parking and vehicle Control Bylaw.</p> <p><i>Powers to Decide:</i></p> <ul style="list-style-type: none"> <li>• <i>The power to make changes to the schedules to the Parking and Vehicle Control Bylaw</i></li> </ul>

Item 7: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules:  
Attachment 1



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#### 4.1 Nelson Centre of Musical Arts (NCMA) Proposed Mobility Park (Time Limited)

##### Legend



— Existing Mobility Park  
Proposed Time Limited P180

0 5 10 15 m



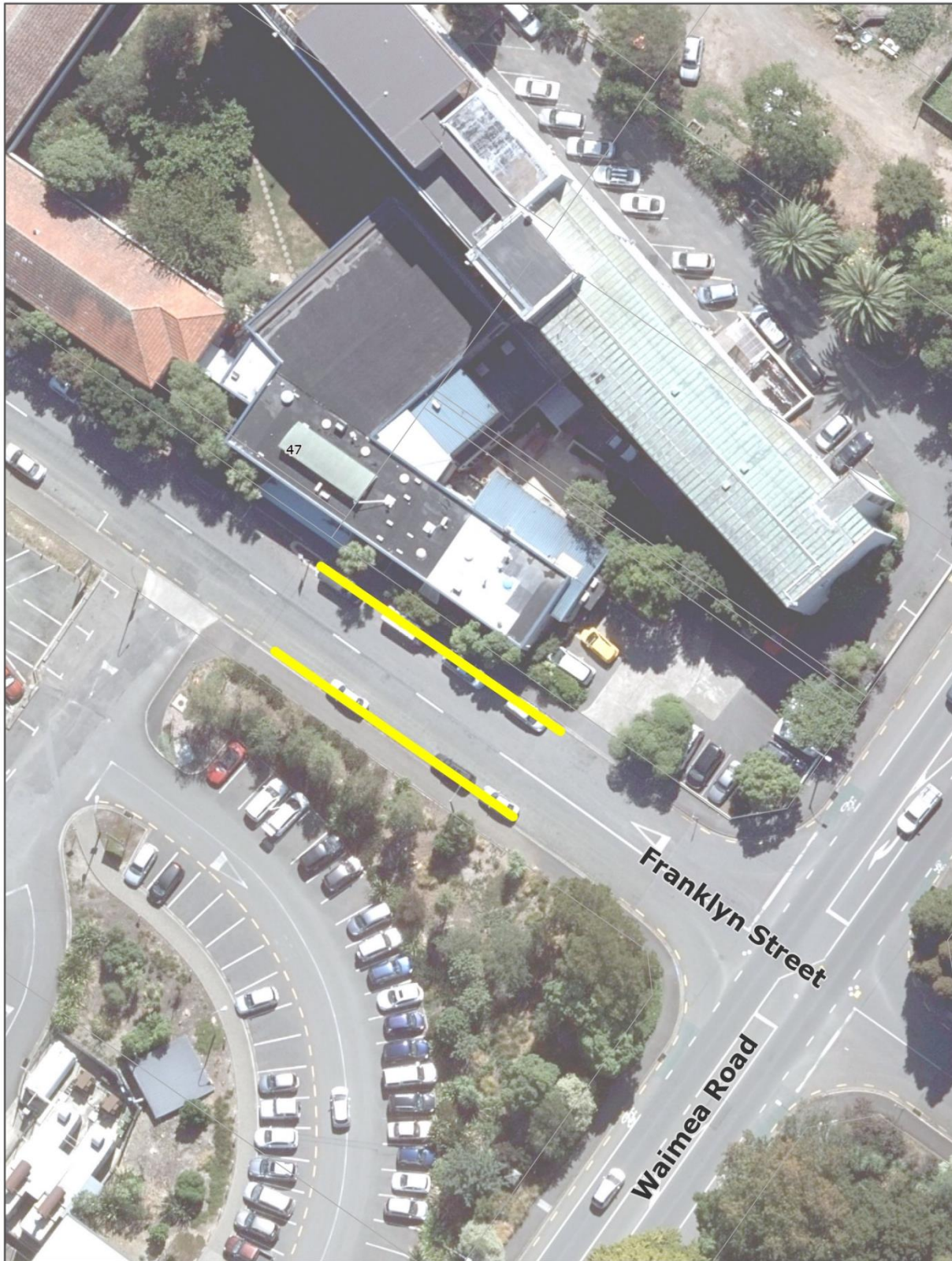
July 2020

PO Box 645 Nelson 7040 New Zealand PH 03 5460200 nelson.govt.nz

File Ref: A2424883  
MO. Original map size A4.



Item 7: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules:  
Attachment 1



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## 4.2 - Franklyn Street Proposed No Stopping



### Legend

— Proposed No Stopping

0 5 10 15 m



PO Box 645 Nelson 7040 New Zealand PH 03 5460200 nelson.govt.nz

File Ref: A2424883  
MO: Original map size A4.

Item 7: Parking and Vehicle Control Bylaw (2011), No 207 Amendments to Schedules:  
Attachment 2

**Attachment 2 – Schedule of Changes to the Parking and Vehicle Control Bylaw**

Results								
ID	Street	Start Location	Side	Direction	Start Point	Distance	Type	Status
5476	Nile Street	School of Music Lane intersection.	South	West	3.0	6.0	Mobility Park P180	Pending
5475	Franklyn Street	Waimea Road intersection.	Left	West	27.0	23.0	No stopping	Pending
5474	Franklyn Street	Waimea Road	Right	West	28.0	28.0	No stopping	Pending

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**Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.**

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**1. Purpose of Report**

- 1.1 To decide on an objection to the classification of two dogs named Boston and Rarka as menacing pursuant to Section 33A of the Dog Control Act 1996.

**2. Summary**

- 2.1 On Thursday 20 February 2020, at 09.22am Nelson City Council received a complaint from David Wilson of Wilson Dental that there was an aggressive dog wandering on their property at 82 Waimea Road, Nelson.
- 2.2 Two dogs were seized pursuant to the Dog Control Act 1996, Sections 52A (Control of dogs on owner's property), 57A (Dogs rushing at persons, animals or vehicles) and 42 (Dogs not registered). The appropriate seizure notification forms were left for the dog owners in their letter box at 80 Waimea Road.
- 2.3 Neither dog was registered and after considering the public reported and observed behaviour of Boston and the observed behaviour of both dogs, Nelson City Council classified Boston and Rarka as menacing pursuant to Section 33A of the Dog Control Act 1996. (Attachments 1, 2 & 4)
- 2.4 The dogs are in joint ownership; Kyran Taylor and Talia Samuels. The owners have objected to the classification of both dogs. (Attachment 3)
- 2.5 Rarka is registered with this spelling however the owners in their objection papers spell the dog's name as Raka.



Item 8: Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.

### **3. Recommendation**

#### ***That the Hearings Panel - Other***

- 1. Receives the report Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels. (R17007) and its attachments (A2370278, A2370259, A2426520, A2134555, A2415873 and A2426645); and***
- 2. Dismisses the objection of Kyran Taylor and Talia Samuels to the Classification of dogs Boston and Rarka as menacing; and***
- 3. Upholds the classification of both dogs Boston and Rarka as menacing.***

### **4. Background**

- 4.1 Apart from the non-registration of both dogs, Nelson City Council is not aware of any previous dog control history for either Boston or Rarka.

### **5. Discussion**

#### **Legislation around classification of a dog as menacing**

- 5.1 Section 33A of the Dog Control Act 1996 provides for a dog to be classified as menacing if the territorial authority considers that the dog may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of observed or reported behaviour of the dog.
- 5.2 Section 33B of the Dog Control Act 1996 provides a right to the owner of a dog classified as menacing to object to the classification and be heard in support of the objection. (Attachment 4)
- 5.3 Section 33B(2) outlines that the territorial authority considering an objection 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.

