



Nelson City Council
Te Kaunihera o **Whakatū**

Notice of the Ordinary meeting of

Hearing Panel

Te Rōpū Rongonga

Date:	Friday 22 March 2024
Time:	9.00a.m.
Location:	Council Chamber Floor 2A, Civic House 110 Trafalgar Street, Nelson

Agenda

Rārangi take

Members

Cr Tim Skinner (Chair)
Cr Mel Courtney
Cr Aaron Stallard

Quorum 2

Nigel Philpott
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. For enquiries call (03) 5460436.

Hearing Panel

1. 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.

2. Membership:

- All elected members aside from the Mayor, in rotation. Each Hearing Panel will be made up of three members.
- The Chair of each Panel will be an elected member who has previously completed the 'Making Good Decisions' course.
- Each Hearings Panel will include no more than one elected member in their first triennium of Council
- The Group Manager Environmental Management may appoint one or more Independent Commissioners to either assist the Hearing Panel 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.

3. 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
- 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.

Karakia and Mihi Timatanga

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

5.1 9 February 2024

5 - 11

Document number M20441

Recommendation

That the Hearing Panel

- 1. Confirms the minutes of the meeting of the Hearing Panel, held on 9 February 2024, as a true and correct record.***

6. Objection to Classification of dog Max as Dangerous Richard (Ricky) Tasker

12 - 24

Document number R28207

Recommendation

That the Hearing Panel

- 1. Receives the report Objection to Classification of dog Max as Dangerous Richard (Ricky) Tasker (R28207) and its attachments (832826773-47632, 832826773-47592 and 832826773-47593); and***

2. ***Dismisses the objection of Mr Tasker to the classification of dog Max as Dangerous; and***
3. ***Upholds the classification of dog Max as Dangerous.***

Karakia Whakamutanga



Minutes of a meeting of the

Hearing Panel

Te Rōpū Rongonga

Held in the Council Chamber, Floor 2A, Civic House, 110 Trafalgar Street, Nelson on Friday 9 February 2024, commencing at 9.00a.m.

Present: Councillors R Sanson (Chair), M Courtney and C Rollo

In Attendance: Deputy Chief Executive/Group Manager Infrastructure (A Louverdis), Governance Adviser (R Byrne) and Assistant Governance Adviser (A Bryce)

Apologies : Nil

Karakia and Mihi Timatanga

1. Apologies

2. Confirmation of Order of Business

There was no change to the order of business.

3. Interests

There were no updates to the Interests Register, and no interests with items on the agenda were declared.

4. Public Forum

4.1. Kevin Johnston - Trafalgar Street Road Closure 03 March 2024

Document number R28290

Kevin Johnston spoke against the proposed Trafalgar Street Road Closure for the Nelson Italian Festival on 03 March 2024. Mr Johnston addressed concerns over lack of event notifications posted to residents of the area and impacts from the road closure on his current ill health, including restricted access for medical vehicles.

- 4.2. Club Italia Nelson Incorporated - Trafalgar Street Road Closure 03 March 2024

Document number R28291

Flavia Spena (member) and Salvatore Gargiulo (vice president) of Club Italia Nelson Incorporated spoke to a PowerPoint (tabled 1982984479-7176) about the Trafalgar Street Road Closure for the Nelson Italian Festival on 03 March 2024.

Attachments

- 1 1982984479-7176 Club Italia Nelson Inc PowerPoint

- 4.3. Urgent Plumbing Services Ltd - The Proposed and Current No Parking Yellow Lines on Quebec Road

Document number R28314

Les Kint from Urgent Plumbing Services Ltd spoke about the Traffic and Parking Bylaw Updates, specifically, against the proposed and current no parking yellow lines on Quebec Road noting tradespeople require access to parking.

- 4.4. Angel Esvella and Lavana Ramsteijn-Whyte - The Proposed No Parking Yellow Lines on Quebec Road

Document number R28315

Angel Esvella and Lavana Ramsteijn-Whyte spoke to a PowerPoint (tabled 1982984479-7180) about the Traffic and Parking Bylaw Updates, specifically, against the proposed no parking yellow lines on Quebec Road. They tabled a petition which could not be formally accepted as it was received outside of the timeline stated in S17.2 of Standing Orders. However, the petition has been attached as supporting information.

