ORDINARY MEETING OF PŪRORO HĀTEPE | REGULATORY PROCESSES COMMITTEE AGENDA

Time: 09:30am
Date: Wednesday, 16 February 2022
Venue: Virtual meeting

MEMBERSHIP

Mayor Foster
Deputy Mayor Free
Councillor Condie
Liz Kelly
Councillor Matthews
Councillor O'Neill (Deputy Chair)
Councillor Pannett
Councillor Woolf (Chair)

Have your say!
You can make a short presentation to the Councillors at this meeting. Please let us know by noon the working day before the meeting. You can do this either by phoning 04-803-8334, emailing public.participation@wcc.govt.nz or writing to Democracy Services, Wellington City Council, PO Box 2199, Wellington, giving your name, phone number, and the issue you would like to talk about. All Council and committee meetings are livestreamed on our YouTube page. This includes any public participation at the meeting.

AREA OF FOCUS

The Regulatory Processes Committee has responsibility for overseeing the Council's regulatory functions, including responsibility for:

- Approving the list of Resource Management Act Commissioners and the associated Appointment Guidelines
- Objections to classifications under the Dog Control Act
- Fencing of swimming pools
- Road stopping
- Naming places in accordance with the Naming Policy, except for significant naming decisions, which are considered by the Strategy and Policy Committee.
- Traffic resolutions which are not considered by the Strategy and Policy Committee.
- Suburb boundaries
- Development Contributions remissions.
- Approving leases pursuant to Council policies.

To read the full delegations of this Committee, please visit wellington.govt.nz/meetings.

Quorum: 4 members

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1. Meeting Conduct

1.1 Karakia

The Chairperson will open the meeting with a karakia.

Whakataka te hau ki te uru,	Cease oh winds of the west
Whakataka te hau ki te tonga.	and of the south
Kia mākinakina ki uta,	Let the bracing breezes flow,
Kia mātaratara ki tai.	over the land and the sea.
E hī ake ana te atākura.	Let the red-tipped dawn come
He tio, he huka, he hauhū.	with a sharpened edge, a touch of frost,
Tihei Mauri Ora!	a promise of a glorious day

At the appropriate time, the following karakia will be read to close the meeting.

Unuhia, unuhia, unuhia ki te uru tapu nui	Draw on, draw on
Kia wātea, kia māmā, te ngākau, te tinana, te wairua	Draw on the supreme sacredness To clear, to free the heart, the body
I te ara takatū	and the spirit of mankind
Koia rā e Rongo, whakairia ake ki runga	Oh Rongo, above (symbol of peace)
Kia wātea, kia wātea	Let this all be done in unity
Āe rā, kua wātea!	

1.2 Apologies

The Chairperson invites notice from members of apologies, including apologies for lateness and early departure from the meeting, where leave of absence has not previously been granted.

1.3 Conflict of Interest Declarations

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

1.4 Confirmation of Minutes

The minutes of the meeting held on 9 February 2022 will be put to the Pūroro Hātepe | Regulatory Processes Committee for confirmation.

1.5 Items not on the Agenda

The Chairperson will give notice of items not on the agenda as follows.

Matters Requiring Urgent Attention as Determined by Resolution of the Pūroro Hātepe | Regulatory Processes Committee.

The Chairperson shall state to the meeting:

1. The reason why the item is not on the agenda; and

2. The reason why discussion of the item cannot be delayed until a subsequent meeting.

The item may be allowed onto the agenda by resolution of the Pūroro Hātepe | Regulatory Processes Committee.

Minor Matters relating to the General Business of the Pūroro Hātepe | Regulatory Processes Committee.

The Chairperson shall state to the meeting that the item will be discussed, but no resolution, decision, or recommendation may be made in respect of the item except to refer it to a subsequent meeting of the Pūroro Hātepe | Regulatory Processes Committee for further discussion.

1.6 Public Participation

A maximum of 60 minutes is set aside for public participation at the commencement of any meeting of the Council or committee that is open to the public. Under Standing Order 31.2 a written, oral or electronic application to address the meeting setting forth the subject, is required to be lodged with the Chief Executive by 12.00 noon of the working day prior to the meeting concerned, and subsequently approved by the Chairperson.

Requests for public participation can be sent by email to public.participation@wcc.govt.nz, by post to Democracy Services, Wellington City Council, PO Box 2199, Wellington, or by phone at 04 803 8334, giving the requester's name, phone number and the issue to be raised.