Item 8: Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.

5.4 Section 33B(3) outlines that 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.

5.5 Section 33E of the Dog Control Act requires that if a dog is classified as menacing, the following must be complied with:

- (a) The owner must not allow the dog to be at large or in any public place or private way, without being confined completely within a vehicle or cage, or without being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction.
- (b) If required by the territorial authority the dog must be neutered.

Note: Nelson City Council Dog Control Policy requires that all dogs classified as menacing are neutered.

5.6 This recommendation is unlikely to be inconsistent with any other previous Council decision.

The Evidence which formed the basis for the Classification

5.7 On 20 February 2020 at about 09.20am, Mr David Wilson of Wilson Dental, 82 Waimea Road, Nelson reported a dog on his property. He described the dog as, *"a ferocious (a Pitbull I think) roaming on my property."*

5.8 In his statement Mr Wilson said there had been a big brown dog with no collar on his property and he watched the dog bark at one of his patients, a 94 year old man who the dog would not allow entry to the dental premises. He reported his patients were scared and found it difficult to enter or leave his premises. (Attachment 5)

5.9 On his first arrival Dog Control Officer Bill Gaze found the dog, a medium to large sized brown dog in the car park area of Wilson Dental.

5.10 The dog acted in an aggressive manner towards the Dog Control Officer, snarling at him with its hackles raised and teeth bared. Mr Gaze was unable to get close to the dog which disappeared off the property, back to 80 Waimea Road.

5.11 This dog was later identified as being Boston, an unregistered American Pitbull-cross from 80 Waimea Road.

5.12 Due to the aggressive nature of the Pitbull-cross dog encountered by Dog Control Officer Bill Gaze, when Mr Wilson contacted Council a second time, on his return Mr Gaze took a second officer.

Item 8: Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.

- 5.13 On arrival, and confronted with 2 aggressive dogs at 80 Waimea Road, the 2 Dog Control Officers called a third officer to attend because it was believed 3 officers would be needed to control the 2 dogs.
- 5.14 Both dogs were observed by all 3 Officers to be acting very aggressively, snarling and barking and running aggressively at the officers. These dogs were identified as Boston and Rarka.
- 5.15 All 3 Dog Control Officers provided reports on the aggressive behaviour they observed by Boston and Rarka. (Attachment 6)
- 5.16 The report from Dog Control Officer Sandy Vale states that both dogs were acting territorial and fearful at the same time, with teeth bared, hackles raised, low grumbling in the back of their throats with bursts of barking and lunging forward.
- 5.17 The report from Dog Control Officer Jeff Welch reports that on his arrival at 80 Waimea Road both dogs reacted in a territorial manner and that he and Dog Control Officer Bill Gaze both felt the dogs were sufficiently territorial that it was not safe to enter the property without further support.
- 5.18 Dog Control Officer Jeff Welch goes on to report that to catch and secure the 2 dogs it was necessary to use catch poles as he believed both dogs may constitute a bite risk.

Steps taken by dog owners to prevent any threat to the safety of persons or animals

- 5.19 Kyran Taylor and Talia Samuels submit in their objection papers that the following steps have been taken to ensure a similar situation will never happen again:
- Both dogs were registered and all fees paid the day of the incident.
  - A builder was hired the same day to fix the fence through which the dog Boston had escaped.
  - They paid for a dog behaviour expert from Christchurch to come to assess both dogs and the report states neither dog poses a threat to public safety. (Attachment 3)
  - That this was a one-off occasion due to a broken fence that was not known about and if the gap in the fence had been known about Boston would not have been allowed outside without the hole being fixed.

Matters relied on in support of the objection

- 5.20 Kyran Taylor and Talia Samuels submit that they have taken steps to ensure the same situation never happens again – as outlined above.

Item 8: Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.

- 5.21 The Objector has produced reports from dog behaviour specialists Bark Busters which support the objector's view that neither dog is menacing. It is worth noting, the behaviour specialist who conducted the testing of the dogs did so at the dog's property with the owners present.
- 5.22 The report from Bark Busters New Zealand on Boston states he was "not aggressive but was slightly stand offish".
- 5.23 The report on Rarka states "This dog is of good temperament and doesn't look or show to be a concern for safety."
- 5.24 The objectors assert that the classification of their dogs has been inflicted as a means of punishment.

## 6. Options

Option 1: The Objection be Dismissed (Recommended Option)	
Advantages	<ul style="list-style-type: none"><li>This will result in Boston and Rarka being legally required to wear a muzzle whenever out in public. They will also be required to be neutered. This will reduce the risk of people, other dogs and animals being attacked and injured should another aggression incident occur.</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>This may have a negative impact on life activities the dogs Boston and Rarka and their owners enjoy.</li></ul>
Option 2: The Objection be Upheld	
Advantages	<ul style="list-style-type: none"><li>Boston and Rarka will not legally be required to wear a muzzle in public or be neutered.</li></ul>
Risks and Disadvantages	<ul style="list-style-type: none"><li>This will increase the risk of other animals or people being attacked and injured if Boston and Rarka were to again escape and become aggressive.</li></ul>

## 7. Conclusion

- 7.1 A member of the public has reported their observed behaviour of the dog Boston, reporting him as being aggressive.
- 7.2 Three Dog Control Officers observed and reported that the behaviour of both Boston and Rarka was aggressive, territorial and fearful with both snarling and lunging at them.
- 7.3 The 3 experienced Dog Control Officers all consider both Boston and Rarka to be potential bite risks.

Item 8: Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.

- 7.4 Given the evidence of a member of the public and that of 3 Dog Control Officers, the dogs Boston and Rarka were justifiably classified as menacing.
- 7.5 It is submitted that the Bark Busters reports should be viewed in light of the fact the dogs were “tested” at home and with their owner present so would therefore be less likely to show signs of aggression.
- 7.6 It is considered that in order to reduce the risk of an attack on other animals, stock or a member of the public that the dogs Boston and Rarka should be muzzled whenever in a public place. A menacing classification is the lowest level of classification and requires the use of a muzzle when in public. A muzzle would not be required when the dogs are on private land.

It is recommended that the objection be dismissed and the classification for both Boston and Rarka as menacing dogs be upheld.

**Author: Brian Wood, Team Leader Regulatory (Environmental Inspections)**

**Attachments**

- Attachment 1: A2370278 - Menacing Classification papers for dog Boston [↓](#)
- Attachment 2: A2370259 - Menacing Classification papers for dog Rarka (Raka) [↓](#)
- Attachment 3: A2426520 - Kyran Taylor & Talia Samuels - Objection to Menacing classification [↓](#)
- Attachment 4: A2134555 - Dog Control Act 1996 Sections 33A & 33B [↓](#)
- Attachment 5: A2415873 - David Wilson - Statement [↓](#)
- Attachment 6: A2426645 - Dog Control Officer's Reports [↓](#)

