



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

Date:	Wednesday 16 September 2020
Time:	9.00 a.m.
Location:	Council Chamber, Civic House 110 Trafalgar Street Nelson

## **Agenda**

### ***Rārangi take***

<b>Chair</b>	Cr Kate Fulton
<b>Members</b>	Cr Trudie Brand
	Cr Matt Lawrey

**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. Objection to Classification of dog Banshee as menacing.**

**Hsin Chien (Ashley) Shih**

**4 - 29**

Document number R18163

Recommendation

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

- 1. Receives the report Objection to Classification of dog Banshee as menacing. Hsin Chien (Ashley) Shih (R18163) and its attachments (A2438905, A2438911, A2438915, A2134555, A2438922, A2438931); and***
- 2. Dismisses the objection of Hsin Chien (Ashley) Shih to the Classification of dog Banshee as menacing; and***
- 3. Upholds the classification of dog Banshee as menacing.***



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**REPORT R18163**

**Objection to Classification of dog Banshee as menacing.  
Hsin Chien (Ashley) Shih**

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**1. Purpose of Report**

- 1.1 To decide on an objection to the classification of a Siberian Husky named Banshee as menacing, pursuant to Section 33A of the Dog Control Act 1996.

**2. Summary**

- 2.1 At about 12.30pm on Friday 19 June 2020, Nelson City Council received a report of a Husky dog attacking a sheep in the Stanley Whitehead Reserve, on the hillside at the end of Halifax Street East, below Walters Bluff and Centre of NZ track. At the time the report came in the dog was still on the site.
- 2.2 On their arrival, Council Dog Control Officers were approached by Ashley Shih who told them she had been out walking her Husky named Banshee on the track and in the wet conditions the lead had slipped out of her hand and her dog had run off. She said she had been searching for Banshee for an hour.
- 2.3 Banshee was found with a recently deceased sheep, which was up against a wire mesh fence behind Halifax Street East.
- 2.4 Banshee was eating the sheep when she was found.
- 2.5 Banshee's long lead was still attached to her collar and had become entangled around the sheep's hind leg, suggesting it was likely Banshee's lead had become entangled with the sheep while she was chasing it. (Attachment 1)
- 2.6 After investigation and considering the public reported and observed behaviour of Banshee, Nelson City Council classified her as menacing

Item 6: Objection to Classification of dog Banshee as menacing.  
Hsin Chien (Ashley) Shih

pursuant to Section 33A of the Dog Control Act 1996.  
(Attachment 2)

- 2.7 Banshee is owned by Hsin Chien Shih, who prefers to be called Ashley. Ashley has objected to the classification of her dog Banshee.  
(Attachment 3)

### **3. Recommendation**

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

- 1. Receives the report Objection to Classification of dog Banshee as menacing. Hsin Chien (Ashley) Shih (R18163) and its attachments (A2438905, A2438911, A2438915, A2134555, A2438922, A2438931); and***
- 2. Dismisses the objection of Hsin Chien (Ashley) Shih to the Classification of dog Banshee as menacing; and***
- 3. Upholds the classification of dog Banshee as menacing.***

### **4. Background**

- 4.1 Nelson City Council is not aware of any previous dog control history for Banshee.

### **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

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Hsin Chien (Ashley) Shih

- (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.

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 consistent with previous decisions of the Hearings Panel - Other in relation to menacing dog classifications.

The Evidence which formed the basis for the Classification

5.7 An eye-witness account from a member of the public who looked from her laundry up to the grazing area behind her home on Milton Street, Nelson and saw a dog attacking or eating a sheep. She reported the dog was shaking its head in a vigorous manner. The dog made many attempts to try and move the sheep, and when unsuccessful, fed on it where it lay. She provided a photograph taken by her from her home. (Attachment 5).

5.8 Two experienced Dog Control Officers attended and spoke with Ashley Shih the owner of the dog Banshee. Ashley said she had been walking her dog and the lead had been pulled from her hand and Banshee ran off. She had been unable to locate Banshee.

5.9 Banshee was located by Council Dog Control Officer, Jeff Welch on the hill behind Halifax Street East. She was with a dead sheep, up against a wire fence and was feeding on the sheep, pulling on the carcass.

