

I hereby give notice that an ordinary meeting of the Regulatory and Safety Committee will be held on:

Date: Tuesday, 7 March 2023
Time: 10.00am
Meeting Room: Reception Lounge
Venue: Auckland Town Hall
301-305 Queen Street
Auckland

Komiti mō te Waeture me te Haumarutanga / Regulatory and Safety Committee

OPEN AGENDA

MEMBERSHIP

Chairperson	Cr Josephine Bartley
Deputy Chairperson	Cr Ken Turner
Members	IMSB Member Edward Ashby Cr Andrew Baker Cr Julie Fairey Cr Alf Filipaina, MNZM IMSB Member Tony Kake, MNZM Cr Kerrin Leoni Cr Sharon Stewart, QSM Cr Wayne Walker
(Ex-officio)	Mayor Wayne Brown Deputy Mayor Desley Simpson, JP

(Quorum 5 members)

Maea Petherick
Kaitohutohu Mana Whakahaere Matua /
Senior Governance Advisor

1 March 2023

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1 Ngā Tamōtanga | Apologies

2 Te Whakapuaki i te Whai Pānga | Declaration of Interest

3 Te Whakaū i ngā Āmiki | Confirmation of Minutes

There are no minutes for confirmation.

4 Ngā Petihana | Petitions

5 Ngā Kōrero a te Marea | Public Input

5.1 Public Input: Anna Easterbrook - challenges of dog ownership / management within the Auckland region.

Te take mō te pūrongo

Purpose of the report

1. Anna Easterbrook will address the Regulatory and Safety Committee on the challenges of dog ownership / management within the Auckland region.

Whakarāpopototanga matua

Executive summary

2. This committee is responsible for regulatory hearings (required by relevant legislation), regulatory policy and bylaws and is responsible for overseeing improvement of the Council's regulatory functions and making certain regulatory decisions that are appropriate to be made by elected members.

Ngā tūhonga

Recommendation/s

That the Regulatory and Safety Committee:

- a) whiwhi / receive the public input from Anna Easterbrook regarding the challenges of dog ownership / management within the Auckland region and whakamihi / thank Anna Easterbrook for attending the meeting.

6 Ngā Kōrero a te Poari ā-Rohe Pātata | Local Board Input

7 Ngā Pakihi Autaia | Extraordinary Business

Regulatory and Safety Committee Forward Work Programme

File No.: CP2023/01910

Item 8

Te take mō te pūrongo

Purpose of the report

1. To whakaae / approve the Regulatory and Safety Committee's forward work programme appended as Attachment A.

Whakarāpopototanga matua

Executive summary

2. This committee is responsible for regulatory hearings (required by relevant legislation), regulatory policy and bylaws and is responsible for overseeing improvement of the Council's regulatory functions and making certain regulatory decisions that are appropriate to be made by elected members.
3. Areas of work are briefly described as requiring either decision or direction. Where possible, likely timeframes for coming before the committee have also been identified.
4. Staff will keep the forward work programme updated and complete a review of the forward work programme every six months.
5. All committees have been requested to approve their forward work programme, by the end of March 2023.
6. Following approval, all committee forward work programmes will be reported to the Governing Body in April and October each year, for oversight as per the Terms of Reference.

Ngā tūtohunga

Recommendation/s

That the Regulatory and Safety Committee:

- a) whakaae / approve the Regulatory and Safety Committee's forward work programme (Attachment A of the report).
- b) whakaae / agree that the Regulatory and Safety Committee's forward work programme be reported for information on a monthly basis and reviewed in September 2023.

Ngā tāpirihanga

Attachments

No.	Title	Page
A 	Regulatory and Safety Committee Forward Work Programme 2023	

Ngā kaihaina

Signatories

Author	Maea Petherick - Kaitohutohu Mana Whakahaere Matua / Senior Governance Advisor
Authoriser	Craig Hobbs - Director Regulatory Services

Summary of Regulatory and Safety Committee information memoranda and briefings - 7 March 2023

File No.: CP2022/17331

Item 9

Te take mō te pūrongo

Purpose of the report

1. To whiwhi / receive a summary and provide a public record of memoranda or briefing papers that have been distributed to the Regulatory and Safety Committee.

Whakarāpopototanga matua

Executive summary

2. This is a regular information-only report which aims to provide greater visibility of information circulated to Regulatory and Safety Committee members via memoranda/briefings, where no decisions are required.
3. The following information items have been distributed:

Date	Subject
20/12/2022	EMAIL: DRAFT SUBMISSION: Sale and Supply of Alcohol (Community Participation) Amendment Bill
21/12/2022	MEMO: Regulatory Compliance response levels over holiday break
16/01/2023	MEMO: Hearings held, hearing panels and hearing outcomes January 2022 – December 2022
16/01/2023	EMAIL: DRAFT SUBMISSION: Sale and Supply of Alcohol (Community Participation) Amendment Bill (<i>timeframe extension</i>)
19/01/2023	EMAIL: FOR FEEDBACK: Draft submission on Sale and Supply of Alcohol (Community Participation) Amendment Bill

4. The following workshops/briefings have occurred:

Date	Subject
13/12/2022	Regulatory and Safety Committee workshop

5. This document can be found on the Auckland Council website, at the following link:
<http://infocouncil.aucklandcouncil.govt.nz/>
6. Note that, unlike an agenda report, **staff will not be present to answer questions about the items referred to in this summary.** Committee members should direct any questions to the relevant staff.






Ngā tūtohunga

Recommendation/s

That the Regulatory and Safety Committee:

- a) whiwhi / receive the Summary of Regulatory and Safety Committee information memoranda and briefings – 7 February 2023.

Ngā tāpirihanga Attachments

No.	Title	Page
A 	EMAIL: DRAFT SUBMISSION: Sale and Supply of Alcohol (Community Participation) Amendment Bill (<i>Under Separate Cover</i>)	
B 	MEMO: Regulatory Compliance response levels over holiday break (<i>Under Separate Cover</i>)	
C 	MEMO: Hearings held, hearing panels and hearing outcomes January 2022 - December 2022 (<i>Under Separate Cover</i>)	
D 	EMAIL: DRAFT SUBMISSION: Sale and Supply of Alcohol (Community Participation) Amendment Bill (timeframe extensions) (<i>Under Separate Cover</i>)	
E 	Workshop Notes - Regulatory and Safety Committee Workshop, 13 December 2022 (<i>Under Separate Cover</i>)	

Ngā kaihaina Signatories

Author	Olivia Boniface - Governance Advisor
Authoriser	Craig Hobbs - Director Regulatory Services

Resource Consents Appeals: Status Report 7 March 2023

File No.: CP2023/00849

Item 10

Te take mō te pūrongo

Purpose of the report

1. To provide an update of all current resource consent appeals lodged with the Environment Court.

Whakarāpopototanga matua

Executive summary

2. This report provides a summary of current resource consent appeals to which the Auckland Council is a party. It updates the report to the Regulatory Committee on 13 September 2022.
3. If committee members have detailed questions concerning specific appeals, it would be helpful if they could raise them prior to the meeting with Robert Andrews (phone: 09 353-9254) or email: robert.andrews@aucklandcouncil.govt.nz) in the first instance.