Attachments

- 1 1982984479-7180 Angel and Lavana PowerPoint
- 2 1982984479-7182 Angel and Lavana Supporting Information

- 4.5. Amy Shattock - Supporting the Proposed Road Marking Changes and Installation of Yellow Lines on Bills Drive

Document number R28320

Amy Shattock spoke about the Traffic and Parking Bylaw Updates, specifically, supporting the proposed road marking changes and installation of yellow lines on Bills Drive.

Attachments

- 1 1982984479-7179 Amy Shattock PowerPoint

- 4.6. Kirsten Rodsgaard-Mathiesen - Safety Issues with People Parking in Quebec Road

Document number R28319

Kirsten Rodsgaard-Mathiesen supported with amendments, the proposed Traffic and Parking Bylaw Updates, specifically, the safety issues with people parking in Quebec Road too close to Henrietta Way and provided the meeting with an amendment to the current proposal for the no parking lines, shortening half the area.

Attachments

- 1 1982984479-7160 Kirsten Rodsgaard-Mathiesen PowerPoint

- 4.7. Vanessa Smith - Opposes Change to the Current Layout of Bills Drive

Document number R28321

Vanessa Smith spoke about the Traffic and Parking Bylaw Updates, specifically, opposing any changes made to the current layout of Bills Drive.

- 4.8. Zane Smith, Jude Spencer and Dave Spencer - Opposes the Reduction of On Street Parking on Bills Drive.

Document number R28322

Zane Smith and Jude Spencer spoke about the Traffic and Parking Bylaw Updates, specifically, their opposition to the reduction of on street parking on Bills Drive.

The meeting was adjourned from 10.05a.m. until 10.12a.m.

5. Confirmation of Minutes

- 5.1 1 December 2023

Document number M20396, agenda pages 8 - 10 refer.

Resolved HEA/2024/001

That the Hearing Panel

1. ***Confirms the minutes of the meeting of the Hearing Panel, held on 1 December 2023, as a true and correct record.***

Sanson/Courtney

Carried

6. Temporary Road Closure - Nelson Italian Festival

Document number R28228, agenda pages 11 - 20 refer.

Contracts Supervisor – Roding, Gillian Dancey, took the report as read and advised that officers had addressed the notification issues and answered questions on the notification process for the festival.

The Panel made an informal request that when communication from Council goes to the Italian club around this and future events, Council encourages the club to have personal contact with the surrounding residents and specifically their neighbour, Kevin Johnston, to ease his and other concerns.

Resolved HEA/2024/002

That the Hearing Panel

1. ***Receives the report Temporary Road Closure - Nelson Italian Festival (R28228) and its attachments (340448201-5758 and 1355221503-13638); and***
2. ***Approves the temporary road closure attached (340448201-5758) per report R28228 for the Nelson Italian Festival on 3 March 2024.***

Courtney/Rollo

Carried

7. Traffic and Parking Bylaw Updates

Document number R28312, agenda pages 21 - 40 refer.

Manager Transport and Solid Waste, Margaret Parfitt, Safe and Sustainable Transport Adviser, Gina Persico, took the report as read and answered questions on each proposal.

Following information provided by speakers earlier in the meeting, members asked for clarification on the outcome if the proposed no parking lines at Quebec/Henrietta Way were amended. Mrs Parfitt advised that officers would review the proposal, and it would be brought to a future meeting.

Resolved HEA/2024/003

That the Hearing Panel

1. ***Receives the report Traffic and Parking Bylaw Updates (R28312) and its attachments (1355221503-14224,***

1355221503-13463, 1355221503-13523, 1355221503-132000, 1355221503-13464, 1355221503-12947); and

2. Approves amendments of

- a. Proposed no stopping at Hill Street North (1355221503-13523); and**
- b. Layout Change Rawhiti Street (1355221503-13200); and**
- c. Bus Stop Layout Change Westbrook Terrace (1355221503-12947).**

Sanson/Courtney

Carried

8. Nelson Airport - Naming a new private road

Document number R28289, agenda pages 41 - 48 refer.