5.10 When found, Banshee's lead was tangled around the dead sheep's hind leg.

Item 6: Objection to Classification of dog Banshee as menacing.  
Hsin Chien (Ashley) Shih

- 5.11 The owner of the sheep, was Andrew Newton, who farms the Council owned reserve land under contract.
- 5.12 Andrew, a very experienced farmer and stockman, recovered his dead Perindale sheep and provided an e-mailed report in which he stated that the sheep had almost certainly been chased as it was on the bottom fence-line with its head through the netting. It had been badly mauled around the face, probably prior to it getting its head through the fence. Wool had been pulled from the body which was consistent with a continued dog attack. When uplifted the sheep had not been dead long (Attachment 6).
- 5.13 Mr Newton reported that to catch and maul a Perindale ewe the dog must have been persistent and he would have serious concerns about the dog that inflicted the extent of damage the sheep suffered.

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

- 5.14 Ashley Shih submits in her objection papers that the following steps have been taken to ensure a similar event will not occur:
- Banshee has been booked in with a dog behaviourist, specialising in prey drive.
  - Ashley will implement any techniques recommended by the dog behaviourist.
  - Banshee has been de-sexed.
  - Banshee is never allowed off-leash anywhere near sheep or in areas where voice control may be difficult.
  - Ashley trains Banshee daily for impulse control, recall, obedience and walking manners.
  - Banshee is crated inside the house at night and when no one is home.

Matters relied on in support of the objection

- 5.15 Ashley Shih submits that she has taken steps as outlined above to ensure a similar situation will not occur.
- 5.16 Banshee is booked into one of the nation's top dog behaviourists and dog psychologists specialising in prey drive, with a history of success in rehabilitation of classified dogs.
- 5.17 Banshee will complete a 3-week rehabilitation programme.
- 5.18 On 21 July 2020, Ashley provided a letter from the dog behaviour specialist (Tammi Wharton) who specialises in aggression in powerful dog breeds like Huskies and German Shepherds.

Item 6: Objection to Classification of dog Banshee as menacing.  
Hsin Chien (Ashley) Shih

- 5.19 In her letter, Tammi states she has a very good reputation for turning dogs around and works very closely with dog owners. She has worked with many dogs classed as menacing and fought to have such dogs *"taken off the euthanasia list."*
- 5.20 Banshee has no history of aggression or killing, nor has she ever been loose or lost. Ashley says she is very careful with Banshee.
- 5.21 Ashley submits that this incident was a *"wrong place, wrong time accident."*
- 5.22 Ashley states that she will not be near these areas again to completely eliminate the risk of Banshee worrying stock. She has always avoided The Grampians or anywhere there are sheep.
- 5.23 Banshee has a proven history that she can be trained out of her prey drive - the evidence being with their cats.
- 5.24 Attendance at the rehabilitation program will reduce the risk of Banshee wanting to worry stock and the program Banshee is booked for has proven success for Huskies and specialises in prey drive.
- 5.25 The program will also teach Ashley as owner, further ways to manage Banshee's prey drive.

## 6. Options

Option 1: The Objection be Dismissed (recommended Option)	
Advantages	<ul style="list-style-type: none"><li>This will result in Banshee being legally required to wear a muzzle whenever out in public. This will reduce the risk of people, other dogs and animals being attacked and injured or killed 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 that Banshee and her owner enjoy.</li></ul>
Option 2: The Objection be Upheld	
Advantages	<ul style="list-style-type: none"><li>Banshee will not legally be required to wear a muzzle in public.</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 or killed if Banshee were to again escape and become aggressive.</li></ul>



Item 6: Objection to Classification of dog Banshee as menacing.  
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## **7. Conclusion**

- 7.1 A member of the public has reported their observed behaviour of the dog Banshee, reporting her as “killing and eating a sheep.” They provided a photograph taken from their house of Banshee with the sheep.
- 7.2 A Dog Control Officer has found Banshee with a dead sheep, feeding on the carcass and her lead entangled around the sheep’s hind legs.
- 7.3 The evidence is clear that Banshee chased down and killed the sheep.
- 7.4 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 dog Banshee 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 dog is on private land.
- 7.5 It is recommended that the objection be dismissed and the classification of Banshee as a menacing dog be upheld.