Ngā tūtohunga

Recommendation/s

That the Regulatory and Safety Committee:

- a) whiwhi / receive the Resource Consents Appeals: Status Report 7 March 2023

Horopaki

Context

4. The Regulatory and Safety Committee holds responsibility for council's position on all resource consent appeals lodged before the Environment Court. The principal specialist planners - resource consents and legal services solicitors are tasked to seek resolution of these appeals or defend the council's decision where resolution through court mediation is not successful.
5. Our practice has been to provide a bi-monthly report to the Committee that notes the current status of the appeals and those recently lodged and settled. This update report bridges the gap between our last report to the Regulatory Committee of the previous political term in September 2022, and to this Committee meeting.
6. As at 10 February 2023, there are 41 resource consent appeals to which Auckland Council is a party. These are grouped by Local Board Area geographically from north to south, as set out in Attachment A. Changes since the last report and new appeals received are shown in bold italic text.
7. The principal specialist planners - resource consents, continue to resolve these appeals expeditiously. In the period since preparing the previous status report on 30 August 2022, there has been seven new appeals lodged and one resolved.
8. The appeal from Silver Hill Limited is to council's refusal to grant consent to a non-complying 24 residential lot subdivision on land at 124 Mahurangi East Road, Snells Beach. The proposed lots are below the minimum lot sizes for the lands Residential - Large Lot zoning.

9. McCallum Brothers Limited have appealed a decision of council's hearings panel to refuse consent to extract sand from the seabed within the proposed 'In-Shore sand extraction area' within the Coastal Marina Area at Pakiri Beach. McCallum Brothers Limited have also appealed the 10-year durations and other conditions of a separate consent granted to extract sand (50,000m³ per annum) from the proposed 'Mid-shore sand extraction area' to the north of Te Arai Point. There are three further appeals to the grant of this consent from The Director-General of Conservation (Department of Conservation), the Friends of Pakiri Beach Inc. and the Manuhiri Kaitiaki Charitable Trust.
10. There are four separate appeals to the consents granted to Bayswater Marina Holdings Limited to establish 119 residential dwellings and various other activities on land adjacent to Baywater Marina at 21 Sir Peter Blake Parade, Bayswater. These appeals cover a range of matters including continued public access to the land and boat ramps, boat storage and haul out, trailer parking and the width of the esplanade strip. Policy concerns raise issues on allowing the site to be dominated by private residential use at the expense of marine focused activities that have a functional need to be by the coast.
11. The appeal by Barbican Securities Limited is to a decision by council's independent commissioners to refuse application for a non-complying 3-lot rural subdivision at 132 Linwood Road Karaka. The site lies within the Rural – Mixed Rural zone and Rural - Rural Coastal zone, is outside of the Rural Urban Boundary and holds no permitted subdivision potential under the Auckland Unitary Plan. In refusing consent, the commissioners found that the subdivision will lead to cumulative effects on productive potential of prime land resulting from its fragmentation. The application will be contrary to the Regional Policy Statement concerning elite and prime soils, and various policies of the Rural Zone chapter.
12. ABC Asset Holdings Limited appeals the conditions of a subdivision consent that grants conversion of three cross lease titles to three freehold titles at 28 Olsen Avenue, Hillsborough. The appellant argues that any non-compliances of stormwater systems are an existing use, and the change of tenure does not create additional adverse effects to which stormwater upgrade conditions can be imposed.
13. The appeal by Merveber Limited is to a decision to refuse consent to a non-complying application for land use, subdivision and water diversion and discharge at 82 and 100 Kahikatea Flat Road, Rodney. The consents are associated with a proposed nine lot subdivision and associated enabling earthworks (BUN60386085) within the Mixed Rural Zone.

Tātaritanga me ngā tohutohu Analysis and advice

14. To receive the report as provided.

Tauākī whakaaweawe āhuarangi Climate impact statement

15. The report provides an update of consent appeals and seeks no resolution or consideration of the merits associated with them.

Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera Council group impacts and views

16. Not applicable.

Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe Local impacts and local board views

17. Not applicable.

Tauākī whakaaweawe Māori Māori impact statement

18. The decision requested of the Regulatory Committee is to receive this progress report rather than to consider the relevance to Māori associated with each of the appeals at this time.
19. The Resource Management Act 1991 includes a number of matters under Part 2, which relate to the relationship of Tangata Whenua to the management of air, land and water resources. Maori values associated with the land, air and freshwater bodies of the Auckland Region are based on whakapapa and stem from the long social, economic and cultural associations and experiences with such taonga. These matters where relevant are considered with the resolution of the resource consent appeals.

Ngā ritenga ā-pūtea Financial implications

20. Environment Court appeal hearings can generate significant costs in terms of commissioning legal counsel and expert witnesses. Informal mediation and negotiation processes seek to limit these costs. Although it can have budget implications, it is important that Auckland Council, when necessary, ensure that resource consents maintain appropriate environmental outcomes and remain consistent with the statutory plan policy framework through the appeal process.


Ngā raru tūpono me ngā whakamaurutanga Risks and mitigations

21. Not applicable.

Ngā koringa ā-muri Next steps

22. Not applicable.

Ngā tāpirihanga Attachments

No.	Title	Page
A 	Current Resource Consent Appeals as at 10 February 2023	

Ngā kaihaina Signatories

Author	Robert Andrews - Principal Specialist Planning
Authorisers	Ian Smallburn - General Manager Resource Consents Craig Hobbs - Director Regulatory Services

Objection to stormwater and wastewater works at 8 Bryant Place, Glendowie

File No.: CP2022/17330

Item 11

Te take mō te pūrongo

Purpose of the report

1. To hear and determine an objection to proposed stormwater and wastewater works at 8 Bryant Place, Glendowie pursuant to section 181 of the Local Government Act 2002.