Development and Naming Adviser, Bernadette Power, took the report as read.

Resolved HEA/2024/004

That the Hearing Panel

- 1. Receives the report Nelson Airport - Naming a new private road (R28289) and its attachments (756385493-54630 and 756385493-54631); and**
- 2. Accepts the name Kuaka Way for the private road shown on the attachments (756385493-54630 and 756385493-54631).**

Rollo/Courtney

Carried

9. Proposed Easements over Part of Wastney Terrace Road Reserve

Document number R28284, agenda pages 49 - 56 refer.

Senior Property Officer, Susan Mathieson, took the report as read and advised a one month public notification was underway. Should any submissions be received, a report would come back to the Hearing Panel.

Resolved HEA/2024/005

That the Hearing Panel

1. **Receives the report Proposed Easements over Part of Wastney Terrace Road Reserve (R28284) and its attachment (714127617-20601); and**
2. **Grants the easements for right of way, retaining wall, right to drain sewage, right to drain water, right to convey water, right to convey electricity and telecommunications, over Part of Wastney Terrace Road Reserve (Lot 9 Deposited Plan 15070) in favour of Part Section 12 District of Suburban North (NL1A/974) subject to public notice under section 48 (2) of the Reserves Act 1977 resulting in no objections or submissions and with all costs associated with the easements to be met by the applicant, subject to final consent of the Council (acting as the Minister of Conservation's delegate).**
3. **Notes that if any objections to the proposed easement are received, a further report will be brought to the Hearings Panel to enable consideration and decision on those objections.**
4. **Notes that if no objections or submissions to the proposed easements are received, a report will be taken to Council for consent to the easements pursuant to delegation from the Minister of Conservation under section 48(1) of the Reserves Act 1977.**

Courtney/Sanson

Carried

10. Proposed Easements over Railway Reserve via Browning Crescent Local Purpose Reserve (Esplanade)

Document number R28287, agenda pages 57 - 63 refer.

Senior Property Officer, Susan Mathieson, took the report as read.

Resolved HEA/2024/006

That the Hearing Panel

1. **Receives the report Proposed Easements over Railway Reserve via Browning Crescent Local Purpose Reserve (Esplanade) (R28287) and its attachment (714127617-20604); and**
2. **Grants an easement for right to convey electricity and telecommunications over Local Purpose Reserve (Esplanade) (Section 150 SO 12047 and Lot 1 DP 16994) in favour of Network Tasman with all costs**

associated with the easements to be met by the applicant, subject to final consent of the Council (acting as the Minister of Conservation's delegate).

- 3. Notes that under section 48 (1) Reserves Act 1977 that public notice is not required.***

Courtney/Rollo

Carried

Karakia Whakamutanga

There being no further business the meeting ended at 11.00a.m.

Confirmed as a correct record of proceedings by resolution on (date)

Resolved

Item 6: Objection to Classification of dog Max as Dangerous Richard (Ricky) Tasker

Hearing Panel



22 March 2024

Report Title: Objection to Classification of dog Max as Dangerous Richard (Ricky) Tasker

Report Author: Chris Bascombe - Team Leader - Regulatory

Report Authoriser: Mandy Bishop - Group Manager Environmental Management

Report Number: R28207

1. Purpose of Report

1.1 To decide on an objection to the classification of a Staffordshire Bull Terrier named Max as Dangerous, pursuant to section 31(1)b and 31(1)c of the Dog Control Act 1996.

2. Summary

2.1 On Friday 16 July 2023, Nelson City Council received a report that stated on 13 June 2023 at about 10am, a large dog wearing a muzzle had leaped at the customer whilst she was on her bike on the railway reserve in Stoke, the contact made by the dog leaping at the customer had caused her to fall off her bike, hit her head and lose consciousness.

2.2 The Victim recalled the person in possession of Max at the time mentioned to them that they walked this dog for their neighbour.

2.3 Animal Control Officer Welch talked to Animal Control Officer Jacobson after receiving the report, Animal Control officer Jacobson suggested making contact with the Taskers as officer Jacobson had recently investigated and classified Max as menacing for a similar complaint in the same area.

