

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

**Date:** Tuesday, 30 May 2023  
**Time:** 2.00pm  
**Meeting Room:** Room 1, Level 26  
**Venue:** 135 Albert Street  
Auckland

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

### OPEN AGENDA

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#### MEMBERSHIP

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

(Quorum 5 members)

**Sam Riddiford**  
Governance Advisor

**25 May 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**

Click the meeting date below to access the minutes.

That the Regulatory and Safety Committee:

- a) whakaū / confirm the ordinary minutes of its meeting, held on [Tuesday, 4 April 2023](#), including the confidential section, as a true and correct record.

**4 Ngā Petihana | Petitions**

**5 Ngā Kōrero a te Marea | Public Input**

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

**6.1 Local Board Input: Albert-Eden Local Board - Local Crime Fund**

**Te take mō te pūrongo**

**Purpose of the report**

1. Albert-Eden Local Board Chair, Margi Watson will address the committee regarding the Local Crime Fund.

**Whakarāpopototanga matua**

**Executive summary**

2. Albert-Eden Local Board Chair, Margi Watson will speak to the committee regarding the Local Crime Fund.

**Ngā tūtohunga**

**Recommendation/s**

That the Regulatory and Safety Committee:

- a) whiwhi / receive the Albert-Eden Local Board input regarding the Local Crime Fund
- b) whakamihi / thank Albert-Eden Local Board Chair Margi Watson for attending.

## 6.2 Local Board Input: Henderson-Massey Local Board - Local Crime Fund

### Te take mō te pūrongo Purpose of the report

1. Henderson-Massey Local Board Deputy Chair, Brooke Loader will address the committee regarding the Local Crime Fund.

### Whakarāpopototanga matua Executive summary

2. Henderson-Massey Local Board Deputy Chair, Brooke Loader will speak to the committee regarding the Local Crime Fund.

### Ngā tūtohunga Recommendation/s

That the Regulatory and Safety Committee:

- a) whiwhi / receive the Henderson-Massey Local Board input regarding the Local Crime Fund
- b) whakamihi / thank Henderson-Massey Local Board Deputy Chair Brooke Loader for attending.

## 7 Ngā Pakihi Autaia | Extraordinary Business

## Local Crime Fund

File No.: CP2023/04014

### Te take mō te pūrongo Purpose of the report

1. To approve the distribution model and ratio for the Local Crime Fund of \$2 million.

### Whakarāpopototanga matua Executive summary

2. Through the Ministry of Social Development, the Government has allocated \$2 million from the Proceeds of Crime Fund to invest in community safety initiatives in Auckland.
3. The focus areas for the fund are town / retail centre Crime Prevention through Environmental Design (CPTED) initiatives, and programmes that can reduce the risk and impact of youth crime.
4. The funding is for one year, with project delivery through the 2023/2024 financial year.
5. Three models for fund distribution have been identified with focus on either regional, local board or mixed allocation, utilising existing council processes and resources for distribution and investment.

### Ngā tūtohunga Recommendation/s

That the Regulatory and Safety Committee:

- a) whakaae / approve the combination distribution model (Option 1) for allocating the Local Crime Fund, consisting of:
  - i) \$1 million distribution to local boards for activities focused on Crime Prevention through Environmental Design (CPTED) and/or youth offending prevention initiatives based on local need
  - ii) \$1 million for a regional contestable grant programme to focus on impactful interventions to reduce the risk of youth offending.
- b) where there is a local board option (Option 1 or Option 2) chosen, whakaae / approve the distribution of funds based on 75 per cent crime data and 25 per cent even split across all 21 local boards.