Whakarāpopototanga matua

Executive summary

2. This report recommends that the Regulatory and Safety Committee endorse the proposed stormwater and wastewater works at 8 Bryant Place, Glendowie to manage the stormwater and wastewater effects of the approved development at 9 Kesteven Avenue, Glendowie.
3. A developer has obtained approval from the council to connect a new development at 9 Kesteven Avenue, Glendowie to the public stormwater manhole located in the road corridor in front of 2 Bryant Place, Glendowie. Approval was also granted to connect to the public wastewater pipeline located in the road corridor in front of 6 Bryant Place, Glendowie.
4. The proposed stormwater works involve the construction of a pipe from the new public manhole on Bryant Street to the private stormwater infrastructure at 9 Kesteven Avenue. The pipe crosses the corner boundary of 8 Bryant Place (see Attachment A). The work is estimated to take up to five days. Once constructed, these pipes and manholes will be vested in the council as public stormwater assets.
5. The proposed wastewater works involve the construction of a pipe crossing the corner of 8 Bryant Place into a new manhole within the proposed Lot 2 at 9 Kesteven Avenue. In addition, the existing wastewater connection for 9 Kesteven Avenue is to be capped off at the common boundary with 8 Bryant Place, as this connection is damaged (see the Engineering Planning Approval in Attachment A). The work is estimated to take up to two days. Once constructed, these pipes and manholes will be operated by Watercare as public wastewater assets.
6. The landowners of 8 Bryant Place have not agreed to allow the developer access to their property for this purpose. Facilitation started in February 2022 and ended in May 2022. Council-led efforts to facilitate an agreement have been unsuccessful.
7. Staff undertook a site inspection and considered the alternative options for the pipe after which they determined that the works constitute necessary stormwater and wastewater works. The council has issued a notice under section 181(2) of the Local Government Act 2002 informing the landowners of its intention to construct the works as a council project (see Attachment B).
8. The landowners have lodged a written objection to the works (see Attachment C). No grounds were provided in the formal objection, however the landowners have previously advised that they oppose further development in their neighbourhood, and that they believe that an alternative option could be utilised.
9. If the Regulatory and Safety Committee determines that the works should proceed, construction will begin within two months of the decision (weather dependent).
10. It is proposed that the pipes will be installed by horizontal directional drilling, which is a trenchless methodology designed to minimise disruption caused by construction. The works will take approximately two weeks to complete.

11. Healthy Waters staff have explained to all the affected property owners that they have the right to claim injurious affection (if established) under the Public Works Act 1981.

Item 11

Ngā tūtohunga Recommendations

That the Regulatory and Safety Committee:

- a) hear and determine the objections by the owners of 8 Bryant Place, Glendowie according to clause 1(e) of Schedule 12 of the Local Government Act 2002
- b) agree to proceed with the extension of the public stormwater and wastewater networks from the road corridor in Bryant Place, through the corner of 8 Bryant Place, to 9 Kesteven Place, Glendowie (as shown in Attachment A to the agenda report), according to clause 1(e) of Schedule 12 of the Local Government Act 2002.

Horopaki Context

The council's role and obligations

12. Auckland Council's Healthy Waters department is responsible for managing and maintaining the public stormwater network in Auckland, much of which is located on private land.
13. Section 181(2) of the Local Government Act 2002 empowers the council to 'construct works on or under private land or under a building on private land that it considers necessary for sewage and stormwater drainage'.
14. Such works require either the prior written consent of the owner of the land, or that the council follows the process set out in Schedule 12 of the Local Government Act 2002.
15. Schedule 12 requires that affected owners and occupiers are provided with a description of the proposed works (including plans) and are given the opportunity to object to the works within one month of notification.
16. If an objection is made, a hearing must be arranged. After hearing objections, the council must then determine to either abandon the works proposed, or proceed with the works proposed, with or without any alterations that the council thinks fit.

Enabling stormwater management on 9 Kesteven Avenue, Glendowie

17. A developer has been granted resource consent by Auckland Council's regulatory department to subdivide a property at 9 Kesteven Avenue, Glendowie. A condition of the resource consent is that the new development connects to the public stormwater and wastewater systems.
18. The developer has obtained engineering approval to connect the subdivision to the existing public stormwater and wastewater pipelines located within the road corridor near Bryant Place, Glendowie (see Attachment A). The approval is for connecting pipes to cross under the southwestern corner of 8 Bryant Place, Glendowie.
19. The proposed works involve the construction of a stormwater pipe using a trenchless method. It would extend from the existing manhole within the road corridor in front of 2 Bryant Place to a new manhole within the road corridor near the boundary corner of 6 and 8 Bryant Place and 9 Kesteven Avenue. The pipe would then be pushed underground through the corner of 8 Bryant Place to the new stormwater connection within 9 Kesteven Avenue. This method would not involve digging up the landowners' property to install the pipe.
20. The new stormwater pipe and connection would be vested in Auckland Council as a public stormwater asset to be owned and maintained by Healthy Waters once it is connected to the stormwater network.

21. In addition, the landowners of the upstream property at 11 Kesteven Avenue have obtained Engineering Plan Approval (ENG60403901) for the stormwater connection to be extended to service their property. These works include a new manhole being constructed over the connection within proposed Lot 2 at 9 Kesteven Avenue. This would increase capacity to allow for the stormwater pipe to extend from 9 Kesteven Avenue into a new stormwater manhole at 11 Kesteven Avenue.

Enabling wastewater management on 9 Kesteven Avenue, Glendowie

22. The proposed wastewater works include the construction of a new manhole over the existing public pipe located within the road corridor near 6 Bryant Place. A new pipe will then be constructed using a trenchless method across the corner of 8 Bryant Place into a new manhole at 9 Kesteven Avenue.
23. In addition, the existing wastewater connection for 9 Kesteven Avenue that currently extends into 8 Bryant Place, is to be capped off at the common boundary with 8 Bryant Place, as this connection is damaged.
24. Minor excavation works would be undertaken to install the new manholes and around the outside of existing manholes to connect pipes within the road corridor which would be fully reinstated upon completion of the works. The expected duration to carry out the work is seven days.
25. The new wastewater pipeline will be vested in Auckland Council/Watercare as a public wastewater asset to be owned and maintained by Watercare once it is connected to the wastewater network.

Objections received from landowners at 8 Bryant Place, Glendowie

26. The owner of 8 Bryant Place, Glendowie has not agreed to allow the developer to connect to the public stormwater or wastewater networks via their property. The developer applied to the council to provide facilitation services to help reach an agreement with the landowner.
27. Facilitation sessions commenced in February 2022 however no agreement was reached. The council then analysed the developer's works (as detailed below) and determined that the works are necessary public works, and that it would undertake the works itself as a council project under the powers of the Local Government Act 2002. This enables public works to be undertaken on private land without the owner's consent, provided that the requirements of the Act are met.
28. Healthy Waters issued a notice of intention to construct the works to the affected landowners under section 181 of the Local Government Act 2002 on 29 August 2022.
29. Following the issue of this notice, the council has continued to communicate with the landowners, however it has not been possible to reach an agreement.
30. Pursuant to schedule 12 of the Local Government Act 2002, the landowners had until 30 September 2022 to formally object to the section 181 notice. On 24 September 2022 an objection was received.

Tātaritanga me ngā tohutohu Analysis and advice

31. The council is empowered to construct works on private land that it considers necessary for stormwater and wastewater drainage. When determining the best option, the council looks at a range of possible options to achieve the required stormwater and wastewater outcomes for the public good, and at the same time, to carefully balance any impacts on individual property owners.

Options considered for connecting 9 Kesteven Ave to the public stormwater system

32. The council analysed three alternative alignments for connecting the development at 9 Kesteven Avenue, Glendowie to the public stormwater system (See Attachment D).