2.4 Animal Control Officer Welch Contacted Mr Tasker who denied it could be his dog as their neighbour had "not walked the dog for some time" as he had serious medical issues.

2.5 Animal Control Officer Welch contacted Mr Tasker's neighbour, Neil Thomason to explain why he had contacted Mr Tasker.

Item 6: Objection to Classification of dog Max as Dangerous Richard (Ricky) Tasker

- 2.6 Mr Thomason confirmed knowledge of the incident and explained his recollection of the dog "Max" making contact and subsequently injuring the complainant.
- 2.7 Due to Max's extensive history of aggressive behaviour the decision was made to classify him as a dangerous dog under section 31(b) as despite abiding by the menacing classification he still constituted a threat to the safety of a person during this incident.
- 2.8 Mrs Tasker also emailed Animal Control Officer Welch after receiving the notice of classification. In this email she states that she is "not comfortable with him being out without a muzzle" as they did not know why he had previously bitten. 31(c).
- 2.9 An appeal was made against the classification.

3. Recommendation

That the Hearing Panel

- 1. Receives the report Objection to Classification of dog Max as Dangerous Richard (Ricky) Tasker (R28207) and its attachments (832826773-47632, 832826773-47592 and 832826773-47593); and***
- 2. Dismisses the objection of Mr Tasker to the classification of dog Max as Dangerous; and***
- 3. Upholds the classification of dog Max as Dangerous.***

4. Background

- 4.1 24.11.22 Max was adopted by Monique Tasker from the SPCA.
- 4.2 18.05.23 NCC received a report that Max being off lead had bitten a Post Officer twice during the same incident whilst performing his duties.
- 4.3 26.05.23 NCC received a report Max had while on lead jumped at and bit a member of public, this person then had to dismount their bike and use it as a barrier as Max was still presenting aggressive behaviour.
- 4.4 29.05.23 Officer Jacobson on behalf of NCC classified Max as a menacing dog so he would be required to be muzzled in public.
- 4.5 16.06.23 NCC received a report that whilst wearing a muzzle but off lead, Max made contact with a cyclist causing significant injury.
- 4.6 13.07.23 Officer Walch on behalf of NCC classified Max as dangerous so he would be required to be muzzled and on lead when in public.
- 4.7 25.09.23 Mr Tasker submitted a formal appeal application against the dangerous classification placed on Max.

Item 6: Objection to Classification of dog Max as Dangerous Richard (Ricky) Tasker

5. Discussion

Legislation around classification of a dog as Dangerous

- 5.1 Section 31 of the dog control act states, the territorial authority must classify a dog as Dangerous if:
- a. *The owner of the dog has been convicted of an offence in relation to the dog under section 57A(2); or*
 - b. *The territorial authority has, on the basis of sworn evidence attesting to aggressive behaviour by the dog on 1 or more occasions, reasonable grounds to believe that the dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife; or*
 - c. *the owner of the dog admits in writing that the dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife.*
- 5.2 Section 31(2) states, where any dog is classified as a dangerous dog under subsection (1), the territorial authority shall immediately give notice in the prescribed form of that classification to the owner.
- 5.3 Section 31(3) states where any dog is classified as a dangerous dog under subsection (1)(b), the owner may, within 14 days of the receipt of notice of that classification under subsection (2), object to the classification in writing to the territorial authority and shall be entitled to be heard in support of his or her objection.
- 5.4 Section 31(4) states, In considering any objection under this section, the territorial authority shall have regard to:
- (a) the evidence which formed the basis for the original classification; and
 - (b) any steps taken by the owner to prevent any threat to the safety of persons and animals; and
 - (c) the matters advanced in support of the objection; and
 - (d) any other relevant matters —
- and may uphold or rescind the classification.
- 5.5 Section 31(5) states, the territorial authority shall give notice of its decision on any objection, and the reasons for its decision, to the owner as soon as practicable.
- 5.6 Section 32(1) of the Dog Control Act requires that If a dog is classified as a dangerous dog under section 31, the owner of the dog—

Item 6: Objection to Classification of dog Max as Dangerous Richard (Ricky) Tasker