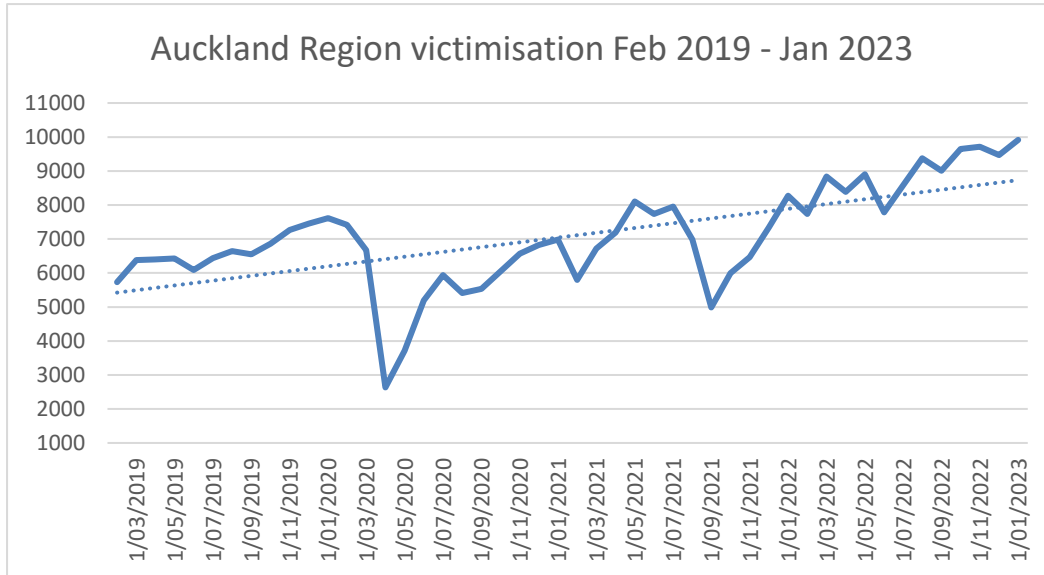
### Horopaki Context

6. On 28 November 2022, the Prime Minister announced a \$4 million dollar funding package to address retail crime and youth offending throughout New Zealand.
7. Of that, \$2 million is allocated to Auckland Council to support regional crime prevention initiatives. This is identified as the 'Local Crime Fund'.
8. The Local Crime Fund is distinct from the Retail Crime Prevention (RCP) fund and the fog cannon subsidy scheme, administered by NZ Police and Ministry of Business, Innovation and Employment (MBIE), which are intended to supply security equipment to small retailers.
9. The Local Crime Fund will assist with crime prevention with a focus on regional youth offending interventions and town / retail centre Crime Prevention through Environmental Design (CPTED) measures such as patrols, street lighting, CCTV cameras and beautification.
10. Distribution options of the funding have been developed for the committee to consider.

## Tātaritanga me ngā tohutohu Analysis and advice

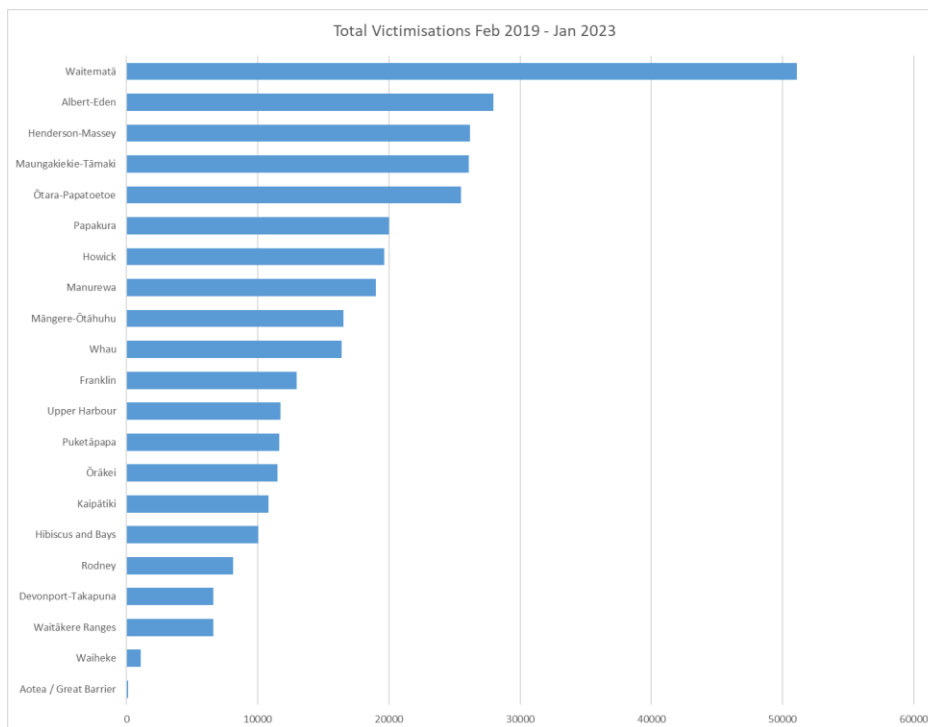
11. Crime data from NZ Police indicate an increase in victimisations in the Auckland region in the range of 50-70 per cent compared to pre-pandemic levels, before March 2020 (Chart 1). Retail crime has seen a significant increase during this time.