33. These options are outlined below, and are shown in Figure 1:

- **Stormwater option 1.1:** extending the public network from the existing manhole in the road corridor in front of 2 Bryant Place, installation of a new approximately one metre pipe within the affected property to the new manhole within the road corridor next to the boundary corner of 6 and 8 Bryant Place and 9 Kesteven Avenue. The new connecting pipe is to be installed by trenchless method crossing the corner of 8 Bryant Place for the new connection at 9 Kesteven Avenue (**recommended option**).
- **Stormwater option 1.2:** this option is similar to option 1.1, except that the main pipe would cross the corner at 6 Bryant Place to reach the main pipe in the road corridor. The pipe would cross approximately two to three metres within the affected property and might affect the vehicle crossing access during construction.
- **Stormwater option 2:** involves connecting into the public network from Kesteven Avenue. Installation of a private stormwater tank and pump would be necessary as Kesteven Avenue is over two metres higher than the development property and no gravity flow is possible.

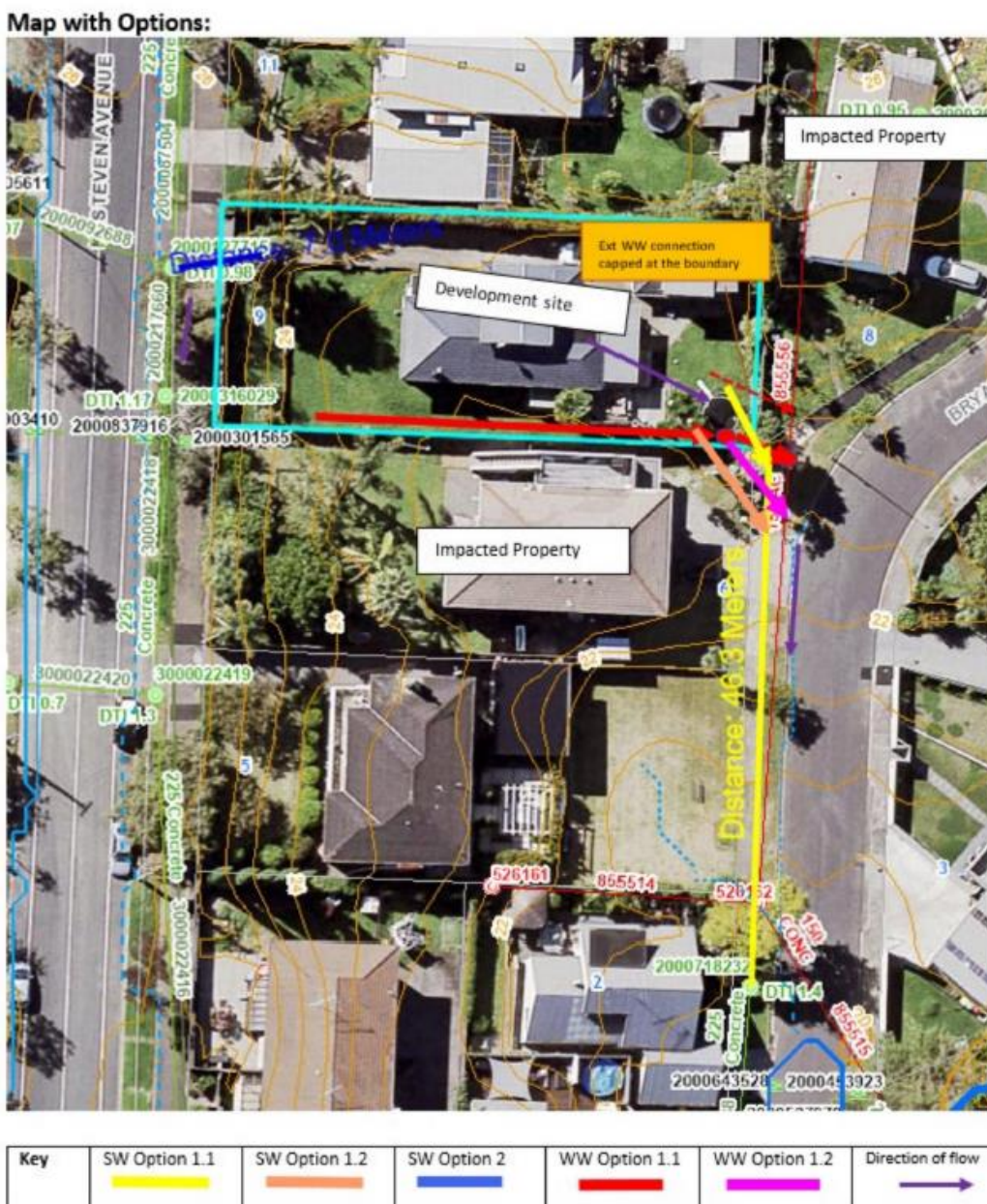


Figure 1. Map of options considered for stormwater and wastewater connections.

34. These three options were analysed against relevant criteria as shown in Table one below.

Table 1. Analysis of stormwater alignment options against various criteria

Attributes	SW Option 1.1 (shown in yellow in figure 1)	SW Option 1.2 (shown in orange in figure 1)	SW Option 2 (shown in blue in figure 1)	How significant is this factor?
Interference with existing services	Minor	Minor	Minor	Medium
Disruption to property owners	Minor	Minor	Minor	High
Cost	\$	\$	\$	Medium
Route to existing stormwater network	Direct	Less direct	Indirect	Low
Ability for third-party properties to connect to proposed infrastructure	Yes	Yes	No	Low
Access for future maintenance	Good	Good	Good	Medium
Duplication of existing stormwater infrastructure	0%	0%	0%	Medium
Impact on development potential	Enabling	Enabling	None	Medium
Constructability risk	Minor	Minor	Minor	High
Compliance with Stormwater Code of Practice	Yes	Yes	No	High

35. As demonstrated by the considerations set out in table one above, stormwater option 1.1 is the preferred option for the stormwater connection for the following reasons:

- the route does not interfere with any existing services
- the location of the works does not affect any existing structures on the landowner's property, resulting in minimal disturbance
- the land proposed to be crossed is situated in a narrow corner of the property and is not land that could likely be developed for housing or other structures
- the pipe route is the most logical and direct to reach the connection point
- the route does not duplicate existing stormwater infrastructure
- the new stormwater pipe provides gravity flow and extension of the public line to service properties at 9 and 11 Kesteven Avenue and 6 and 8 Bryant Place.

36. In addition, Healthy Waters engineers have determined that stormwater option 1.1 can be constructed using a trenchless method, which would have minimal impact on 8 Bryant Place.
37. Stormwater option 1.2 is not supported because the impacts on 6 Bryant Place, although minor, are considered higher than for stormwater option 1.1. The proposed pipe would be slightly longer within the third-party property and its angle could result in the manhole impacting the vehicle crossing for 6 Bryant Place within the road corridor. The works could therefore temporarily disrupt access to 6 Bryant Place.
38. Stormwater option 2 is not supported because the installation of a private stormwater tank and pump is considered a suboptimal solution. In the case of a pump failure there would be a risk of flooding at 9 Kesteven Ave and downstream properties at 6 and 8 Bryant Place. This option is not supported by Healthy Waters.
39. The council also considered the option to do nothing. This would involve the council leaving the developer to continue to negotiate with the owner. This option is not supported, as it means the development would be less likely to proceed.