- (a) Must ensure that from a date no longer than one month after the receipt of notice of classification, the dog is kept within a securely fenced portion of the owner's property that it is not necessary to enter to obtain access to at least one door of any dwelling on the property; and
 - (b) Must not allow the dog to be at large or in any public place or in any private way, except when confined completely within a vehicle or cage, without being:
 - (i) Muzzled in such a manner as to prevent the dog from biting but allow it to breathe and drink without obstruction; and
 - (ii) Controlled on a leash (except when in a dog exercise area specified in a bylaw made under section 20(1)(d)); and
 - (c) Must produce to the territorial authority, within one month after the receipt of the notice of classification, a certificate issued by a veterinarian and certifying-
 - (i) That the dog is or has been neutered; or
 - (ii) That for the 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
 - (d) Must, if a certificate under paragraph (c)(ii) is produced to the territorial authority, produce to the territorial authority, within one month after the date specified in that certificate, a further certificate under paragraph (c)(i); and
 - (e) Must, in respect of every registration year commencing after the date of receipt of the notice of classification, be liable for dog control fees that for that dog at 150% of the level that would apply if the dog were not classified as a dangerous dog; and
 - (f) Must not, without the written consent of the territorial authority in whose district the dog is kept, dispose of the dog to any other person.
- 5.7 Section 32(2) states Every person who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$3,000.
- 5.8 Section 32(3) states If a court convicts a person of an offence against subsection (2), the court must also make an order for the destruction of the dog unless satisfied that the circumstances of the offence were exceptional and do not warrant destruction of the dog.

Item 6: Objection to Classification of dog Max as Dangerous Richard (Ricky) Tasker

- 5.9 Section 32(4) states Every person who sells or otherwise transfers, or offers to sell or transfer, to any other person any dog known by that person to be classified as a dangerous dog without disclosing the fact of that classification to that other person commits an offence and is liable on conviction to a fine not exceeding \$3,000.
- 5.10 Section 32(5) states if a person fails to comply with subsection (1), a dog control officer or dog ranger may-
- (a) Seize and remove the dog from the person’s possession; and
 - (b) Retain custody of the dog until the territorial authority has reasonable grounds to believe that the person has demonstrated a willingness to comply with subsection (1).

The Evidence which formed the basis for the Classification

- 5.11 The affidavit received by Juliet McLintock after the incident on 13 June 2023 (Attached).
- 5.12 Eyewitness accounts of the displayed aggression during the two previous attacks.
- 5.13 Extensive history including three separate reported attacks on people within a month.
- 5.14 ACO’s recollection of the conversation with the person in possession of Max after the third reported incident, confirming that Max was wearing a muzzle but not on lead.

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

- 5.15 The only steps taken by the dog owner have been those specified by the classification placed on Max after the reported attacks.

Menacing (requirement to wear a muzzle)

Dangerous (requirement to muzzle and be kept on lead)

Matters relied on in support of the objection

- 5.16 Mr Tasker submits that he does not believe “the information received to the NCC to be 100% accurate”.

6. Options

Option 1: The Objection Be Dismissed (Recommended Option)	
Advantages	<ul style="list-style-type: none">• This will result in Max being legally required to wear a muzzle and be leashed whenever off his property. This will reduce the risk of people,

Item 6: Objection to Classification of dog Max as Dangerous Richard (Ricky) Tasker

	other animals being attacked and injured or killed should another incident occur.
Risks and Disadvantages	<ul style="list-style-type: none"> This may have a negative impact on Max and his owner’s enjoyment when in public. Max’s registration cost will increase by \$76.50.
Option 2: The Objection Be Upheld	
Advantages	<ul style="list-style-type: none"> Max will not legally be required to be leashed in public (in accordance with the relevant bylaw).
Risks and Disadvantages	<ul style="list-style-type: none"> This will increase the risk of people or other animals being attacked or injured or killed if max were to again be involved in an incident.