**Chart 1: Total victimisations Auckland Region (policedata.nz)**



12. A review of the impact of crime and youth offending on communities and local boards, shows an uneven impact across the region. This is an important consideration when directing resources on a regional basis. Chart 2 shows the total victimisations across local boards from February 2019 to January 2023.

**Chart 2: Total victimisations per local board area (policedata.nz)**



13. The aim of the Local Crime Fund is to activate new or strengthen existing interventions that focus on reducing youth crime and improving town centre / retail crime prevention. It is a one-off payment that cannot be used to fund council operations or business-as-usual.



14. Roles and responsibilities for community safety outcomes sit across several internal teams and external partners. Council is engaged with internal and external stakeholders, such as NZ Police, Auckland Transport (AT), Regulatory and Compliance, Youth Empowerment Team, CAYAD, community patrols, Māori and Pacific wardens, Business Associations, and social service outreach partners. These stakeholders have informed the development of the options for consideration.
15. Engagement with partners ensures alignment with existing initiatives, such as the Retail Crime Prevention Fund, and to understand council’s ability to resource and deliver the programme options.

### Distribution Options

16. Development of the options considered:
  - the ability for council to operationally distribute the funding
  - the ability for council staff across different teams to provide advice and guidance to elected members on the delivery of relevant interventions
  - the crime data for local boards to develop an equitable ratio of distribution which is weighted toward the impact of crime
  - the scale and impact of different initiatives across the theme areas based on operational experience and research of what initiatives are impactful.
17. Based on the criteria above, three distribution options are presented in Table 1.

**Table 1: Distribution options**

Option	Mechanism	Benefits	Limitations
Option 1  Combination option – local board and regional  <b>Recommended</b>	\$1 million distributed to local boards in the 2023/2024 work programme for community initiatives with youth and CPTED outcomes.  \$1 million allocated to a regional grants programme contestable for organisations with a focus on impactful youth offending prevention initiatives.	<ul style="list-style-type: none"> <li>• Outcomes are more equitably invested across the key themes.</li> <li>• Provides for both local board and regional initiatives.</li> <li>• Potential for higher impact in youth offending prevention due to regional scale of investment.</li> <li>• Provides clear differentiation between the two themes and processes.</li> <li>• Provides other key benefits from both Option 2 and 3.</li> <li>• Meets the needs of the youth interventions sector that is organized regionally.</li> <li>• Meets the needs of CPTED interventions best applied locally.</li> </ul>	<ul style="list-style-type: none"> <li>• Lower level of investment to local boards compared to Option 2.</li> <li>• Lower level of regional grant investment compared to Option 3.</li> </ul>