Options considered for connecting 9 Kesteven Ave to the public wastewater system

40. Healthy Waters staff also analysed two alternative alignments for connecting the development at 9 Kesteven Avenue, Glendowie to the public wastewater system (see Attachment D).
41. These options were:
 - **Wastewater option 1.1:** extending the public network by installing a new wastewater manhole over the existing public pipe located within the road corridor of Bryant Place and a new pipe by trenchless method into 9 Kesteven Avenue. This would cross the corner of 8 Bryant Place. The existing connection to the wastewater pipe at 8 Bryant Place would be capped off and abandoned (**recommended option**).
 - **Wastewater option 1.2:** this option is similar to wastewater option 1.1, except that the pipe would cross the corner at 6 Bryant Place to reach the existing services in the road corridor. No digging would be required at 6 Bryant Place.
 - **Wastewater option 2:** this option would replace the existing broken connection (located at 8 Bryant Place), with larger diameter pipe. It would involve a new manhole being installed at 8 Bryant Place. This option would require the digging of a trench through approximately 3.5 x 1.5 metres of 8 Bryant Place.
42. The two options were analysed against relevant criteria as shown in Table two below.

Table 2. Analysis of wastewater alignment options against various criteria

	WW Option 1.1 (shown in red in figure 1)	WW Option 1.2 (shown in pink in figure 1)	WW Option 2 (shown in broken red line in figure 1)	Significance
Interference with existing services	Minor	Minor	Minor	Medium
Disruption to property owners	Minor	Minor	Medium	High
Cost	\$	\$	\$	Medium
Route to existing stormwater network	Direct	Direct	Direct	Low

	WW Option 1.1 (shown in red in figure 1)	WW Option 1.2 (shown in pink in figure 1)	WW Option 2 (shown in broken red line in figure 1)	Significance
Ability for third-party properties to connect to proposed infrastructure	Yes	Yes	Yes	Low
Access for future maintenance	Good	Good	Good	Medium
Duplication of existing stormwater infrastructure	0%	0%	0%	Medium
Impact on development potential	Enabling	Enabling	Enabling	Medium
Constructability risk	Minor	Minor	Minor	High
Compliance with Stormwater Code of Practice	Yes	Yes	Yes	High

43. As demonstrated by the considerations set out in table two above, wastewater option 1.1 is the preferred option for the wastewater connections for the following reasons:
- as with the stormwater connection, the pipe route is the most logical and direct to reach the connection point route and does not interfere with any existing services or affect any existing structures on the landowner's property
 - the route does not duplicate existing wastewater infrastructure
 - the existing wastewater connection for 9 Kesteven Avenue is damaged and is to be capped off at the common boundary with 8 Bryant Place as part of the works – the required maintenance works would be completed as part of the proposed works
 - the impact of the works would be minor and provides services for several properties in the area.
44. In addition, this option can also be constructed using a trenchless method to minimise impact on the property.
45. Wastewater option 1.2 is not supported because the impacts on 6 Bryant Place, although minor, are considered higher than for wastewater option 1.1. The proposed pipe would be slightly longer within the third-party property, and its angle could result in the manhole impacting the vehicle crossing for 6 Bryant Place within the road corridor. The works could also temporarily disrupt access to 6 Bryant Place.
46. Wastewater option 2 is not supported because the impacts on 8 Bryant Place, although minor, are considered higher than wastewater option 1.1. It would involve a new pipe and manhole being installed at 8 Bryant Place. This option would require the digging of a trench through approximately 3.5 x 1.5 metres of 8 Bryant Place.

47. The council also considered the option to do nothing. This option is not supported, as it means the development would be less likely to proceed.

Negotiating with the landowners

48. Negotiations with the landowners have been ongoing since early 2021. They primarily focused on how much compensation should be payable by the developer to the objectors. However, the parties were unable to reach agreement.
49. The council has engaged with the landowners to offer advice on the proposed works and seek to broker an agreement. A meeting was held with the landowners followed by subsequent email correspondence and phone calls. The owners have indicated that they are against the housing intensification and growth in their neighbourhood.
50. Facilitation ended on 10 May 2022 with a report submitted to the council recommending proceeding to statutory processes. Post-facilitation correspondence with the landowners included queries around the proposed development's impact on providing housing growth within the area and the necessity for new infrastructure to enable housing growth.
51. Attachment E shows the council's response to the objection letter and the correspondence log.

Summary of objections received

52. Table three below details the grounds upon which the landowner objects to the works and Healthy Waters response:

Table 3. Summary of objections

Objection points	Response from Healthy Waters
Other stormwater management options available.	Staff have assessed the preferred option as being the most efficient alignment in terms of stormwater management.
Against the housing intensification and growth in their neighbourhood.	The council already has zoning provisions that enable consent applications to be made and has now granted consent for this development. An ancillary process concerning service connections is not the forum for debating intensification issues.

Staff recommend option 1.1 for stormwater and wastewater connections

53. Staff recommend that construction of the proposed stormwater and wastewater works proceed at 8 Bryant Place, Glendowie as per stormwater option 1.1 and wastewater option 1.1 in this report.
54. The works are necessary to enable development at 9 Kesteven Avenue, Glendowie and to meet the council's stormwater and wastewater standards. Works are expected to take up to two weeks to complete, and staff will work with the landowners to ensure that minimal disruption occurs.

Tauākī whakaaweawe āhuarangi Climate impact statement

55. One of the expected consequences of rising global temperatures is increased and more intense rainfall. To contribute to increasing Auckland's resilience to climate change, the Auckland Council Stormwater Code of Practice requires all new infrastructure to be designed to deal with these expected impacts and severe weather events.

56. The proposed pipe has been designed to cater for 10 per cent annual exceedance probability (1 in 10-year average recurrence interval) storm events, including allowance for climate change. This has the effect of making the network more resilient to storm events and reducing the likelihood of flooding of properties.

Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera Council group impacts and views

57. Watercare and Auckland Transport assets will be impacted by the proposed works if option 1.1 for stormwater and rainwater are undertaken. Watercare's approval has been granted for the installation of the proposed stormwater pipe. The proposed route for the stormwater pipe will not impact adversely on the existing wastewater pipe. The proposed stormwater pipe route is also located within the road corridor and Engineering Plan Approval has been granted from Auckland Council. The proposed works are also subject to the Road Access Permit (for working within the road) being granted by Auckland Transport before works commence.
58. The pipes will be vested to the council when constructed and will form part of the public stormwater and wastewater networks to be maintained by Healthy Waters and Watercare Services Limited.

Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe Local impacts and local board views

59. The Ōrākei Local Board has not been consulted on the proposed works, as the pipes will be constructed on private land.

Tauākī whakaaweawe Māori Māori impact statement

60. The developer has not consulted local iwi on the proposed stormwater works outlined in this report.
61. Council staff notified iwi representatives of the proposed project through Healthy Water's monthly email of all active Healthy Waters projects. The iwi representatives were asked to signal whether they would like to be engaged on this project, however, no feedback has been received to date.
62. Mana whenua have communicated to Healthy Waters staff that improved water quality for Tāmaki Makaurau is a priority for them. The recommended option will contribute to a better functioning stormwater management system and reduce the impact of the development on water quality.