7. Conclusion

- 7.1 Several members of public have reported having observed the behaviour of Max as constituting a risk to public safety on numerous occasions.
- 7.2 The evidence is clear that Max has caused injury on multiple occasions including after a menacing classification was place on him.
- 7.3 It is considered that in order to reduce the risk to the safety of members of public and other animals that the dog Max should be muzzled and on lead whenever in a public place. A dangerous classification is the only classification that requires the dog to be leashed and muzzled when in public. A muzzle and a lead would not be required when on private land, and a lead would not be required when in a specified dog exercise area.
- 7.4 It is recommended that the objection be dismissed and the classification of Max as a dangerous dog be upheld.

8. Next Steps

- 8.1 If NCC’s recommendation is upheld there are no further steps as the Taskers and Max are compliant with the dangerous classification.

Attachments

- Attachment 1: 832826773-47632 Affidavit Juliet Mary McLintock July 2023 [↓](#)
- Attachment 2: 832826773-47592 DCA1996 S31 Dangerous Classification [↓](#)
- Attachment 3: 832826773-47593 DCA1996 S32 Dangerous Classification Effect [↓](#)

Item 6: Objection to Classification of dog Max as Dangerous Richard (Ricky) Tasker

Important considerations for decision making
Fit with Purpose of Local Government The regulatory function is 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.
Consistency with Community Outcomes and Council Policy 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 non-compliant owners
Risk Council has obligations under the Dog Control Act 1996 to follow the correct legal process. There is a risk to the community from future incidents if the recommendation is not supported.
Financial impact This decision will have no financial impact on NCC or the community, immediate or long term.
Degree of significance and level of engagement The recommendations outlined in this report are not considered significant in terms of council's significance and engagement policy.
Climate Impact 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
Inclusion of Māori in the decision making process No engagement with Māori has been undertaken in preparing this report.
Legal context <ul style="list-style-type: none">• <i>Council has power to make this decision under section 31 of the Dog Control Act 1996.</i>• <i>Council's decision must be made in accordance with Part 6 of the Local Government Act 2002.</i>
Delegations

Item 6: Objection to Classification of dog Max as Dangerous Richard (Ricky)
Tasker

The Hearings Panel – Other has the following delegations:

- *To hear and determine objections to the classifications of all dogs and all other procedural matters for which a right of objection and hearing is provided for under the Dog Control Act 1996*

Item 6: Objection to Classification of dog Max as Dangerous Richard (Ricky) Tasker:
Attachment 1

Affidavit

**My full name is Juliet Mary McLintock, retired, [REDACTED]
[REDACTED] and I sincerely affirm that:**

I am 75 years of age.

At around 10am on Tuesday the 13th of June 2023 I was riding my pushbike on the Railway Reserve in Stoke, Nelson.

I do a lot of cycling – 4 or 5 times a week and I consider myself to be a confident and capable rider.

I was heading in a northerly direction and as I came up to Saxton Road crossing I noticed a car approaching so I dismounted from my bike and then walked across the roadway after the car had passed.

I saw a man on the Reserve-way on the other side. He had a dog by his side and I couldn't see if it was on a leash or not.

I got back onto my bike to continue on my way and had just started pedalling when the dog jumped up and hit me on my right side.

The force knocked me from my bike and onto the sealed pathway.

I hit my head on the pathway, smashing my helmet and I lost consciousness for a few minutes.

When I regained consciousness, some people had stopped and were helping me and they said they had called an ambulance.

I was vomiting. The ambulance staff believed I had sustained a spinal injury and possible brain bleeding.

As I was being taken to the ambulance I saw the man and dog and I asked if it was that dog that had jumped on me.

He came forward and said that it was and that he was walking the dog for his neighbour who owns it.

He told me that my head had hit the ground, bounced up and then hit the ground again.

He was very apologetic.

At that point I noticed that the dog was wearing a muzzle. I have since wondered why that would be and if the dog has aggression issues or something.

I underwent some tests at the hospital including a scan to determine if I had any spinal injuries or bleeding of the brain and was subsequently released with advice to monitor any symptoms.

JML

NDOCS 832826773-47632

Item 6: Objection to Classification of dog Max as Dangerous Richard (Ricky) Tasker:
Attachment 1

2

Juliet Mary McLintock continues:

The owner of the dog has since made contact with me and has apologised and paid for a new cycle helmet.