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Option	Mechanism	Benefits	Limitations
Option 2  Full local board allocation	Funding included in the 2023-2024 local board work programmes, for, youth initiatives and town centre / retail safety CPTED outcomes.	<ul style="list-style-type: none"> <li>Enables local responses and solutions to crime and youth offending issues.</li> <li>Flexibility in how the investment can be distributed across the CPTED / youth prevention areas locally.</li> <li>Opportunity to engage residents and businesses in community-led initiatives.</li> </ul>	<ul style="list-style-type: none"> <li>Reduces the potential scale and impact of youth offending prevention investment.</li> <li>May exclude specialist providers that operate at a regional level.</li> <li>May not generate longer term impact at the same scale as regional investment, particularly for youth offending prevention.</li> </ul>
Option 3  Full regional grants programme	Funding distributed via a contestable regional grants programme covering both youth and CPTED investment.	<ul style="list-style-type: none"> <li>A contestable process may encourage innovative programmes and experienced youth organisations to apply.</li> <li>Increases the likelihood of impact at subregional and regional level.</li> <li>Higher level of investment for individual programmes may lead to greater impact and scalability.</li> </ul>	<ul style="list-style-type: none"> <li>No direct investment to local boards.</li> <li>Reduces the level of local involvement in decision making.</li> <li>Favours regional organisations over local providers.</li> <li>Due to the localised nature of CPTED, fund structure is not well suited to that theme.</li> </ul>

18. Community safety staff have reviewed data on the effectiveness of prevention activities to deliver impactful initiatives at all levels of investment. Staff will also work with the cross-agency Youth Offending and Prevention Working Group to provide insight into specific programmes that could be funded across the region. This group includes NZ Police, Ministry of Social Development, Oranga Tamariki and the Ministry of Education.
19. While funded interventions will depend on the choice of distribution model, examples of investment opportunities include:
  - safety grants to business associations, local volunteer patrols and warden’s groups
  - CPTED and community safety audits or reviews of town centres
  - physical safety improvements including public safety cameras, bollards, planter boxes, beautification, and access control
  - events and activations to improve culture and cohesion in town centres
  - after-school, holiday, arts and culture, or sports programmes for young people
  - mentoring, relationship and social skills support
  - restorative justice and focused deterrence programmes.

### Allocation ratio

20. Where the option chosen includes local board allocation (Options 1 and 2), the distribution amounts can be based on models already used by Auckland Council and Auckland Transport (AT): the Locally Driven Initiatives (LDI) model, or the “equal portion and data” model.

21. For LDI the current framework is:
  - 90 per cent population / 5 per cent deprivation / 5 per cent land area.
22. Where funding is allocated to local boards as per the LDI formula:
  - one per cent of the total fund is allocated to the Aotea/Great Barrier Local Board
  - two per cent of the total fund is allocated to Waiheke Local Board
  - the remainder of the fund is allocated to the other 19 local boards, with their share based on population, and adjusted for deprivation and land area.
23. A more targeted option is to base distribution on crime data from the NZ Police with a remaining equal portion for each local board: the “equal portion and data” model.
24. Crime victimisation data is a relevant factor to include due to the intention of the funding, however, if applied exclusively, it results in some local boards receiving significantly more funding than others.
25. In 2019 / 2020, AT allocated a transport safety fund across the 21 local boards. The allocation formula used was 75 per cent based on relative Deaths and Serious Injury (DSI) for each local board (the data). The remaining 25 per cent was distributed equally between the 21 local boards (equal portion). A similar distribution method is recommended for the Local Crime Fund, where crime victimisation statistics are used in place of the DSI data.
26. The “equal portion and data” model responds to the Government’s intention to provide funding on the basis of the impact of crime, while ensuring that less affected local board areas have a workable portion of funding.
27. Funding impacts were assessed under these two allocation models and are provided in Attachment A.

### **Tauākī whakaaweawe āhuarangi Climate impact statement**

28. The decision is an administrative matter and will not impact on greenhouse gas emissions.

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

29. Due to their investment in town centre revitalisation and community safety, staff at Eke Panuku have contributed to the options in this report. Support for the key themes was expressed, along with potential opportunities for data sharing to improve responses to crime and anti-social behaviour.
30. Input from staff at AT has also contributed to the options in this report. AT is supportive of the fund and has identified where it can aid local boards with the practical aspects of CPTED investments that relate to AT controlled assets.

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

31. Local impacts have been considered through the area specific victimisation data provided by NZ Police and detailed in Chart 2.
32. Local boards were invited to provide formal feedback on the preferred distribution option for the funding (Attachment B).
33. Summary of local board feedback:
  - 17 local boards supported full local board allocation (Option 2). Of these 6 local boards specified they support using existing distribution methods and/or relevant crime statistics.
  - Upper Harbour Local Board support the combination option of local board and regional allocation (Option 1).