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

### **Attachments**

- Attachment 1: A2438905 Dog Control Officer Jeff Welch Report [↓](#)
- Attachment 2: A2438911 Menacing Papers dog Banshee Owner Ashley Shih [↓](#)
- Attachment 3: A2438915 Ashley Shih Dog owner 20822 Objection to Menacing classification of dog Banshee [↓](#)
- Attachment 4: A2134555 Dog Control Act 1996 Sections 33A and 33B [↓](#)
- Attachment 5: A2438922 Dog attack on sheep - Eye witness account [↓](#)
- Attachment 6: A2438931 Dog attack on sheep - sheep owner's report [↓](#)

<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 6: Objection to Classification of dog Banshee as menacing.  
Hsin Chien (Ashley) Shih: Attachment 1

File Note SR 2019461: Dog vs Sheep

19/06/20

1235hrs: Contacted by office and advised of a report of a dog attacking a sheep on the hillside at the end of Halifax Street east. Dog described as a Husky and still on site.

1242hrs: Notify EIL Manager Brent EDWARDS of job and seek authorisation to deploy a firearm. Approved.

Task Administration officer Rebecca HARDIMAN to commence a log of the event and to notify Police that we are responding with firearms.

1253hrs: On site corner of Milton and Halifax East streets.

A woman approaches and identifies herself as the owner of the dog, a Husky named Banshee.

Ask DCO GAZE to door knock at complainant's address of \_\_\_\_\_ and seek further details of what she saw.

Husky owner says she was walking the dog on lead along from the Centre of NZ when the lead slipped out of her hand and the dog took off.

She has been in the area for a while trying to locate the dog.

DCO GAZE returns and advises that the dog is still on the hillside feeding on the sheep and can be seen from the complainant's address.

I climbed the hill face behind 114 Halifax Street East and located the sheep against a wire fence behind 112A Halifax Street East.

The Husky was pulling at the carcass and ceased when it spotted me.

I took several photos on my cell phone (raining, bleak conditions).

On approach I observed that a long blue leash was attached to the dog's collar and it had gotten tangled around the sheep's hind leg.

The sheep was dead.

I untangled the dog's lead and returned to the street whereupon the dog was impounded and the owner advised of the investigative process.

1352hrs: Telephone original complainant \_\_\_\_\_ and thank her for notifying Council of the incident.

I explained the process and asked that she email me her account of what she observed, asking that she comment on whether she saw the sheep alive at any stage.

\_\_\_\_\_ advised that she was at work until 5pm but would send through the information over the weekend.

22/06/20

0925hrs: On arrival at the office, DCO GAZE provides me with an invoice from Andrew NEWTON of Pepin Farms quoting the cost of recovery of the dead sheep. \$154.33.

Reply email to Andrew seeking cost of sheep.

  
J WELCH  
DOG CONTROL  
NELSON CITY COUNCIL

Item 6: Objection to Classification of dog Banshee as menacing.

Hsin Chien (Ashley) Shih: Attachment 1

File note SR 2019461: Dog vs Sheep continued

2.

DCO GAZE also gives me an email from the dog owner, Ashleigh SHIH, with her account of how Banshee came to escape from her control.

1011hrs: Reply email to Ashleigh SHIH acknowledging receipt of her email and advising process from here.