<b>Important considerations for decision making</b>	
<b>1. Fit with Purpose of Local Government</b>	The regulatory functions are to be performed in a manner that is most cost effective for households and businesses. The Dog Control Act 1996 provisions are being applied appropriately to minimise the public risk.
<b>2. Consistency with Community Outcomes and Council Policy</b>	The recommendation aligns with the Council's Dog Control Policy by having regard to the need to minimise the danger, distress and nuisance to the community caused by dogs and/or by non-compliant owners.
<b>3. Risk</b>	<p>Council has obligations under the Dog Control Act 1996 to follow the correct legal process.</p> <p>There is a risk to the community from future incidents if the recommendation is not supported.</p>
<b>4. Financial impact</b>	There is no financial impact for Council.
<b>5. Degree of significance and level of engagement</b>	The recommendations outlined in this report are not considered significant in terms of Council's Significance and Engagement Policy.
<b>6. Climate Impact</b>	This decision will have no impact on the ability of the Council or District to proactively respond to the impacts of climate change now or in the future.
<b>7. Inclusion of Māori in the decision making process</b>	No engagement with Māori has been undertaken in preparing this report.
<b>8. Delegations</b>	<p>The Hearings Panel – Other has the following delegations:</p> <ul style="list-style-type: none"><li><i>To hear and determine objections to the classifications of dogs and all other procedural matters for which a right of objection and hearing is provided for under the Dog Control Act 1996.</i></li></ul>

Item 8: Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.: Attachment 1



Ref: 21511

Civic House, 110 Trafalgar Street  
PO Box 645, Nelson 7040, New Zealand

9 April 2020

P (03) 5460200  
E [regulatory@ncc.govt.nz](mailto:regulatory@ncc.govt.nz)  
[nelson.govt.nz](http://nelson.govt.nz)

Talia Louise Samuels  
80 Waimea Road  
Nelson South  
Nelson 7010

Dear Talia

**Notice of classification of dog as menacing dog**

*Section 33A, Dog Control Act 1996*

Dog Description: Boston, Terrier, American Pit Bull/Cross, Brown

This is to notify you \*that this dog has been classified as a menacing dog under section 33A (1) of the Dog Control Act 1996.

Because Boston (196872) did behave aggressively towards members of the public and Animal Management Officers while roaming on the foot path and roadway and other properties

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

Signature of officer for Nelson City Council

Date

9<sup>th</sup> April 2020

A2370278

Nelson The Smart Little City  
He tāone tōrire a Whakatū

 Nelson City Council  
te kaunihera o whakatū

## Item 8: Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.: Attachment 1

\*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 produce to the Nelson City Council, within 1 month after receipt of this notice, a certificate issued by a registered veterinary surgeon certifying –
  - (i) that the dog is or has been neutered; or
  - (ii) that for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and
- (c) where a certificate under paragraph (b)(ii) is produced to the Nelson City Council, produce to the Nelson City 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, **to arrange for the dog to be implanted with a functioning microchip** transponder. This must be confirmed by making the dog available to the Nelson City Council in accordance with the reasonable instructions of the Nelson City Council for verification that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location.

A2370278



## Item 8: Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.: Attachment 1

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 33C**

*Section 33D, Dog Control act 1996*

You may object to the classification of your dog as menacing by lodging with the Nelson City 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.

You must provide evidence to the Nelson City Council that the dog is not of a breed or type listed in Schedule 4 of the Dog Control Act 1996.

Yours sincerely



**Brent Edwards**

Manager Environmental Inspections

A2370278

Item 8: Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.: Attachment 2



Ref: 21551

Civic House, 110 Trafalgar Street  
PO Box 645, Nelson 7040, New Zealand

9 April 2020

P (03) 5460200  
E [regulatory@ncc.govt.nz](mailto:regulatory@ncc.govt.nz)  
[nelson.govt.nz](http://nelson.govt.nz)

Talia Louise Samuels  
80 Waimea Road  
Nelson South  
Nelson 7010

Dear Talia

**Notice of classification of dog as menacing dog**

*Section 33A, Dog Control Act 1996*

Dog Description: Rarka, Terrier, Staffordshire Bull/Cross, Black

This is to notify you \*that this dog has been classified as a menacing dog under section 33A (1) of the Dog Control Act 1996.

This is because the Nelson City Council has reasonable grounds to believe that the dog Rarka (196866) did behave in an aggressive manner toward Animal Management Officers by barking snarling and advancing aggressively.

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

Signature of officer for Nelson City Council

Date

9<sup>th</sup> April 2020.

A2370259

Nelson The Smart Little City  
He tāone tōrire a Whakatū

 Nelson City Council  
te kaunihera o whakatū

## Item 8: Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.: Attachment 2

\*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 produce to the Nelson City Council, within 1 month after receipt of this notice, a certificate issued by a registered veterinary surgeon certifying –
  - (i) that the dog is or has been neutered; or
  - (ii) that for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and
- (c) where a certificate under paragraph (b)(ii) is produced to the Nelson City Council, produce to the Nelson City 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, **to arrange for the dog to be implanted with a functioning microchip** transponder. This must be confirmed by making the dog available to the Nelson City Council in accordance with the reasonable instructions of the Nelson City Council for verification that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location.

A2370259

## Item 8: Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.: Attachment 2

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 33C**

*Section 33D, Dog Control act 1996*

You may object to the classification of your dog as menacing by lodging with the Nelson City 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.

You must provide evidence to the Nelson City Council that the dog is not of a breed or type listed in Schedule 4 of the Dog Control Act 1996.

Yours sincerely



**Brent Edwards**

Manager Environmental Inspections

A2370259

Item 8: Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.: Attachment 3

**Kyran Taylor & Talia Samuels.**

Objection to Menacing Classification of dogs Boston & Rarka

**Submissions:**

23 April 2020 8:57 p.m.

This email is to object to the classification of Boston and Raka to be deemed as menacing dogs. All documents and evidence are attached.

To whom it may concern

Talia and I write to you heavy hearted and still quite taken back from this situation. I am writing this to summarise my very detailed document that I am also sending in conjunction with this. My hopes are you choose to read the entire detailed version as it contains the compelling evidence required to understand the full weight of this situation.

We have received an email classifying both dogs as menacing under section 31 of the dog control act. This section allows a dog control officer to observe the behaviour of the dog and deem the dog menacing.

We have taken steps to ensure a situation like this will never happen again. The first thing we did was get both dogs fully registered and paid all fees the day we received the uplift notice. We also hired a builder that day to fix the fence Boston had escaped from. We paid for a dog behaviour expert to come up from Christchurch and assess both dogs.

A key point to note is from the behaviour expert he has said this about Raka.

"This dog is of good temperament & doesn't look or show to be a concern for safety"

He also stated that Boston was nervous at the gate and barked but changed his demeaner when he entered the property.

"Once in the gate Boston was not aggressive but slightly stand offish".

He doesn't believe either dogs pose a threat to public safety. I will attach his full report in this email.

Every step we took has been to ensure this never happens again and we can confirm this is and will be a one-off occasion of a broken fence that we never knew about. If we had knowledge of this gap in the fence, we would never have left him outside without this being fixed.

The only other thing I have to note is how unprofessionally Bill Gaze and others dealt with this situation, they have lied to us, cited incorrect legislation under false pre-tenses to keep custody of both dogs for a period of time. Floated the possibility of the dogs being put down, threatened to leave the conversation when I asked questions as to why they were citing the incorrect legislation.

They have provoked and mistreated both of our dogs, we have evidence of this on 3 different accounts of 2 neighbours and a boy from nelson boy's college. Everything in detail is in my other document I am sending and again I hope you read that in its entirety to understand the full gravity of this situation.

We believe that this classification has been inflicted on us as a means of punishment and we can prove that on multiple different occasions, Bill Gaze and others involved have abused power and scare tactics to keep us from perusing this matter in the way we should have originally. The reason

Item 8: Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.: Attachment 3

we can prove this is because unbeknownst to me at the time my grandmother had a recording of the entire time. She accidentally left a video on her iPhone as she is not tech savvy. This was a saving grace as we can listen to this to confirm that Bill Gaze and Brian Woods were lying to us and fabricating laws and legislation.

Many thanks for taking the time to review this and all other documents attached.