- Franklin and Whau local boards supported an option for distribution through Business Improvement Districts (BIDs) and Business Associations. This was a fourth option presented to local boards but did not sufficiently meet the criteria for the options developed for the committee.
- Albert-Eden Local Board did not endorse any option but suggested the fund be distributed based on crime data and focused solely on the implementation of CPTED interventions.

### Tauākī whakaaweawe Māori Māori impact statement

- The most recent New Zealand Crime and Victims Survey by the Ministry of Justice identified personal factors, including being Māori, as associated with a higher likelihood of victimisation. Māori adults were more likely to experience crime across all offence types.
- Where funded interventions are developed with kaupapa Māori principles, it is anticipated that improving community safety outcomes will have a positive impact on Māori communities in Tāmaki Makaurau.
- The Auckland Council Community Grants Policy, which guides investment into regional grants programmes, contains a specific objective to support the delivery of Māori outcomes, contributing to increased social and economic wellbeing for Māori. This will be designed into the criteria and application process of the grants programme.
- Where investment is made through local board work programmes, impact on Māori outcomes and alignment to Kia Ora Tāmaki Makaurau is embedded in the development process of the work programme.

### Ngā ritenga ā-pūtea Financial implications

- There are no adverse financial implications of the decision being sought, as this funding is provided by central government through the Proceeds of Crime Fund.
- Staff have identified no obvious financial risk, with the financial impact being positive.
- Council’s financial contribution is identified as the provision of existing staff time to support the activities arising from the fund.
- The administration of this fund will be managed within existing council resources, which are not anticipated to be impacted by the 2023/24 Annual Budget proposals.

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

- Key risks and mitigations have been identified in Table 2.

**Table 2: Key risks and mitigations**



Risk	Mitigation
<b>Annual budget impact on resources and staffing</b>	Mitigations include ensuring the distribution model, processes and relevant support resources are finalised in the current financial year and ensuring that the delivery of initiatives is community-led, with ongoing accountability processes aligned to staff capacity in council.
<b>Delivery not to scope or timeframe</b>	Staff will ensure ongoing project impact reporting identifies and attaches timelines to key outcomes. This will apply to both a regional grants programme, and local board work programmes. Staff will work closely with Local Board Services and other delivery teams on investments made through local board work programmes.

<b>Understanding what will be impactful</b>	To reduce the difficulty in knowing what will and won't be effective in investments into crime prevention initiatives staff will use research from national and international sources to identify those with a greater chance of success.  Review of the investment will also be undertaken by the cross-agency Youth Offending and Prevention Working Group, and in conjunction with the Youth Empowerment Team and CAYAD.
<b>Providing a legacy of impact with one year funding</b>	Ensure that the potential for medium to long-term impact forms part of the application and selection process, e.g., consider the potential for new partnerships and funding in the future.
<b>Impact of investments could be low due to the wide distribution across 21 local boards</b>	Advice and guidance will be provided to council staff to support the development of initiatives across a range of budgets. This could include supporting the pooling of investment across local boards where they can run complementary programmes.

## Ngā koringa ā-muri Next steps

43. Following approval of the distribution model by the Regulatory and Safety Committee, operational teams will set up the relevant mechanism and processes for distribution.
44. In Quarter Four of 2022/2023 we will confirm the distribution process based on the chosen distribution model, and in Quarter One of 2023/2024 the delivery of programmes will commence.
45. Reporting and accountability processes will be developed to ensure the investment is delivered as planned and the impact of interventions is reviewed.
46. Staff will continue working with central government to identify future community safety partnership and funding opportunities for Auckland.