I was very shaken by this incident and, if not for my helmet, I believe I could have been very seriously hurt.

I was already mindful of cycling near dogs but this incident has really shaken my confidence.

I should be able to ride my bike without fear of this happening.

Mr gmk -

Affirmed

Sworn at Nelson

This *5th* day of *July* 2023

Before me
R. Scott

Deputy Registrar / ~~Justice of the Peace / Solicitor of the High Court of~~
New Zealand

R J Scott
Deputy Registrar
District Court Nelson

Juliet Mary McLintock
.....

NDOCS 832826773-47632

Dog Control Act 1996

31 Territorial authority to classify dangerous dogs

(1)

A territorial authority must classify a dog as a dangerous dog if—

(a)

the owner of the dog has been convicted of an offence in relation to the dog under [section 57A\(2\)](#); or

(b)

the territorial authority has, on the basis of sworn evidence attesting to aggressive behaviour by the dog on 1 or more occasions, reasonable grounds to believe that the dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife; or

(c)

the owner of the dog admits in writing that the dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife.

(2)

Where any dog is classified as a dangerous dog under subsection (1), the territorial authority shall immediately give notice in the prescribed form of that classification to the owner.

(3)

Where any dog is classified as a dangerous dog under subsection (1)(b), the owner may, within 14 days of the receipt of notice of that classification under subsection (2), object to the classification in writing to the territorial authority, and shall be entitled to be heard in support of his or her objection.

(4)

In considering any objection under this section, the territorial authority shall have regard to—

(a)

the evidence which formed the basis for the original classification; and

(b)

any steps taken by the owner to prevent any threat to the safety of persons and animals; and

(c)

the matters advanced in support of the objection; and

(d)

any other relevant matters—

and may uphold or rescind the classification.

(5)

The territorial authority shall give notice of its decision on any objection, and the reasons for its decision, to the owner as soon as practicable.

Dog Control Act 1996

32Effect of classification as dangerous dog

(1)

If a dog is classified as a dangerous dog under [section 31](#), the owner of the dog—

(a)

must ensure that, from a date not later than 1 month after the receipt of notice of classification, the dog is kept within a securely fenced portion of the owner's property that it is not necessary to enter to obtain access to at least 1 door of any dwelling on the property; and

(b)

must not allow the dog to be at large or in any public place or in any private way, except when confined completely within a vehicle or cage, without being—

(i)

muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; and

(ii)

controlled on a leash (except when in a dog exercise area specified in a bylaw made under [section 20\(1\)\(d\)](#)); and

(c)

must produce to the territorial authority, within 1 month after the receipt of notice of classification, a certificate issued by a veterinarian and 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

(d)

must, if a certificate under paragraph (c)(ii) is produced to the territorial authority, produce to the territorial authority, within 1 month after the date specified in that certificate, a further certificate under paragraph (c)(i); and

(e)

must, in respect of every registration year commencing after the date of receipt of the notice of classification, be liable for dog control fees for that dog at 150% of the level that would apply if the dog were not classified as a dangerous dog; and

(f)

must not, without the written consent of the territorial authority in whose district the dog is to be kept, dispose of the dog to any other person.

(2)

Item 6: Objection to Classification of dog Max as Dangerous Richard (Ricky) Tasker:
Attachment 3

Every person who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$3,000.

(3)

If a court convicts a person of an offence against subsection (2), the court must also make an order for the destruction of the dog unless satisfied that the circumstances of the offence were exceptional and do not warrant destruction of the dog.

(4)

Every person who sells or otherwise transfers, or offers to sell or transfer, to any other person any dog known by that person to be classified as a dangerous dog without disclosing the fact of that classification to that other person commits an offence and is liable on conviction to a fine not exceeding \$3,000.

(5)

If a person fails to comply with subsection (1), a dog control officer or dog ranger may—

(a)

seize and remove the dog from the person's possession; and

(b)

retain custody of the dog until the territorial authority has reasonable grounds to believe that the person has demonstrated a willingness to comply with subsection (1).

(6)

[Section 70](#) applies to a dog removed under subsection (5) as if it were removed under [section 56](#); and accordingly section 70 applies with all necessary modifications.