Kyran & Talia





# TEMPERAMENT/ BEHAVIOURAL BARK BUSTERS NEW ZEALAND DOG ASSESSMENT FORM

Mark Gall  
South Island  
Wellington

0274 957 108  
christchurch@barkbusters.co.nz  
www.barkbusters.co.nz  
FREECALL 0800 167 710



Bark Busters New Zealand  
Bark Busters South Island New Zealand  
Mark Gall

The following assessment was conducted by an approved Bark Busters Behavioural Therapist:

Assessment Date	4th MARCH 2020	Therapist's Name	MARK GALL
Therapist's Phone	0800 167 710		
Owners Details - Name of Dog Owner	KYRAN LILLEY PH	TALIA SAMUELS D	
Address of Dog Owner	WAIMEA RD		
Suburb	NELSON SOUTH	NELSON	Postcode 7010
Assessment Address (if different to above)	WAIMEA RD	AS ABOVE	State Postcode
Information on dog being assessed			
Dog Name	BOSTON	TAG Number	6872
Breed	CHOC LAB X MASTIFF	Age/DOB	1 YR.
Colour/markings etc	DARK BROWN	Sex	M
		Desexed	NO
Problem or circumstances being investigated			
ASSESSMENT ON OWNERS REQUEST AS THE DOG HAD BEEN IMPOUNDED & CLASSIFICATION MAY FOLLOW. CIRCUMSTANCES OF IMPOUND ARE NOT CONFIRMED.			

## ASSESSMENT CONCLUSION

Mr. LILLEY delivered BOSTON for assessment on 4th MARCH 2020, for the purpose of temperament assessment.

I was shown a dog which I identified by the TAG number 6872, this dog was of a LAB X MASTIFF dog. The dog is Male/ Female and is/ is not desexed.

(Photos of dog attached)

I conducted a temperament assessment of BOSTON - CHOCOLATE LAB X MASTIFF

The temperament assessment was carried out using the criteria laid out in the Companion Animal Act of BOSTON and according to the Expert Witness Code of Conduct. The assessment was conducted in a HOME environment and in a controlled area. Behaviour toward strangers, handling/restraint, resource guarding, visual stimuli, auditory stimuli, chase response and potential aggression to other animals were all assessed.

4th MARCH 2020.



OWNER KYRAN LILLEY

PH :

BOSTON LOOKS TO BE CHOCOLATE LABRADOR  
CROSS MASTIFF.

**BARK BUSTERS**  
NEW ZEALAND

Mark Gall  
South Island  
Wellington

0274 957 108

christchurch@barkbusters.co.nz

www.barkbusters.co.nz

FREECALL 0800 167 710

TEMPERAMENT TEST FOR

DOG: BOSTON WAIMEA RD NELSON

OBSERVATIONS



Bark Busters New Zealand

Bark Busters South Island New Zealand

Mark Gall

1. I FOUND BOSTON TO BE SLIGHTLY NERVOUS AT THE GATE AND BARKED WHEN I MADE NOISES AS IF ENTERING LOUDLY.
2. ONCE IN GATE BOSTON WAS NOT AGGRESSIVE BUT WAS SLIGHTLY STAND OFFISH.
3. CAME ACROSS AS WARY OF STRANGERS AT FIRST.
4. RESPONDED WELL TO OWNERS CALL & RELAXED WITH STRANGER QUICKLY
5. THE OTHER DOG ON PROPERTY IS A HEAVILY PREGNANT STAFFY CROSS, SO HIS BEHAVIOUR MAYBE IN FLUENCED BY THAT & PROTECTING HER.
6. MODERATELY REACTIVE TO CHILD NOISES FROM PROPERTY BEHIND (I UNDERSTAND SOME TEASING BY CHILDREN HAS OCCURRED) AT THAT PROPERTY)
7. BASIC OBEDIENCE WAS GOOD BUT DOES PULL ON LEAD - HE IS NOT USUALLY WALKED ON STREET BUT IN OFF LEAD AREAS
8. HIS SOCIALIZING WITH OTHER DOGS APPEARED GOOD / FRIENDLY.
9. REACTION TO PEOPLE ALSO GOOD BUT NOT HIM INITIATING CONTACT.
11. VISUAL STIMULI HE DIDN'T REACT OTHER THAN TO AVOID SOMETHING HE'S NOT SURE OF - CHASE RESPONSE A LITTLE - RESOURCE GUARDING NOT EVIDENT
12. HAPPY TO BE PATTED AFTER GETTING RELAXED EVEN JUMPING UP IN FRIENDLY MANNER.





# TEMPERAMENT/ BEHAVIOURAL

**BARK BUSTERS**  
NEW ZEALAND

## DOG ASSESSMENT FORM

Mark Gall  
South Island  
Wellington

0274 957 108  
christchurch@barkbusters.co.nz  
www.barkbusters.co.nz  
FREECALL 0800 167 710



Bark Busters New Zealand  
Bark Busters South Island New Zealand  
Mark Gall

The following assessment was conducted by an approved Bark Busters Behavioural Therapist:

Assessment Date	4th MARCH 2020	Therapist's Name	MARK GALL
Therapist's Phone	0800 167 710		
Owners Details -	KYRAN LILLEY	TALIA SAMUELS	
Name of Dog Owner	PH	PH.	
Address of Dog Owner	WAIMEA RD		
Suburb	NELSON SOUTH	NELSON	Postcode 7010
Assessment Address	AS ABOVE		
(if different to above)		State	Postcode
Information on dog being assessed			
Dog Name	RAKA	TAG. number	6866
Breed	STAFFY CROSS	Age/DOB	1.5YR CURRENTLY PREGNANT
Colour/markings etc	BLACK/WHITE BIB	Sex	F Desexed NO.
Problem or circumstances being investigated ASSESSMENT ON OWNERS REQUEST			
AS THE DOG WAS IMPOUNDED FROM ON THEIR PROPERTY & SUGGESTED HARSH HANDLING. CIRCUMSTANCES OF IMPOUND WERE NOT WITNESSED			

### ASSESSMENT CONCLUSION

Mr. /Mrs. /Ms. delivered RAKA for assessment on 4th MARCH 2020, for the purpose of temperament assessment.

I was shown a dog which I identified by the TAG. number 6866, this dog was of a STAFFY CROSS dog. The dog is Male/ Female and is is not desexed.

(Photos of dog attached)

I conducted a temperament assessment of RAKA - STAFFY CROSS

The temperament assessment was carried out using the criteria laid out in the Companion Animal act of RAKA and according to the Expert Witness Code of Conduct. The assessment was conducted in a HOME environment and in a controlled area. Behaviour toward strangers, handling/restraint, resource guarding, visual stimuli, auditory stimuli, chase response and potential aggression

4th MARCH 2020



OWNER KYRAN WILLEY

PH

RAKA (DOG) LOOKS TO BE OF STAFFY  
CROSS - POSSIBLY COLLIE.

TEMPERAMENT OBSERVATIONS OF RAKA.  
WAIMEA RD NELSON.