## Ngā tāpirihanga Attachments

No.	Title	Page
A 	Financial allocation of Local Crime Fund for local boards	
B 	Local Board Feedback on Local Crime Fund Report	

## Ngā kaihaina Signatories

Author	Duncan McLaggan - Manager Community Partnerships & Investment
Authorisers	Mirla Edmundson - General Manager Connected Communities Claudia Wyss - Director Customer and Community Services Craig Hobbs - Director Regulatory Services



# Determination of objections to menacing dog classifications by Krystle Black

File No.: CP2023/06184

Item 9

## Te take mō te pūrongo

### Purpose of the report

1. To hear and consider Krystle Black's objection to her dogs, Roxy and Rickie, being classified as menacing under section 33A of the Dog Control Act 1996 (DCA).

## Whakarāpopototanga matua

### Executive summary

2. Ms Black is the owner of a 3-year-old female entire Rottweiler called Roxy, and a 2-year-old male entire Rottweiler called Rickie.
3. On 15 June 2022 Roxy and Rickie escaped from her property and attacked a poodle that was being walked past the property. The attack was unprovoked. The poodle sustained serious injuries which necessitated urgent veterinary treatment.
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 17 June 2022 Animal Management classified Roxy and Rickie as menacing by deed because it considered that the dogs may pose a threat to the safety of people and domestic animals. Refer Attachments A and B. The notices of classification were served on Ms Black on the same day.
7. Ms Black objects to the classification on the following grounds (refer Attachment C):
  - a) At the time, the attacked dog was being walked off leash and was not under direct control of its owner. The dog would often come close to her property fence which made the dogs over-excited.
  - b) She wants to breed with the two dogs. Roxy was pregnant at the time pregnant with six puppies.
8. Roxy and Rickie may pose a threat to persons and specifically other dogs. This threat will be reduced if the dogs are:
  - a) muzzled when in public places because any attack on persons or domestic animals will be prevented,
  - b) de-sexed because it will temper their aggression and reduce the risk they may pose to public safety.



9. Clause 17 of the Auckland Council Dog Management Bylaw 2019 provides for the review and cancellation of a menacing classifications after 12 months if Ms Black:
  - a) provides a dog behavioural assessment report on the dogs,
  - b) has not been issued with infringement notices relating to Roxy or Rickie within the preceding 12-month period, and
  - c) has obtained a Responsible Dog Owner Licence.

## Ngā tūtohunga Recommendation/s

That the Regulatory and Safety Committee:

- a) kohuki / consider Ms Krystle Black's objection to her dogs, Roxy and Rickie, being classified as menacing under section 33A of the DCA and
- b) tautīnei / uphold Roxy's and Rickie's menacing classification under section 33A of the DCA.

## Horopaki Context

### Jurisdiction of the Regulatory and Safety Committee

10. 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

11. 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.
12. 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.
13. 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.
14. 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

15. On 15 June 2022 the complainant was walking her poodle along Mantra Road in Massey, when the two Rottweilers escaped from Ms Black's property in Jammen Drive and attacked her dog. Her dog was seriously injured. Refer to Attachment D for her report, and Attachment E for photos of the dog's injuries.
16. An animal management officer, Mark Williams, investigated the complaint. He ascertained that the dogs had escaped through broken fencing at the rear of the property. Refer Attachment F for his statement and photos of the fencing.
17. Auckland Council had no record of Rickie because he was never registered. Roxy was not currently registered. Her last registration was for the financial year 2019 – 2020.
18. Ms Black has since registered both dogs. She was issued with infringement notices under section 42 of the DCA for failing to register Roxy and Rickie.

### Steps taken by Ms Black to prevent any threat to persons or animals

19. Ms Black did not maintain the fencing of her property to ensure that her dogs cannot escape.
20. She has not informed Animal Management whether her dogs have since this incident been de-sexed, or whether they have attended any behavioural modification courses.

### Matters relied upon in support of the objection

21. Ms Black objects to the classification on the following grounds:
  - a) Her dogs are not aggressive.
  - b) The poodle was not on a leash and was not under direct control of its owner.

The dogs attacked the poodle because they were able to escape from Ms Black's property, not because the poodle was not on a leash.
  - c) The dogs were over-excited because the poodle would often pass the property close to the fence.