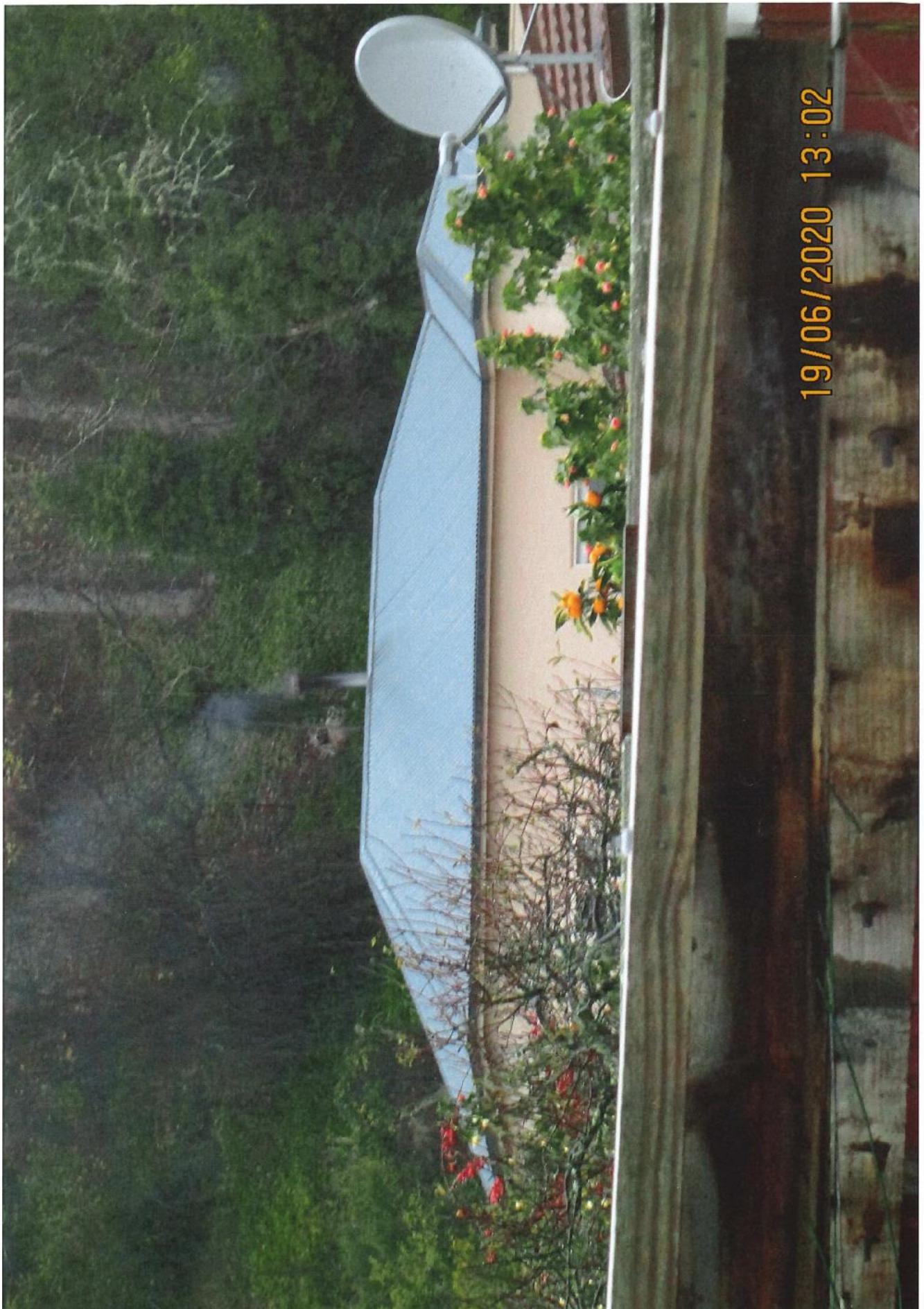


J WELCH  
DOG CONTROL  
NELSON CITY COUNCIL



Item 6: Objection to Classification of dog Banshee as menacing.

Hsin Chien (Ashley) Shih: Attachment 1



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Hsin Chien (Ashley) Shih: Attachment 1





Item 6: Objection to Classification of dog Banshee as menacing.

Hsin Chien (Ashley) Shih: Attachment 2



COPY

Ref: 2019461

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

22 June 2020

P (03) 546 0243  
E jeff.welch@ncc.govt.nz  
**nelson.govt.nz**

Hsin Chien (Ashley) Shih  
[REDACTED]  
[REDACTED]

Dear Ashley

**DOG v SHEEP INCIDENT 19 JUNE 2020**

I write regarding the incident of Friday 19 June 2020 involving your Husky dog Banshee amongst sheep on the hillside at the end of Halifax Street east.

Firstly, thank you for your help and co-operation with this investigation.

Council has reviewed the evidence to hand and is satisfied that Banshee was amongst stock and that her actions likely led to the death of a ewe which was grazing in the area. The ewe had been bitten on the head and face areas and Banshee's lead was entangled around the sheep's leg suggesting the sheep was likely mobile in the initial stages of the attack.

It is acknowledged that this incident was accidental. That said, it is clear that, given the opportunity, Banshee will worry stock.