**BARK BUSTERS**  
NEW ZEALAND

Mark Gall  
South Island  
Wellington

0274 957 108  
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FREECALL 0800 167 710



Bark Busters New Zealand  
Bark Busters South Island New Zealand  
Mark Gall

1. I FOUND RAKA TO BE A MOST AMIABLE DOG - FRIENDLY & WILLING
2. SHE IS HEAVILY PREGNANT AT PRESENT DATE.
3. SHE BARKED A LITTLE AT GATE BUT MOSTLY TO FOLLOW BOSTON
4. WELL ADJUSTED DOG WITH GOOD OBEDIENCE WHEN INSTRUCTED BY OWNERS
5. HER RESPONSE TO STIMULI WAS NOT OVERLY REACTIVE BUT MORE OF INTEREST.
6. GOOD WITH OTHER DOGS
7. THIS DOG IS OF GOOD TEMPERAMENT & DOESN'T LOOK OR SHOW TO BE A CONCERN FOR SAFETY



Item 8: Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.: Attachment 3

**Brian Wood**

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**From:** Talia Samuels  
**Sent:** Friday, 21 February 2020 9:59 a.m.  
**To:** Bill Gaze  
**Subject:** Steps following incident 20/02/2020

Hi Bill,

Further to the incident and conversation you had with my partner Kyran yesterday. We have proceeded to block off the front half of the property as a temporary solution. Both Rakah & Boston will not be able to access the back end of the house which is where Boston has managed to escape from.

We have a professional builder by trade who will be assessing the fence out back and making the appropriate amendments to secure the fence and any other areas that require dog proofing. This will ensure the dogs cannot get out of this property in the long run on their own. This is our preferred option, however the call was last minute yesterday and the weather isn't looking to flash today. This will 100% be fixed tomorrow. Due to the weather they will be inside until I have finished work, where they will then be supervised. This will 100% be fixed tomorrow. If you have any further questions, please call Damian on 0

As you could tell yesterday, this is a very stressful situation for us. Moving forward we will continue to ensure checks are carried out regularly around the property and keep the property secured at all times to avoid a repeat of the escape yesterday.

Kind Regards,  
Talia & Kyran



Item 8: Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.: Attachment 3

Statement from Kyran Taylor – Received as an attachment with the Objection e-mail:

On 20/02/2020 at approximately 11:45 Talia and I came home from a lunch break to check on the dogs as we often do, we arrived to our address with our gate open and a form attached to our front door notifying us that the dogs had been uplifted.

This form specified three sections as to the reason the dogs had been uplifted. They are as follows.

- 42(2)(a) "Unregistered dog."
- 52A(4)(a) "Failure to keep dog controlled or confined."
- 57A(3)"Dog has rushed or startled person, animal or rushed vehicle in a public place"

Straight away I called the Nelson city council to obtain further information on the matter, while I was on the phone, I noticed that my mountain bikes were laying in an unusual spot and both had retained damages, paint scraped off and a spoke missing from a wheel. I Keep both bikes in a safe and tidy place to ensure nothing happens to them.

Seeing bikes I have spent a lot of time and money on just laying on the ground on top of each other made me become slightly frustrated so during the phone call with an unknown female I tried to explain that they had no right to do so and the conversation became somewhat heated, This paired with the fact I did not agree that taking of Raka (the female dog) was justified as she is heavily pregnant and never left the property. Not only this, she also suffers from separation anxiety. I was informed that she was taken due to not having registration and coming down and paying for both dogs registration she would be released As per 42(2)(a) the release details are "Will be released on payment of all fees within seven (7) days from the date of this notice". During this conversation it became heated between me and the lady on the other end of the line as I was sure that at the time there was no necessary reason to uplift Raka as she was obviously heavily pregnant and never left the property nor did she fall under any other sections other than 42(2)(a). My behaviour was purely reactionary based on concern for both dog's wellbeing. A few verbal exchanges ensued I was informed by the lady I was speaking to that if I did not stop arguing both dogs would be classified as dangerous dogs. Not because this was actually the case but this was a bully tactic used in an attempt to stop me asking questions in regards to my property, belongings and dogs. Not only this I was informed that the mountain bikes I am talking about had been used as "barricades to capture the dogs" After this conversation was finished, we made our way down to the Nelson city council to pay the registration fees for both dogs and any other payments that were also included.

Prior to reaching the Nelson city council I explained the situation to my grandmother and she decided to join me. Talia my grandmother and I went to the front desk and began to resolve the payment for the registration. While we were at the front desk, we continued to conversate about this situation between us and the man at the front desk. we further discussed how we felt this was unjustified and not the way the situation should have been handled. During this time a lady with hair roughly shoulder height and wearing a grey t-shirt was stood behind the counter a few rows down from us. She appeared to be eavesdropping on our conversation about the dog controllers and the situation we had just experienced. Roughly 10 minutes had passed and two gentlemen approached Talia and I and asked if they could speak to us at a table down the far end of the council. I believe this was Bill Gaze and I am not too sure the name of the other person person's name I believe this was Brian Woods. After we sat down we were informed that they were retaining custody of both dogs and issued us with two forms stating "This is to notify you that this dog will be retained in

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custody under section 71(2) of the dog control act 1996 pending the conclusion of the prosecution against you for an offence under section [57A] of the act

The Nelson City Council believes that the release of the dog would threaten the safety of any person, stock, poultry, domestic pet, or protected wildlife”

Now at the time I was not familiar with the dog control act nor any of its sections or sub-sections, however both dogs were now being kept under section

57(A) Dogs rushing at person, animals, or vehicles

(1) 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

It is to my knowledge that Boston escaped the property and supposedly “rushed” at a person. This “rush” can be interpreted in many different ways however I have no literature on the situation with Boston other than “rushed pedestrian”. Under the dog control act it specifies that a person has to be killed injured or endangered for that section to apply. A simple rush could be interpreted in many different ways but according to dog behaviours experts with years of experience a rush can mean an array of different things, that aside. From all the evidence provided to us and the accounts that we were told over the phone and also formally on paper we can confirm Boston never killed or injured someone the last thing that may apply would be if someone was endangered. To be endangered is to “endanger somebody/something to put somebody/something in a situation in which they could be harmed or damaged” as per the Oxford English Dictionary. The person who made this allegation may be able to say she/he was uncomfortable but without any certainty can they say that they were at risk of being harmed. It is for this reason I believe the retaining of Boston is unjust.

Moving on to the capture and retaining of Raka. To re-iterate after we sat down, we were issued with two forms one for each dog that explained why both dogs were being kept. For Raka this was also section 57[A] Dogs rushing at person, animal, or vehicles. The first thing I expressed was confusion as I understood Boston was uplifted due to this section but not Raka so it came as a shock she was now being listed under 57[A]. I protested this decision and during a back and forth discussion with Brian Woods I continued to explain that she couldn’t possibly be held under that section due to her never actually being subject to 57[A]. This was met with a response from Brian Woods he said:

“If you don’t let me finish and you keep talking over me cuz I wont talk any louder than this you wont hear what im saying , and if you keep talking over me we’ll just walk away”

At this point my grandmother who was standing next to us began explaining that we were just very upset because they are their babies. This was met with an aggressively toned response from Brian Woods.

“They’re not they are dogs. They are not baby’s they are dogs. They are animals.”



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The response from my grandmother was explaining that people sometimes refer to their dogs as fur babies. Bill Gaze's response was also quite derogatory towards my grandmother's explanation of fur babies as he also said

"They are dogs. They are not humans they are dogs."

It was here where I had to interrupt and explain that we were not debating the fact that the dogs were not dogs, she was simply using a common phrase used generally by dog lovers.

Brian Woods continues his explanation by saying that they have to do their job under the dog control act and explaining that they have complaints from numerous members of the public about how aggressive the dogs are. And I explain that Raka never left the property so he should be saying dog not dogs. Brian Woods returns by saying at least one of them was aggressive. So, I tried to reiterate my first comment by saying but she's not aggressive and has never left the property nor has she had a dog control officer called for any behaviour ever.