The poodle's behaviour cannot be termed as aggressive or provocative. The dogs attacked the poodle because they were able to escape from Ms Black's property.
  - d) Ms Black wants to breed with Roxy and Rickie.

The purpose of the DCA is to protect public safety, by ensuring that dogs do not cause harm. The financial benefit from breeding with the dogs cannot compete against public safety.

### Other relevant matters

22. Ms Black may wish to address the committee on other relevant matters.

## Tātaritanga me ngā tohutohu Analysis and advice

23. 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 to classify a dog as menacing. It suffices if there is a potential of harm by the dog to persons and animals.
24. Ms Black's objections to the menacing classifications are unsustainable. Refer paragraph 21 above.
25. Auckland Council considers that Roxy and Rickie may pose a threat to persons and domestic animals. This threat will be eliminated if they are muzzled when in public.
26. The threat will also be reduced if Roxy is de-sexed. One of the benefits of de-sexing a female dog is that it may reduce the dog's unwanted aggressive behaviour when on heat or when she has puppies.
27. Rickie's desire to roam and aggressive behaviour will decrease if he is de-sexed. This will reduce the likelihood of him getting involved in dog fights.

## Tauākī whakaaweawe āhuarangi Climate impact statement

28. 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

29. This is a report about an objection to the menacing classification of dogs. 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

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

## Tauākī whakaaweawe Māori Māori impact statement

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

## Ngā ritenga ā-pūtea Financial implications

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







## Ngā raru tūpono me ngā whakamaurutanga Risks and mitigations

33. There are no risks in upholding the classifications.

## Ngā koringa ā-muri Next steps

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

## Ngā tāpirihanga Attachments

No.	Title	Page
A 	Notice of classification for Roxy	
B 	Notice of classification for Rickie	
C 	Objection to menacing dog classifications	
D 	Complainant's report	
E 	Photographs of dog's injuries	
F 	Statement by Mark Williams, Animal Management Officer	

## Ngā kaihaina Signatories

Author	Chrisna Nortje – Principal Specialist Animal
Authorisers	Eleanor Waitoa – Manager Animal Management Mervyn Chetty – General Manager Licensing & Regulatory Compliance Craig Hobbs - Director Regulatory Services





# Determination of an objection to a menacing dog classification by Ashley Williams

File No.: CP2023/06185

Item 10

## Te take mō te pūrongo

### Purpose of the report

1. To hear and consider Ashley William's objection to her dog, Tane Williams, being classified as menacing under section 33A of the Dog Control Act 1996 (DCA).

## Whakarāpopototanga matua

### Executive summary

2. Ms Williams is the owner of a 3-year and 3-month-old male Mastiff, called Tane Williams. The dog is not de-sexed.
3. On 3 March 2023 Tane attacked a courier on the shared driveway leading to Ms William's property. The attack was unprovoked. The courier sustained a bite wound to his inner thigh and sprained his wrist and lower back when he fell over during the attack. He received medical treatment at an accident and emergency clinic.
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 8 March 2023 Animal Management classified Tane as menacing by deed because it considered that the dog may pose a threat to the safety of people and domestic animals. The notice of classification was served on Ms Williams on 9 March 2023. Refer Attachment A.
7. Ms Williams objects to the classification on the following grounds (refer Attachment B):
  - a) Tane has never shown any aggression or attacked anybody in the past,
  - b) There is a 'Beware of the Dog' sign at the front of her property,
  - c) The attack happened on her property.
8. A dog owner is obligated to keep their dog confined within their property, and under control on their property to prevent harm to persons who lawfully enter the property.
9. Tane's behaviour in attacking a person under these circumstances may pose a threat to persons and domestic animals. This threat will be reduced if Tane is:
  - a) muzzled when in public places because any attack on persons or domestic animals will be prevented,
  - b) de-sexed because it will temper his aggression and reduce the risk he poses to public safety.

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 Williams:
  - a) provides a dog behavioural assessment report on Tane,
  - b) has not been issued with infringement notices relating to Tane within the preceding 12-month period, and
  - c) has obtained a Responsible Dog Owner Licence.