Ngā ritenga ā-pūtea Financial implications

63. The recommended option is the most cost effective, as it involves the shortest and most direct pipe alignment. If approved, the pipe will be constructed by council contractors, and the costs of the works will be paid for by the developer upfront. The developer is also paying for staff time dedicated to these works.
64. The council will be responsible, in the first instance, for any proven injurious affection to private land pursuant to section 181(6) of the Local Government Act 2002, and the Public Works Act 1981. However, as part of the contract, the developer would be required to supply to the council a bond to remain in place for two years following completion of the works. This will cover any potential claim by the landowners for injurious affection. The likelihood of an injurious affection claim being brought is considered medium to high risk, however the actual impact on the landowners property could be perceived as minimal. The Injurious Affection Assessment is provided as Attachment F.

Ngā raru tūpono me ngā whakamaurutanga Risks and mitigations

65. Staff have undertaken a systematic risk assessment. Key risks and proposed mitigations relating to the endorsement of option one are shown in Table four below:







Table 4. Risks and mitigations arising from Option one: crossing land at 8 Bryant Place, Glendowie

Risk	Likelihood and consequence	Mitigation
Legal risk – Objectors could argue that this is in fact a private pipe and Auckland Council ought to use section 460 of the Local Government Act 1974 instead of section 181 Local Government Act 2002.	Likelihood: Low Consequence: Medium	The pipe will be vested in the council once constructed and will form part of the public stormwater system which the council is responsible for maintaining. It is being built to the council's standards for public stormwater infrastructure and will serve a wider catchment as the area develops further.
Financial risk – If the landowner appeals the Regulatory and Safety Committee's decision, the council may become liable for the cost of defending a District Court case.	Likelihood: Low Consequence: Medium	The risk of the council losing on appeal is considered low, due to the works being necessary, and the section 181 process being followed correctly. If the landowner is unsuccessful in any legal challenge, they may be liable to pay court costs.
The landowner could seek injurious affection (if evidenced) through the Land Valuation Tribunal, arguing that the public works have reduced the value of their property.	Likelihood: Medium-High Consequence: Low-Medium	The potential for an injurious affection claim is considered low in this case for the following reasons: <ul style="list-style-type: none"> The proposed pipe does not involve the taking of any land. The area affected by the works is sufficiently distant from obstacles and buildings. The manhole access is readily available within the road corridor and the development property. The proposed methodology will result in minimal excavation around the manhole and will be reinstated upon completion of the works. The developer will be required to provide to the council a bond sufficient to cover any potential claim for injurious affection prior to the works commencing. If the landowners are unsuccessful, they will be liable to pay court costs.
Infrastructure risk - Low quality assets being vested to the council.	Likelihood: Low Consequence: Medium	The works will be undertaken by an approved council contractor who will have in place sufficient insurances to cover the risk of failure.

Ngā koringa ā-muri Next steps

66. If the Regulatory and Safety Committee determines to proceed with the project (under Schedule 12 clause 1(e)(ii)), the next step will be to notify the landowner in writing of the council's intention to proceed with the works. The work is proposed to be undertaken within two months of the decision being provided by the committee.
67. The landowner has up to 14 days to lodge a further appeal to the District Court. If this occurs, then the council's legal services team will support this process. If no appeal is lodged, the council will look to proceed with the works in mid-2023.

Ngā tāpirihanga Attachments

No.	Title	Page
A 	Engineering planning approval	
B 	Statutory notice under section 181 of the LGA 2002	
C 	Objection letter	
D 	Business Case showing alternative alignments considered	
E 	Correspondence log	
F 	Injurious Affection Assessment	

Ngā kaihaina Signatories

Authors	Karla Crawford - Principal Healthy Waters Advisor Leighton Gillespie – Principal Delivery Special Projects Shaun McAuley – Team Manager, Healthy Waters Commercial & Property Team
Authorisers	Craig Mcilroy - General Manager Healthy Waters Barry Potter - Director Infrastructure and Environmental Services Craig Hobbs - Director Regulatory Services

Determination of an objection to a menacing dog classification by Vani Kudigram Sripathy

File No.: CP2023/01534

Item 12

Te take mō te pūrongo

Purpose of the report

1. To hear and consider Ms Sripathy's objection to her dog, Finn, having been classified as menacing under section 33A of the Dog Control Act 1996 (DCA).

Whakarāpopototanga matua

Executive summary

2. Ms Sripathy is the owner of a 19-month-old de-sexed male Foxhound cross called Finn.
3. On 26 December 2022 Finn bit an adult male on his elbow and on his leg. The attack was unprovoked. The victim sustained bruising and abrasions to his leg.
4. Section 33A of the DCA provides that the Auckland Council may classify a dog as menacing when it considers that that dog may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of any reported behaviour of the dog.
5. Where a dog is classified as menacing the owner of the dog must:
 - a) Not allow the dog to be at large or in any public place, or in any private way, without it being muzzled; and
 - b) Within one month after service of the notice provide a certificate by a veterinarian that the dog is or has been de-sexed. If the dog is not in a fit condition to be de-sexed within that time, the dog owner must provide a certificate by a veterinarian explaining the reasons for that and specifying the date by when the dog can be de-sexed.
6. On 4 January 2023 Animal Management classified Finn as menacing by deed because it considered that the dog may pose a threat to the safety of persons or animals. The notice of classification was served on Ms Sripathy on 11 January 2022. Refer Attachment A.
7. On 12 January 2023 Ms Sripathy objected to the classification. Refer Attachment B. The bases of her objection are that:
 - The bite wound was minor
 - Finn's behaviour was out of character and
 - Finn has since the incident been enrolled to undergo a 3-month intensive behaviour modification programme.
8. On 27 January 2023 Animal Management received a report from Dr Jess Beer, an animal behaviourist. Refer Attachment C. It is her opinion that:
 - Finn attacked because of anxiety coupled with his high drive breed genetics
 - A programme involving medication and behaviour modification will solve Finn's underlying anxiety issues and his unsociable behaviour.
9. Ms Sripathy's objection is ill-suited because Finn will continue to pose a risk to the safety of others until he has successfully completed the programme.

10. Clause 17 of the Auckland Council Dog Management Bylaw 2019 provides for the review and cancellation of a menacing classification after 12 months if Ms Sripathy:
- Provides a dog behavioural assessment report on Finn,
 - Has not been issued with infringement notices relating to Finn within the preceding 12-month period and
 - Has obtained a responsible dog ownership licence.

Ngā tūtohunga Recommendation/s

That the Regulatory and Safety Committee:

- hear and consider Ms Sripathy's objection to her dog, Finn, having been classified as menacing under section 33A of the DCA and
- uphold Finn's menacing classification under section 33A of the DCA.

Horopaki Context

Jurisdiction of the Regulatory and Safety Committee

11. The Governing Body of the Auckland Council has delegated to the Regulatory Committee (now the Regulatory and Safety Committee) the responsibility for regulatory hearings in Resolution No. GB/2019/109 which was adopted on 12 November 2019. The regulatory hearings which this committee is responsible include, amongst others, decisions under the DCA in relation to the consideration of objections under the DCA.