The Dog Control Act makes it an offence for a dog to either attack an animal or to rush at an animal (so as to cause endangerment, injury or death). Both of these offences, if pursued by Council, require a Court attendance which, upon a successful prosecution, result in the dog owner receiving a conviction. The Court must also issue an order for the destruction of the dog involved, unless the Court finds exceptional circumstances in the offence events.

Nelson City Council will not be taking a prosecution against you over this matter.

Instead an infringement has been issued for a breach of section 53(1) of the Act: Fails to Control a Dog. Please find the notice enclosed. A summary of your rights is printed on the back of the notice.

As well as considering a response to the offence, Council must give attention to what enforceable steps can be put in place to best prevent a recurrence of this behaviour by Banshee.

As a result Banshee is being classified as a Menacing Dog. Please find the relevant classification papers enclosed. I would encourage you to read these in their entirety.

Item 6: Objection to Classification of dog Banshee as menacing.

Hsin Chien (Ashley) Shih: Attachment 2

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In brief, the main requirements of the classification are:

- **From receipt of the classification papers**, Banshee is to be muzzled at all times in public (unless completely confined in a car or cage);
- **Within one month** of receipt of this notification, Banshee must be spayed\* and a veterinary certificate confirming that this has occurred provided to Council;
- You must notify anyone else having charge of the dog of the muzzling requirement.

There are substantial penalties for non-compliance with the classification requirements including that the dog may be seized and the owner prosecuted.

Section 33B of the Dog Control Act provides you with a right to object to the classification. Should you wish to lodge an objection, you should do so, in writing, within 14 days of receipt of this correspondence.

You have a right to be heard in support of your objection. Please note that should you wish to object to the classification, the Hearings Panel cannot alter or modify the conditions of the classification. They can only uphold the classification or rescind it.

\* Nelson City Council has an arrangement with the Nelson Branch of the SPCA that dogs classified as Menacing can be desexed for \$25 instead of the more usual \$300-\$400. You can make application at the SPCA who will have you sign a document acknowledging the classification and will provide you with an appointment at the Victory Veterinary practice.

Additionally, the Dog Control Act makes a dog owner responsible for costs associated with damage or loss attributable to their dog. I will obtain the relevant invoices from the stock owner and forward these to you in due course.

I hope this information provides you with an understanding of the process and of the need for Council to apply enforceable restrictions in the name of the safety of animals (or people) in the future.

Please feel free to contact this office if you need any further information or explanation.

Thank you again for your co-operation.

Yours sincerely



Jeff Welch

Dog Control Officer

Nelson City Council | *Te Kaunihera o Whakatū*  
P 03 546 0243  
[nelson.govt.nz](http://nelson.govt.nz)

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

*Section 33A, Dog Control Act 1996*

To: Hsin Chien (Ashley) SHIH (owner 20822)

DOB [REDACTED]

Address: [REDACTED]

Dog: 'Banshee' Siberian Husky, female, microchip 934000090160763

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

This is because under section 33A(1)(b)(i) Banshee was loose in the presence of grazing stock and is believed to have caused the death of a sheep valued at \$300.

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

  
.....  
Signature of Officer for Nelson City Council

Date: 23 JUNE 2020  
.....

\*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**, as required by the Nelson City Council, produce to the Nelson City Council within one month after receipt of this notice, a certificate issued by a registered veterinary surgeon certifying that-
  - (i) 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



Item 6: Objection to Classification of dog Banshee as menacing.

Hsin Chien (Ashley) Shih: Attachment 2

COPY

- (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.

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

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

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

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

**Right of objection to classification under section 33A**

*Section 33B, Dog Control act 1996*

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

Item 6: Objection to Classification of dog Banshee as menacing.  
Hsin Chien (Ashley) Shih: Attachment 3

**Ashley Shih. Dog Owner 20822**

Submissions:

Objection to Menacing Classification of her Siberian Husky dog named Banshee

Wednesday 1 July 2020 2:17 p.m.

To whom it may concern,

This is a written objection to object to the classification of my dog. She has been booked into one of the nation's top dog behaviourists and dog psychologists specialising in prey drive, with a history of success in rehabilitation of classified dogs. We will implement any techniques she recommends going forward to continue her rehabilitation.