Then Brian Woods says:

"Okay we are going now and you'll have to deal with this through the legal process because we'll do everything right legally"

Before he finished getting off his chair my grandmother started pleading with him to give us another chance explaining we will remain silent for the duration of his explanation as to why the dogs were being kept. I had to explain that I was simply responding to the last thing Brian Woods said. This is where Brian Woods explains that the form issued at the address was the first documents we received and the ones we were now are being issued because they had now thought about the whole situation and gone through all the evidence of what happened and what has been reported that is why the decision had been made.

Brian Woods explains that:

"Were not saying we are never giving the dogs back , point one we are not allowed lawfully to return either dog to you because neither dog is registered so even if they weren't aggressive we'd hang onto them even if they were little fluffy poodles we wouldn't give you the dogs back until they are registered"

I explain that we came down to rectify this and that situation is easily resolvable right now.

Brian Woods says: " in regards to the aggressiveness you need to read what this says " he continues on and quotes what was on the pieces of paper that was issued to us at the beginning of the conversation and finishes this with we cant release them now because they aren't registered.

This is where Brian Woods informs us we need to explain to Bill Gaze what we are going to do to keep both dogs under control and to stop them from getting out because as Bill Gaze explains:

"There are so many holes they are getting out" and Brian Woods pitches in explaining the dogs arnt contained. I asked Bill Gaze what side of the property the dogs were getting out from to which he says they are getting out from both sides jumping over the fence and under the gate. I told him that the right side of the property is fully fenced off two meters high to which he responds "well they are both getting out ".

My grandmother suggests that we could leave them in the house until the house is fenced up. Bill Gaze explains under section 71 that we need to write in to him and explain what we are going to do and the measures we will take to make sure this doesn't happen again and that he will come to the

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property to check and make sure he is satisfied. He then goes on to that say he has very serious allegations against our older dog (Boston) furthermore goes into detail about what options he has.

"We can do, a) nothing, b) we can give you a verbal or written warning, we can fine you. Or we can take you to court and prosecute you and just to let you know if you are prosecuted and found guilty the judge must order destruction of the dog. There is no if but or maybes. I'm not saying we are doing that but you need to have a deep breath and follow the process through".

I go on to explain how I understand the situation and what steps we need to take to rectify this but request to ask one question in regards to the last thing that ive head from Bill Gaze about how this is based on the fact Boston got out. To which he replies and observed behaviour and Brian Woods explains:

"And what we saw , from when they are together from what ive been told and I have no reason to disbelieve my officers they are both aggressive together , they set each other off. "

I asked if that is when they are both together in their home when they have multiple strangers coming at them in the house to which Bill Gaze responds "we are talking about out on the street and in the pound"

It was at this time the conversation went off topic and is irrelevant later on Bill begins explaining that we need to go home and later that night or the following morning write to him about the steps we have taken to ensure this won't happen again.

I tell Bill that I agree and will do it and return to explaining that Raka again never left the property and has never left the property. Even when someone has left the gate open, we would come back and she would be sitting at the steps. So, I asked Bill what exactly do I need to email him in regards to Raka being returned to us. And he explains again that I need to write in and inform him what I've done to make sure neither of them leaves the property. I said that I want to take her before I take him out because he did get out and he probably needed some time to hopefully make sure he knows not to do it again. Bill says: "we will not release either dog until you have completed everything"

So, I asked why we can not get our dog back that has not actually left the property and broken any laws other than being unregistered and he explains that it doesn't matter because she's aggressive.

Brian Woods goes on to explain that there is nothing we can do to obtain Raka that day due to her observed behaviour.

At this point in the conversation Talia requests that we take custody of the dogs and they will reside at a fully fenced address until the time our address is fully fenced off. And Brian Woods responds with "no , because this is the address the dogs are going to be registered at this is the address we want to be made dog proof" Then Talia asks why can't we move them to a new address even if we resided at that address here on out and Bill explains that they can only do so if they get permission and he has to say yes and that he was not going to say yes.

Brian Woods joins this by explaining his worry is that he would not be happy with this because we could just move back to our other address when the dogs have been returned to us.

After this conversation finishes Talia and I proceed to the counter to register both dogs then we went home and made sure that the house was dog proof. We did a full inspection of the property and only found one access point, a broken fence behind the shed. After we fixed the fence we wrote to bill and requested he come and finish his formal investigation by viewing the property and letting us know if there was anywhere else that Boston would or could get out.



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Bill Gaze never came to inspect the property he just informed us a timeframe we may be able to get the dogs back and we got told 4pm at the shelter in Tahunanui. When we arrived to the shelter. The first thing Bill Gaze asked was if we had leads or not. We had been so stressed with everything else during these two days that having leads in the car was not something we had thought of. Bill was not going to let us take the dogs unless we had leads, to my knowledge there is no citeable law that requires us to have both dogs on leads as we moved them to the car. Luckily, we found some in the car and proceeded to get both dogs. Raka came first then I went in to retrieve Boston. Upon entering Boston's cage, I saw food but I could not see a sign of any water for him. As we walked out Boston creped right up to my leg and as we passed Bill Gaze, he began to get lower and lower just for the duration of walking past Bill. After we passed him Boston began to speed up as if he was in a hurry to be as far away from Bill as possible. I have had Boston for a long time now and have never witnessed him do this. This was the first cause for concern on how they were treated. Upon leaving we were reminded about Talia calling up the SPCA and explain that we had a heavily pregnant dog at the pound and what our options were. The SPCA contacted someone in the council to investigate this situation more. And as we were leaving Bill said to me that if we ever do that again we will have our dogs taken off us for obstructing a dog enforcement officer. I've not found anywhere that I can cite this law other than a general fine for obstruction against an officer.

The last communication I received was on the 10th of April 2020 via email. Informing us that both dogs had been listed as menacing under section 33A.

After we got Boston and Raka back, I began talking to neighbours to see if they heard or saw anything of this occasion and almost every neighbour had witnessed or heard the altercation. I have obtained multiple witness statements from neighbours but due to this lockdown I am not able to retrieve them from my workplace where they are kept. Upon the lockdown being lifted I will retrieve these and send them through. The first neighbours account in short was that he heard barking for quite some time so he came to investigate and popped his head over the fence. He witnessed one of the dog control officers dragging our big can plan bin down some stairs on the side of the house. He explained that they didn't do this carefully. They dragged it and rushed it down the stairs in order to block that side of the house off. He explained this to be noisier than the dogs barking. Looking at this situation after the fact any dog that has multiple people in the house that is not known to them may be slightly uncomfortable but when things are being dragged thumped and dropped down stairs that is borderline antagonistic. Dogs are reactional creatures and this is why observed observations after the removal should be ruled out as the conditions that the dogs have been observed in are volatile, unstable with both dogs being subject to prior provocation.

The second neighbours account was that of at one point coming outside of his property he witnessed one dog being lifted up into a car, he explained that the dog was lifted by its neck into the car and at one point had all four paws off the ground suspended in the air by his neck. He viewed this and quite aggressive.

The third witness we have was actually a boy not known to us that was at school at boys collage I will attach his email to this. He explains that he witnessed no dogs barking or being aggressive, but the dog control officers were being quite rough. And that he only noticed this situation because it looked wrong.

I am very glad to have both dogs back and neither dog has left the house or caused any issues what so ever ,however upon further investigation by myself into this issue I have found some rather compelling evidence showing that the dogs had been mistreated and we had bully tactics used



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against us to not peruse this situation any further or question the authority that Bill Gaze Brian Woods, anyone else who entered the property and the lady I spoke with on the phone had.