The Dog Control Act 1996

12. A dog may be classified as menacing under section 33A if the Auckland Council considers the dog may pose a threat to the safety of persons or animals because of any reported behaviour of the dog.
13. Where a dog is classified as menacing, then the owner of the dog:
- must not allow the dog to be at large or in a public place or in any private way without been muzzled, and
 - must within one month after service of the notice provide a certificate by a veterinarian that the dog is or has been de-sexed. If the dog is not in a fit condition to be de-sexed within that time, the dog owner must provide a certificate by a veterinarian explaining the reasons for that and specifying the date by when the dog can be de-sexed.
14. It is an offence under the DCA if an owner fails to comply with these requirements. The maximum fine for this offence is \$3,000. In addition, an animal management officer may seize and retain custody of the dog until the owner has demonstrated a willingness to comply with these requirements.
15. Section 33D(3) explains what the committee must take into account during their deliberations on whether the objection should be upheld or rescinded. These are –
- The evidence which formed the basis for the classification
 - Any steps taken by the owner to prevent any threat to the safety of person or animals
 - The matters relied on in support of the objection and
 - Any other relevant matters.

Evidence which formed the basis for the classification

16. On 26 December 2022 the victim, a 25-year-old male, was walking along Cornwallis Beach when he noticed Finn and another dog called Tui, running on the beach. The dogs were off leash and not under direct control of any person. When he passed Finn, it unexpectedly jumped up and bit him on the left elbow and then on the left leg. He sustained no visible injuries to his elbow but had abrasions to his leg. Ms Sripathy and her husband came to him, apologised and blamed the breed of the dog for the attack. Refer Attachment D for his statement and photos of the bite wound.
17. On the same day Animal Management Officer Williams interviewed Ms Sripathy about the incident. She believed that Finn's aggressive behaviour is because of its breed and said that she was looking at dog training to address this. She admitted that Finn had previously attacked the victim's father. Refer Attachment E for Williams's statement.
18. In her email objecting to the classification (refer Attachment B), Ms Sripathy explains that Finn was unsupervised on the beach while she and her husband were in the water. This may have caused him anxiety which triggered his herding instinct to nip the victim.

Steps taken by Ms Sripathy to prevent any threat to persons or animals

19. Ms Sripathy has undertaken to muzzle Finn and to enrol him in a behavioural modification programme.

Matters relied upon in support of the objection

20. The bases of Ms Sripathy's objection are that –
 - the bite wound was minor and did not break skin,
 - Finn's behaviour was out of character and
 - Finn has since the incident been enrolled to undergo a 3-month intensive behaviour modification programme.

Other relevant matters

21. On 27 January 2023 Animal Management received a report from Dr Jess Beer, an animal behaviourist. The report explains the possible reasons for Finn to have bitten the victim. The background information supplied to Dr Beer about an earlier incident appears to be incorrect as it did not involve the victim, but the victim's father.

It is Dr Beer's opinion that a programme involving medication and behaviour modification will solve Finn's underlying anxiety issues and his unsociable behaviour. Animal Management have not received any report on the progress of the behaviour modification.

Tātaritanga me ngā tohutohu

Analysis and advice

22. The classification of dogs as menacing is to protect public safety from possible harm. The threat referred to in section 33A need not be shown to be real in order to classify a dog as menacing. It suffices if there is a potential of harm by the dog to persons and animals.
23. Finn's anxiety and unsocial behaviour may be a threat to persons even on Ms Sripathy's version of the incident. If Finn were put in a similar situation he may possibly react in a similar way and thus pose a threat to the safety of others. This threat will be eliminated if Finn is muzzled when in public.
24. Clause 17 of the Auckland Council Dog Management Bylaw 2019 provides for the review and cancellation of a menacing classification after 12 months if Ms Sripathy –
 - Provides a dog behavioural assessment report on Finn,
 - Has not been issued with infringement notices relating to Finn within the preceding 12-month period and
 - Has obtained a responsible dog ownership licence.

25. Ms Sripathy's objection is ill-suited and premature. The potential harm that Finn poses to others will remain until he has successfully completed the behavioural modification programme. Until then the menacing classification must remain in place to ensure that Finn is muzzled when in public.

Tauākī whakaaweawe āhuarangi **Climate impact statement**

26. This section is not relevant to the subject of this report.

Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera **Council group impacts and views**

27. This is a report about an objection to the menacing classification of a dog. It does not require council group views.

Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe **Local impacts and local board views**

28. This report has no local impact. We have not sought local board views.

Tauākī whakaaweawe Māori **Māori impact statement**

29. This is a report about an objection to the menacing classification of a dog which has no impact on Māori.

Ngā ritenga ā-pūtea **Financial implications**

30. The decision by the Regulatory and Safety Committee on the objection to the menacing classification has no financial implications.






Ngā raru tūpono me ngā whakamaurutanga **Risks and mitigations**

31. There are no risks in upholding the classification.

Ngā koringa ā-muri **Next steps**

32. The Regulatory and Safety Committee must give Ms Sripathy written notice of its decision as soon as practicable.

Ngā tāpirihanga **Attachments**

No.	Title	Page
A 	Notice of classification	
B 	Objection to classification	
C 	Report by Dr Jess Beer	
D 	Victim's statement	
E 	Statement from AMO Williams	

Ngā kaihaina Signatories

Author	Chrisna Nortje - Principal Specialist Animal Management
Authorisers	Elly Waitoa, Manager Animal Management Mervyn Chetty - GM Licensing & Regulatory Compliance Craig Hobbs - Director Regulatory Services

Determination of objection to a menacing classification by Ryan Kelsey

File No.: CP2023/01535

Item 13

Te take mō te pūrongo

Purpose of the report

1. To hear and consider Mr Kelsey's objection to his dog, Radlee, having been classified as menacing under section 33A of the Dog Control Act 1996 (DCA).

Whakarāpopototanga matua

Executive summary

2. Mr Kelsey is the owner of a 5-year 8-month-old de-sexed female Rottweiler called Radlee.
3. On 17 September 2022 Radlee bit a miniature poodle called Harry. Harry sustained serious injuries which warranted veterinary intervention.
4. Section 33A of the DCA provides that the Auckland Council may classify a dog as menacing when it considers that that dog may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of any reported behaviour of the dog.
5. Where a dog is classified as menacing the owner of the dog must:
 - a) Not allow the dog to be at large or in any public place, or in any private way, without it being muzzled; and
 - b) Within one month after service of the notice provide a certificate by a veterinarian that the dog is or has been de-sexed. If the dog is not in a fit condition to be de-sexed within that time, the dog owner must provide a certificate by a veterinarian explaining the reasons for that and specifying the date by when the dog can be de-sexed.
6. On 6 October 2022 Animal Management classified Radlee as menacing because it considered that the dog may pose a threat to the safety of persons or animals. The notice of classification was served on Mr Ryan on 10 October 2022. Refer Attachment A.
7. On 21 October 2022 Mr Kelsey objected to the classification. Refer Attachment B. The basis of his objection is that the attack was provoked when Radlee was kicked.
8. On the weight of the information collected during the investigation of the attack, the attack was unprovoked.
9. Even on Mr Kelsey's version Radlee may still pose a threat to other dogs. There are many people who are afraid of dogs and who often react in loud and unexpected ways when confronted in public places with large dogs. If Radlee were put in a similar situation she may possibly react in a similar way and thus pose a threat to the safety of others.
10. The threat that Radlee may pose will be eliminated by her being muzzled when in public places. The threat may also be reduced if Radlee undergoes a socialisation and behaviour modification programme.
11. Clause 17 of the Auckland Council Dog Management Bylaw 2019 provides for the review and cancellation of a menacing classification after 12 months if Mr Kelsey:
 - Provides a dog behavioural assessment report on Radlee,
 - Has not been issued with infringement notices relating to Radlee within the preceding 12-month period and
 - Has obtained a responsible dog ownership licence.