You may contact her - Tammie Wharton of Freedom & Harmony in Whakatane. Phone number 0210 816 1746

Friday, 17 July 2020 10:52 a.m.

Desexing confirmation, couldn't get the scanner to work. Can scan it when I do if you need it scanned.

I can get the dog behaviourist/psychologist to do a pre report if you like but a report after she has completed the 3 week rehabilitation program would probably be better.

Monday 20 July 2020 8:46 p.m.

I will get you a letter from the behaviourist tomorrow, she is working on it.

To add to Banshee's background, she also has no history of aggression or killing, nor has she ever been loose/lost. I am very careful with her.

As for steps as a dog owner, I have always been very responsible. She is never allowed off leash anywhere near sheep as I know dogs given the chance will chase prey. Even places that are too exciting where I don't think I can keep her under voice control I don't let her off - I don't just let her run up to everyone even though she is very friendly (you don't know if the people like dogs or maybe their dog doesn't like other dogs). At this age especially she is still so young but we are putting in lots of work for her foundation so when she is around 3 she will have matured into a very well-mannered dog. We do daily training for impulse control, recall, obedience and walking manners. She is crated inside the house overnight and whenever we go out.

This incident was a wrong place, wrong time accident. It was a horrendous day weather wise so we were trying to head home (on leash) going down a muddy bank to exit the paddock in the opposite direction I had just spotted sheep at the top of the hill which were hidden from view before we entered - she hadn't even noticed them so I thought we were home free when she just suddenly bolted down the cliff (still opposite direction to sheep I had seen) causing me to slip and fall and then lose sight and sound of her as well. I heard other dogs barking so I thought she had run to play with dogs at the bottom of the cliff. I kept trying to make my way down while calling around and looking online to see if anyone had reported she turned up in their backyard including calling dog

Item 6: Objection to Classification of dog Banshee as menacing.

Hsin Chien (Ashley) Shih: Attachment 3

control, and also calling my partner to come and help me look. I kept looking and calling for her, still no sign of movement or sound anywhere (contributed by weather as well) and I even saw calm and grazing sheep as I went down the cliff. As it was very steep and muddy I only got about halfway down before I received a call from dog control. They said they had her (otherwise I wouldn't have left where I lost her) which is why I rushed up the bank and down the path to meet them but at this point she hadn't even been found. She was found with a tangled leash which meant she couldn't come back to me on her own.

I haven't and won't be near these areas again to completely eliminate the risk of her worrying stock. We have also always avoided Grampians or anywhere like that where there are always sheep. She has a proven track history that she can be trained out of her prey drive - the evidence being with our cats - I can send you photo evidence if you need it of how they happily sleep/lie together. As a very young puppy I did try to train her to be stock proof when she was very little too but didn't have any access to stock - we would try and train near the sheep around Nelson but they always walked away from us. Once she grew bigger I stopped going near them due to the risk.

We will continue to stay away from paddocks with sheep. This rehabilitation program will further reduce the risk of her wanting to worry stock as a second safeguard. It specifically has proven successes for huskies and specialises in prey drive as well, so even though she is an all-round friendly, good natured and well trained dog, this will help set her up to grow up to be even less "menacing" than your average dog you see on the street - husky or not. It will also teach myself as an owner further ways to manage her prey drive over her lifetime.

Thanks

Let me know if there is anything else you need

Ashley

Tuesday 21 July 2020 2.53 p.m.

Letter from Tammi Wharton (Attached).

I have chosen her as my expert as she is known for her reputation in turning classified dogs around - including those classified as dangerous (she has saved Huskies and German Shepherds from euthanasia and turned them into well-mannered dogs), and if she can do that then menacing is going to be accomplishable. This also will be added to my owner steps taken as I am truly eager to follow on from her teachings. It takes a special person to be able to do this work the way she does as well as having her own pack to support her teachings so I will be taking everything on board.

I will be in touch again a few weeks before the hearing date with an update on her rehabilitation. I'm not sure if it would help if the hearing panel needed to call her for questions/answers on the day or prior?