I have spoken with multiple different dog control officers from various territorial authority's and have come to the conclusion based on everything we have received in regards to the dogs that this is an excessive and an intense way to deal with the situation. Talia and I are now in fear that Bill Gaze may by other means try and obtain possession of the dogs once again. This is because we can prove that the use of section 57[A] in order to keep Raka is an absolute fabrication and no where have we ever been cited an actual reason for this that complies with the Dog legislation act of 1996. It is for this reason along with all other accounts I would like this matter investigated further and I would like to be kept in the loop. I am also requesting a personal apology from Bill Gaze due to the unnecessary stress he has put on our household and family. He has acted unprofessionally he has acted unlawfully and he has used the power he has attained to inflict this situation upon us as a means of punishment for speaking out.

The worst thing to note from this entire situation is the fact under 71(2) in conjunction with 57(A) if a dog is prosecuted and found guilty it must legally be ordered by a judge to be put down, other territorial authority's reserve 71(2) Retention of dog threatening public safety for dogs that have removed limbs from people. This is a very serious allegation to throw around as Bill has. This could have possibly led to us losing our much-loved dogs. This is very disheartening and terrible accusation to have innocent dogs categorized under and lastly the fact that Bill Gaze nor anyone else actually came to the house to inspect the blocking of escape points. Shows the legitimacy of this claim and that he did not actually believe this situation was as bad as it was. If a dog was supposedly threatening public safety, I would hope that dog control officers such as Bill Gaze who lead the investigation would actually make sure that the house was a dog proof.

See below email.

its not exactly the most informative email ever but it comes from a kid so I wouldn't except much really lol

The kids name is Charlie, I noticed his name wasn't at the bottom.

Hope it helps any way :)

Claire x

[Get Outlook for Android](#)

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From: arlene esslemont

Sent: Friday, 17 April 2020, 10:53

To: [C](#)

Subject: Dogs

To whom it may concern

On Thursday the 20th of Feb. while I was on morning tea break at Nelson boys college, I noticed the dog controllers at a house opposite school.

The dog handler appeared to be quite rough with the dog I seen them trying to remove.

The dog came out of the gate looking sad, not barking or being aggressive. I only noticed the situation as it looked wrong.

I hope this letter helps the dogs

Nelson boys college student age 15

[Sent from Yahoo! Mail on Android](#)

2/7/2019

Dog Control Act 1996 No 13 (as at 01 March 2017), Public Act 33A Territorial authority may classify dog as menacing – New Zealand ...



## New Zealand Legislation Dog Control Act 1996

### *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).



## New Zealand Legislation

# Dog Control Act 1996

### **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).

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David Wilson States

At 9.20 am on 20/2/2020 one of my patients arrived and said that there is a big dog barking on my driveway.

I looked out the window and saw it running around and barking. It was brown and had no collar. I thought it was a stray as I had not seen it before.

I attended to my patient but was worried as the next patient was due soon and is very small and a nervous person. I let her in the front door through the midwives' area as they were not there.

After treatment she did not want to leave, and we watched through the window as the dog barked at my next patient, a 94 year old man. He was on the footpath outside and the dog would not let him in, so he turned and walked away.

I thought the dog might run out onto the road but it came back onto the property and started barking at the dogs next door. This was another reason I thought the dog was a stray.

Main problem was the dog would not leave the property.

He barked a lot and dominated the area.

My patients were scared and found it difficult to enter or leave.

Statement taken by:



Bill Gaze, Animal Control Officer

Nelson City Council

6

INCIDENT AT 80 WAIMEA ROAD NELSON ON 20 FEBRUARY 2020

SERVICE REQUEST 2006506

Report from Dog Control Officer Jeff Welch

This report relates to an incident that occurred on the morning of February 20<sup>th</sup> 2020 at 80 Waimea Road, Nelson.

Just after 9.20am David WILSON from Wilson Dental at 82 Waimea Road contacted Council and advised *"There is a ferocious dog (a Pit bull I think) roaming on my property. The dog does not have a collar and has been on my property before."*

The job was recorded as service request number 2006506 and assigned to the morning on-call Dog Control Officer, Bill GAZE who attended soon thereafter but did not locate the dog in question.

At around 10.20am Mr WILSON called back and advised that the same dog has returned to his property and *"is barking aggressively and scaring people."*

Because of the reported concerns of aggression I accompanied DCO GAZE back to the property at around 10.30.

On entering the carpark area at the dental practice at 82 Waimea Road, I observed a medium-large sized brown dog in the rear yard area of the property.

On approaching the dog, it barked and disappeared behind some shrubbery on the northern side of the property.

When I looked in this area, I saw that the dog had got into the rear yard of the neighbouring property at 80 Waimea Road.

On approaching the street frontage of 80 Waimea Road I saw that the front yard was fenced with a narrow metal entrance gate of around 2 metres or so in height. The gate had narrow vertical bars and was lined on the inside with sparse brushwood-type material.

The gate had a self-engaging, gravity-type latch on the inside and this had a pair of scissors jammed into it, presumably to prevent the latch from disengaging.

Two dogs appeared from elsewhere on the property and came rushing toward the gate, barking and low growling.

The more imposing of the dogs was a smaller, medium sized black dog which came to within centimetres of the gate and barked in a territorial manner.

The second dog was the brown dog I had seen at the dental practice. This dog stood back from the gate and also reacted territorially.

On making to open the gate, both dogs came forward territorially and due to their reactions I deemed it may be unsafe to enter the property.

(Note that Common Law provides for unhindered access to a doorway).

I regarded both dogs as a potential bite risk.

Neither dog was displaying a registration tag.



Item 8: Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.: Attachment 6

Myself and DCO GAZE both felt that the dogs were sufficiently territorial that we would not enter the property without further support.

I contacted the Dog Control Administration office and made enquiries as to whether any dogs were recorded to the address.

I was given an owner name associated to the property with records showing that a white Staffordshire Bull Terrier was linked to the property.

There was no sign of a dog matching this description and no other dogs were shown as being linked to the property.

I contacted DCO VALE and asked her to come to the property in order that we could make an approach to the doorway to enquire with the occupants.

Section 14 of the Dog Control Act 1996 provides for entry onto property:

**14 Power of entry**

*(1) Where any dog control officer has good cause to suspect that an offence against this Act or against any bylaw made under this Act is **being committed** on any land or premises, the dog control officer, and all persons he or she calls to his or her assistance, may enter at any reasonable time onto the land or premises—*

*(a) to inspect any dog for the time being appearing to be kept on that land or premises or to inspect the conditions in which any such dog is kept; and*

*(b) if authorised under any other provision of this Act, to seize or take custody of any dog on the land or premises.*

*(2) Where any dog control officer has good cause to suspect that an offence against this Act or against any bylaw made under this Act has, **at any time in the preceding 6 months**, been committed in respect of any dog for the time being appearing to be kept on any land or premises, the dog control officer, and all persons he or she calls to his or her assistance, may enter at any reasonable time onto the land or premises—*

*(a) to inspect any dog on the land or premises; and*

*(b) if authorised under any other provision of this Act, to seize or take custody of any dog on the land or premises.*

While waiting for DCO VALE to arrive, the dogs continued to react territorially to our presence at the gate so we moved away a short distance.

Upon DCO VALE's arrival we entered onto the property. In response to this both dogs continued to stand off and bark and eventually retreated to the rear side of the property.

While knocking at the front door, the dogs continued barking and appeared back at the property frontage.

It became apparent that they could move freely from the rear yard to the front yard via either side of the dwelling.

Item 8: Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.: Attachment 6

I suggested to DCO's VALE and GAZE that they use the two rubbish and recycling wheelie bins to block off the gap on the northern side of the property to prevent the dogs from being able to come around behind us and block our escape route through the front gate.

On the southern side of the dwelling a dilapidated low timber fence stretched between the house and the boundary fence.

This fence had broken areas and pieces missing and without any gate, had an open area of around a metre or so. It was not sufficient to contain either dog to the rear of the property.