## Ngā tūtohunga Recommendation/s

That the Regulatory and Safety Committee:

- a) kohuki / consider Ms Ashley William's objection to her dog, Tane, being classified as menacing under section 33A of the DCA and
- b) tautīnei / uphold Tane'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:
  - 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.
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:
  - 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

16. On 3 March 2023 the complainant, a courier, walked down the shared driveway to deliver a parcel at Ms Williams's property. He called out when he got to the front of the property. Tane was at the time lying in front of the house. Tane ran to the complainant and bit him on his inner thigh. The complainant fell over and hurt his wrist and lower back. He went to the White Cross Accident & Urgent Medical – Henderson 24/7 where the bite wound was disinfected and bandaged. He was also given painkillers and a prescription for antibiotics. Refer the Attachment C for the complainant's statement and Attachment D for the witness's statement.
17. Auckland Council had no record of Tane because it was unregistered. Ms Williams has since registered the dog.
18. Ms Williams was issued with an infringement notice under section 53 of the DCA for failing to control Tane.

### Steps taken by Ms Williams to prevent any threat to persons or animals

19. There is a 'Beware of the Dog' sign near the entrance to Ms Williams's property. The dog can leave the property freely because it is not gated.
20. Ms Williams has not informed Animal Management whether Tane has since this incident been de-sexed, or whether Tane has attended any behavioural modification courses.

### Matters relied upon in support of the objection

21. Ms Williams objects to the classification on the following grounds:
  - a) Tane has never shown any aggression or attacked anybody in the past.

Animal Management cannot admit or deny that Tane has not been involved in any earlier aggressive incidents. This is because the dog was not registered until this attack.
  - b) There is a 'Beware of the Dog' sign at the front of her property.

This does not relieve a dog owner from the obligation to ensure that their dog does not injure a person who has lawfully entered their property. Refer to the analysis at paragraph [25] below.
  - c) The attack happened on her property.

According to the complainant, the attack happened before he entered the property. This is to an extent supported by the witness's statement. It is in any event irrelevant where the attack happened. Refer to the analysis at paragraph [26] below.

### Other relevant matters

22. Ms Williams may wish to address the committee on other relevant matters.

## Tātaritanga me ngā tohutohu Analysis and advice

23. 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 to classify a dog as menacing. It suffices if there is a potential of harm by the dog to persons and animals.
24. It matters not if a dog has not shown any aggressive behaviour in the past for it to pose a risk to public safety. The High Court remarked in *Halliday v New Plymouth District Council* HC NWP CRI 2005-443-011 (14 July 2005) at paragraph [44] that '*once a dog has attacked it will be assumed it will attack again unless there are compelling reasons justifying an alternative view*'. There are no facts in this case to warrant an alternative finding.

25. Section 5(1)(g) of the DCA imposes the obligation on a dog owner to take all reasonable steps to ensure that their dog does not injure any person. A sign warning a visitor to beware of a dog on the property merely informs that person to be on the lookout for a dog on the property. It does not prevent that person from entering the property and it does not excuse the dog owner if the dog attacks that person.
26. Moreover, it is an accepted legal principle that members of the public have an implied licence to enter onto private property on the condition that it is for a lawful purpose. In this case, the complainant had lawful business to enter Ms Williams's property to deliver a parcel.
27. Auckland Council considers that Tane poses a threat to persons and domestic animals. This threat will be eliminated if he is muzzled when in public. His aggressive behaviour will be tempered and his desire to roam will be decreased if he is de-sexed. This will reduce the likelihood of Tane getting involved in dogfights.

### **Tauākī whakaaweawe āhuarangi** **Climate impact statement**

28. 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**

29. 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**

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

### **Tauākī whakaaweawe Māori** **Māori impact statement**

31. 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**

32. 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**





33. There are no risks in upholding the classification.

### **Ngā koringa ā-muri** **Next steps**

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



## Ngā tāpirihanga Attachments

No.	Title	Page
A 	Notice of classification	
B 	Objection to menacing dog classification	
C 	Complainant's statement	
D 	Statement from witness	

## Ngā kaihaina Signatories

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