Thank you

Ashley



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Hsin Chien (Ashley) Shih: Attachment 3

**HALIFAX**  
Veterinary Centre  
247 S. BOSTON Avenue Veterinary Hospital


Halifax Veterinary Centre  
205 Oakleaf Street, Halifax

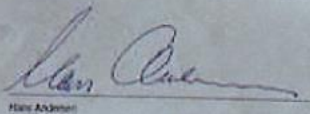
**Ovariohysterectomy Certificate**

I, the undersigned, do hereby certify that I have performed an ovariohysterectomy (spay) on the described patient.

Owner: [REDACTED] Date: 01/07/2019

Patient: Banshee  
Species: Dog  
Breed: Siberian Husky  
Age: 19 months  
Sex: Spayed Female  
Weight: 26.50 kg  
Color: Gray  
Markings:  
Radio tag: 934000090160703  
Registration:



  
Hsin Chien (Ashley) Shih

Item 6: Objection to Classification of dog Banshee as menacing.  
Hsin Chien (Ashley) Shih: Attachment 3

TAMMI WHARTON

FREEDOM & HARMONY

21 July 2020

Brian L Wood  
Nelson City Council  
110 Trafalgar St  
Nelson 7010

Dear Brian,

I am writing this in reference to Ashley Shih and her beautiful husky dog Banshee.

I am a professional dog psychologist and behaviourist and specialise in dog aggression and powerful breeds like Huskies and German Shepherds. I have a very high success rate due to my immense knowledge of dogs and spending 14 years living in the UK where I would spend months at a time at a wolf sanctuary in Norway viewing dog behaviours and interactions.

I've got a very good reputation for turning dogs around as I work very closely with their owners and give them the tools to manage these powerful breeds and for them to live harmoniously together. I have worked with many dogs who have been classed as menacing and have fought to get dogs taken off the euthanasia list for such behaviours too.

I have opened up a space for Ashley to bring her dog to me and it will be a very successful program. I hope you take this in to consideration.

Thank you for your time. You are welcome to contact me on 02108161746 or view my work and reviews on my website [www.freedomandharmony.co.nz](http://www.freedomandharmony.co.nz)

I believe and stand by my motto 'every dog deserves a second chance'.

Yours sincerely,

Tammi Wharton

117A AWAITI NORTH ROAD WHAKATANE 3193 021 0816 1746





## 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).

Item 6: Objection to Classification of dog Banshee as menacing.

Hsin Chien (Ashley) Shih: Attachment 5

Dog Attack on Sheep – Service Request: 2019461

E-Mail Received from original informant.

E-Mail received on 19 June 2020 at 4.05pm

Sent to Dog Control Officer, Jeff Welch

"Hi Jeff,

When going into my laundry I looked up to the farm and a large white object caught my eye. I then worked out it was in fact a white and grey Husky pulling at a sheep. Due to the distance and the weather it was hard to tell if the movement of the sheep was due to the dogs vigorous head shaking or if there was some life left in the sheep. I didn't see the initial interactions or couldn't confidently say it was an attack but had not noticed the dead animal earlier in the day.

The dog made many attempts to try and move the sheep without much luck so fed on it where it laid.

First noticed about 12.15pm on Friday 19 June.

I wish to stay anonymous throughout your investigation please.

Kind Regards "

(Name supplied)

Photograph taken also supplied

Item 6: Objection to Classification of dog Banshee as menacing.

Hsin Chien (Ashley) Shih: Attachment 5



*PHOTO BY COMP.*

Item 6: Objection to Classification of dog Banshee as menacing.

Hsin Chien (Ashley) Shih: Attachment 6

Dog Attack on Sheep – Service Request: 2019461

E-Mail Received from Andrew Newton – Farmer & Owner of the sheep

E-Mail Sent/Received on Monday 22 June 2020 at 6.32pm

Sent to Dog Control Officer, Jeff Welch

"Hi Jeff,

On recovering the sheep, which would almost certainly have been chased due to the fact it was on the bottom fence line with its head through the netting, we observed it had been badly mauled around the face, probably prior to it getting its head through the fence.

Some wool had been pulled from the body which is consistent with the dog continuing the attack when it could no longer attack around the head.

When we picked it up it was clear that it had not long been dead as it was starting to blow up but was not stiff. Also the blood on and over the face was still liquid.

To catch and maul a Perindale ewe the dog must have been persistent. I would have serious concerns about the dog that did this extent of damage.

Thanks,

Andrew. "