There were two bicycles leaning against this fence. From memory both were in states of disrepair. I think one was minus pedals.

I entered through the gap in the fence and moved the bicycles across the gap as a barrier that would hopefully prevent the dogs from returning to the front yard of the property.

The bicycle were moved with care and were not damaged by me to the best of my recollection.

At some stage the larger brown dog appeared. It barked and circled the yard before running around behind a small shed-type structure in the southwest corner of the yard where I witnessed it jump over the boundary fence and into the rear yard of the dental practice.

I went back to the Dental Practice yard where I watched the dog jump back over the same section of fence and back into the rear of number 80.

Between the three DCO's we managed to corral the dogs into the rear area close to the dwelling.

The smaller black dog had moved into the space between the dwelling house and the northern boundary fence.

Because of the earlier actions of the dogs and my belief that they may constitute a bite risk, I used a catch-pole to secure this dog.

This was done in a slow, quiet and calm way as dogs generally do not react well to an approaching pole.

The dog was restrained and removed to the rear of my work vehicle where, from recollection, it jumped into the cargo area voluntarily.

This necessitated my lifting the pushbikes out of the way. Again I don't recall this damaging either bike in any way.

The second dog had retreated to the rear porch area of the dwelling where it was catch-poled by DCO VALE and removed to the rear of my work vehicle.

This dog did not want to voluntarily jump into the rear so was quickly hoisted up with the catch-pole on the neck and DCO GAZE lifting the dog's rear. This took 2-3 seconds and its common practice where a dog does not voluntarily get into the vehicle. It does not harm the dog and ensures the safety of staff.

The relevant notices were left at the property and the dogs removed to the NCC pound where both displayed continued aggression (growling) and were catch-poled into the pound confines in the name of officer safety.

80 WAIMEA ROAD STATEMENT

DCO SANDY VALE

20 FEBRUARY 2020

- 1038hrs** Received call from DCO Welch that they required assistance for two aggressive dogs located at 80 Waimea Road.
- Queried if firearm required – not required at this stage.
- Arrive on site and DCO Welch and Gaze advise brown pit bull type dog was reported off the property acting aggressively on neighbouring property.
- Dog was sighted jumping into the property located at 80 Waimea Road.
- DCO Welch and Gaze tried entering the property but two dogs were blocking their entrance with teeth bared, heckles raised and barking.
- 1045hrs** Arrive at property and assess best way to capture dogs to ensure no risk to public safety.
- Ascertained dogs were in back yard with access to front area.
- DCO Gaze places a wheelie bin at north eastern side of house to block dog's coming around side of house and up behind us.
- DCO Welch places push bike at north western side of house to block dog's access to front of property.
- DCO Welch and Vale proceed to back yard.
- Both dogs race to north eastern side of house. DCO's try and herd dogs up onto deck area (has gate) but brown dog escapes and immediately jumps fence into neighbouring property.
- Both dogs are acting territorial and fearful at same time, teeth bared, heckles raised, low grumbling in back of throat with bursts of barking and lunging forward.
- Black bitch is captured using a catchpole due to her aggression levels by DCO Welch and secured in vehicle.
- Proceed to neighbouring property to see brown dog jump back into 80 Waimea Road.
- With assistance from DCO Gaze, brown dog is captured using catchpole by DCO Vale and secured in vehicle.
- Both dogs continue to bare teeth, growl and bark at DCO's.
- 1100hrs** Seizure notice with search and surveillance notice taped to dwelling door.

**Sandy Vale**  
Dog Control Officer

A2389409



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INCIDENT AT 80 WAIMEA ROAD NELSON ON 20 FEBRUARY 2020

SERVICE REQUEST 2006506

Report from Bill Gaze

Report relating to an incident on the morning of February 20<sup>th</sup> 2020 at 80 Waimea Road, Nelson.

Introduction:

On Thursday 20<sup>th</sup> February 2020, just after 9.20am, David WILSON from Wilson Dental at 82 Waimea Road contacted Nelson City Council and advised *"There is a ferocious dog (a Pit bull I think) roaming on my property. The dog does not have a collar and has been on my property before."*

The event, Service Request number 2006506 was assigned to me as I was the morning on-call Dog Control Officer.

Initial Attendance:

I attended soon after receiving the Service Request.

On my arrival I sighted the dog on Mr Wilson's property, Wilson Dental at 82 Waimea Road. When I tried to approach the dog it was very fear aggressive advancing towards me with growls and bearing its teeth. It went round and round in circles but eventually disappeared from sight. It was a medium to large brown dog which was later identified as Boston.

Second Call Received:

At around 10.20am Mr WILSON called back saying the same dog had returned to his property and *"is barking aggressively and scaring people."*

Because of concerns of aggression I was accompanied by DCO Jeff Welch back to the property at around 10.30am.

Second Attendance and Actions taken:

On arrival, the same medium to large sized brown dog was seen in the car park of number 82 Waimea Road.

DCO Welch managed to shepherd the dog through some shrubs and back into number 80.

On approaching the gate of number 80 Waimea Road we were met by two dogs barking aggressively and although their tails were wagging that is no guarantee of friendly behaviour.

Eventually both dogs were moved away from the gate so we could attempt to enter the property.

Myself and DCO Welch both felt that the dogs were sufficiently territorial that we could not safely enter the property without further support.

DCO Welch contacted Dog Control Administration office and made enquiries as to whether any dogs were recorded to the address.

He was given an owner name associated to the property with records showing that a white Staffordshire Bull Terrier was linked to the property.

There was no dog matching this description and no other dogs were shown as being registered to the address.

DCO Welch contacted DCO VALE and asked her to come to the property to back us up so we could make an approach to the doorway to enquire with the occupants.

Item 8: Objection to Classification of dogs Boston and Rarka as menacing. Kyran Taylor and Talia Samuels.: Attachment 6

While waiting for DCO VALE, the dogs continued to react territorially to our presence at the gate so we moved away a short distance.

When DCO VALE arrived we all entered the property. Both dogs continued to stand off and bark but eventually retreated to the rear side of the property.

When we knocked at the front door, the dogs continued barking and appeared back at the front of the property.

It was obvious the dogs could move freely from the rear to the front yard of the property via both sides of the dwelling.

DCO Welch followed the Brown dog around the left side of the house.

On the southern side of the house an old, falling to bits low timber fence ran between the house and the boundary fence.

This fence had broken areas and bits missing, with no gate. It had an open area of about 1 metre. It was not sufficient to contain the dogs to the rear of the property.

Two bicycles were leaning against this fence. They were both in states of disrepair. I think one was minus its pedals.

Between us three DCO's we managed to shepherd the dogs into the rear area close to the house.

I was on the North side of the house which stopped the black dog coming through that side to the front of the house. The black dog was being very territorial and aggressive.

Because of the dogs' behaviour DCO Welch used his catch pole to catch and restrain the black dog and placed it in his vehicle.

With the assistance of DCO Vale using her catch pole on the brown dog was captured.

The black dog did not want to voluntarily jump into the rear of DCO Welch's vehicle so was quickly hoisted up by DCO Welch with his catch-pole into his vehicle, with my assistance lifting the dog's rear. This took a very brief moment and is common practice and causes no harm to the dog.

DCO Welch used his catch-pole due to how aggressive the black dog was towards us. I believed the dog was a bite risk. The use of the pole was done in a quiet, slow manner as dogs do not react well to being approached with a pole.

The black dog in DCO Welch's vehicle was aggressive and at the pound had to be catch-polled out of the vehicle into the pound cage.

This dog was aggressive to staff walking past the cage bearing its teeth and growling and barking.



**Bill Gaze.**