Ngā tūtohunga Recommendation/s

That the Regulatory and Safety Committee:

- a) hear and consider Mr Kelsey's objection to his dog, Radlee, having been classified as menacing under section 33A of the DCA and
- b) uphold Radlee's menacing classification under section 33A of the DCA.

Horopaki Context

12. The Governing Body of the Auckland Council has delegated to the Regulatory Committee (now the Regulatory and Safety Committee) the responsibility for regulatory hearings in Resolution No. GB/2019/109 which was adopted on 12 November 2019. The regulatory hearings which this committee is responsible include, amongst others, decisions under the DCA in relation to the consideration of objections under the DCA.

The Dog Control Act 1996

13. A dog may be classified as menacing under section 33A if the Auckland Council considers the dog may pose a threat to the safety of persons or animals because of any reported behaviour of the dog.
14. Where a dog is classified as menacing, then the owner of the dog:
 - a) must not allow the dog to be at large or in a public place or in any private way without been muzzled, and
 - b) must within one month after service of the notice provide a certificate by a veterinarian that the dog is or has been de-sexed. If the dog is not in a fit condition to be de-sexed within that time, the dog owner must provide a certificate by a veterinarian explaining the reasons for that and specifying the date by when the dog can be de-sexed.
15. It is an offence under the DCA if an owner fails to comply with these requirements. The maximum fine for this offence is \$3000. In addition, an animal management officer may seize and retain custody of the dog until the owner has demonstrated a willingness to comply with these requirements.
16. Section 33D(3) explains what the committee must take into account during their deliberations on whether the objection should be upheld or rescinded. These are:
 - a) The evidence which formed the basis for the classification
 - b) Any steps taken by the owner to prevent any threat to the safety of person or animals
 - c) The matters relied on in support of the objection and
 - d) Any other relevant matters.

Evidence which formed the basis for the classification

17. On 17 September 2022 the complainant, a 72-year-old woman with mobility difficulties, was walking Harry, a miniature poodle, along Onetangi Beach. Harry was on a lead. The complainant was accompanied by family members and a friend. Radlee came running towards Harry and attacked him by biting him on his back. The complainant tried to shield Harry with her foot and by turning away from the dog. Her friend tried to intervene by hitting the attacking dog on the rump with her dog's lead. Mr Kelsey pulled Radlee away, but the dog managed to escape control and attacked Harry again. Harry sustained serious bite wounds on his back which warranted veterinary intervention at a cost \$782.10.
18. The complainant's statement, a photo of Harry post-surgery and the vet bill is annexed as Attachment C. Her friend's statement is annexed as Attachment D.

19. Mr Kelsey states that a younger woman in the complainant's group called Radlee over to pat her. Radlee then wanted to sniff Harry, but the complainant started shouting to get the dog away and kicked Radlee. He states that 'that's when it all went bad'. He dropped down to grab Radlee and the woman who had called Radlee in the first place, started whipping him with her dog's lead. He let go of Radlee to protect himself and he remonstrated with this woman. It can safely be accepted that this woman is the complainant's friend referred to in paragraph 17 and 18 above.
20. Mr Kelsey's statement with a photo of Radlee is annexed as Attachment E.

Steps taken by Mr Kelsey to prevent any threat to persons or animals

21. Radlee was not under voice-control during the incident.

Matters relied upon in support of the objection

22. Mr Kelsey states that Radlee was provoked into attacking Harry when the complainant kicked her.
23. Mr Kelsey provided character references for Radlee and photos depicting Radlee's historical interactions with other animals and people. Refer Attachment F.

Tātaritanga me ngā tohutohu Analysis and advice

24. The classification of dogs as menacing is to protect public safety from possible harm. The threat referred to in section 33A need not be shown to be real in order to classify a dog as menacing. It suffices if there is a potential of harm by the dog to persons and animals.
25. The weight of the information collected during the investigation supports the complainant and her friend's version that the attack was unprovoked, and that complainant's perceived kicking at the dog happened after Radlee had started to attack Harry.
26. Even on Mr Kelsey's version Radlee may still pose a threat to other dogs. There are many people who are afraid of dogs and who often react in loud and unexpected ways when confronted in public places with large dogs. If Radlee were put in a similar situation she may possibly react in a similar way and thus still pose a threat to the safety of others.
27. This threat will be eliminated if Radlee is muzzled when in public places. The threat may also be reduced if Radlee undergoes a socialisation and behaviour modification programme.
28. Clause 17 of the Auckland Council Dog Management Bylaw 2018 provides for the review and cancellation of a menacing classification after 12 months if Mr Kelsey:
 - Provides a dog behavioural assessment report on Radlee,
 - Has not been issued with infringement notices relating to Radlee within the preceding 12-month period and
 - Has obtained a responsible dog ownership licence.
29. The potential harm that Radlee poses to others will remain until she has successfully completed the behavioural modification programme. Until then the menacing classification must remain in place to ensure that Radlee is muzzled when in public places.

Tauākī whakaaweawe āhuarangi Climate impact statement

30. This section is not relevant to the subject of this report.

Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera Council group impacts and views

31. This is a report about an objection to the menacing classification of a dog. It does not require council group views.

Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe Local impacts and local board views

32. This report has no local impact. We have not sought local board views.

Tauākī whakaaweawe Māori Māori impact statement

33. This is a report about an objection to the menacing classification of a dog which has no impact on Māori.

Ngā ritenga ā-pūtea Financial implications

34. The decision by the Regulatory and Safety Committee on the objection to the menacing classification has no financial implications.







Ngā raru tūpono me ngā whakamaurutanga Risks and mitigations

35. There are no risks in upholding the classification.

Ngā koringa ā-muri Next steps

36. The Regulatory and Safety Committee must give Mr Kelsey written notice of its decision as soon as practicable.

Ngā tāpirihanga Attachments

No.	Title	Page
A 	Notice of classification	
B 	Objection to classification	
C 	Complainant's statement	
D 	Statement from witness	
E 	Mr Kelsey's statement	
F 	Character references and photos	

Ngā kaihaina Signatories

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