2. General Business

OBJECTION TO A CLASSIFICATION UNDER THE DOG CONTROL ACT 1996

Kōrero taunaki

Summary of considerations

Purpose

1. This report asks the Pūroro Hātepe | Regulatory Processes Committee to determine whether to uphold or rescind a classification as a dangerous dog under the Dog Control Act 1996 (the Act).

Strategic alignment with community wellbeing outcomes and priority areas

Aligns with the following strategies and priority areas:

☐ Sustainable, natural eco city
☒ People friendly, compact, safe and accessible capital city
☐ Innovative, inclusive and creative city
☐ Dynamic and sustainable economy

Strategic alignment with priority objective areas from Long-term Plan 2021–2031

☐ Functioning, resilient and reliable three waters infrastructure
☐ Affordable, resilient and safe place to live
☐ Safe, resilient and reliable core transport infrastructure network
☐ Fit-for-purpose community, creative and cultural spaces
☐ Accelerating zero-carbon and waste-free transition
☐ Strong partnerships with mana whenua

Significance

The decision is rated low significance in accordance with schedule 1 of the Council's Significance and Engagement Policy.

Financial considerations

☒ Nil	☐ Budgetary provision in Annual Plan / Long-term Plan	☐ Unbudgeted $X

Risk

☒ Low	☐ Medium	☐ High	☐ Extreme

Author	Alisi Puloka, Democracy Advisor
Authoriser	Jennifer Parker, Democracy Services Manager Liam Hodgetts, Chief Planning Officer

Taunakitanga

Officers' Recommendations

Officers recommend the following motion

That the Pūroro Hātepe | Regulatory Processes Committee:

1) Receive the information.

2) Note:

   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 persons or animals

   c. the matters relied on in support of the objection

   d. any other relevant matters

3) Agree to uphold the classification as a dangerous dog OR

   Agree to revoke the classification as a dangerous dog.

4) Delegate to the chairperson of the Pūroro Hātepe | Regulatory Processes Committee: the authority to issue a written decision, which will be sent to all parties and attached to the minutes of this meeting.

Whakarāpopoto

Executive Summary

2. This report asks the Pūroro Hātepe | Regulatory Processes Committee to determine whether to uphold or rescind a classification as a dangerous dog under the Dog Control Act 1996 (the Act).

Takenga mai

Background

3. Under the Act, Council may classify dogs as dangerous (section 31) if

   a) The owner of the dog has been convicted of an offence in relation to the dog under section 57A(2); or

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

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

4. The effect of classification as a dangerous dog is referred to in section 32 of the Act.

Kōrerorero

Discussion

5. Council's Public Health team has classified a dog as dangerous and the dog owner has objected to this classification.
6. Both parties were asked to submit evidence, which has been attached to this report.
7. The committee will sit in a quasi-judicial capacity for this hearing. The meeting will proceed as follows:
    - The WCC Public Health team will present their evidence and any witnesses and answer any questions from committee members.
    - The dog owner will present their evidence and any witnesses and answer any questions from committee members.
    - The WCC Public Health team will have the opportunity to respond to the dog owner's case.
    - The dog owner will have the opportunity to respond to the WCC Public Health team's case.
8. No cross-examination of one party by the other will be permitted.
9. Following hearing from both parties, the committee will adjourn to deliberate on the matter. The deliberations will take place with the public and both parties excluded but will be minuted in detail. These minutes will form the basis of the determination issued by the chairperson.
10. Following the deliberations, the committee will reconvene, and a motion will be moved, seconded, debated, and voted on. Standard committee procedures for debate and voting will be used. The vote will be by simple majority.
11. Following the meeting, the chairperson will issue a determination which will be attached to the standard meeting minutes.

Kōwhiringa

Options

12. The committee can uphold or rescind the original classification as a dangerous dog.
13. The committee cannot propose any further restrictions on the dog or dog owner.

Whai whakaaro ki ngā whakataunga

Considerations for decision-making

Alignment with Council's strategies and policies

14. The decision to uphold or rescind a classification as a menacing dog will be in accordance with the Dog Control Act 1996.

Engagement and Consultation

15. Not applicable.

Implications for Māori

16. Not applicable.

Financial implications

17. Not applicable.

Legal considerations

18. As noted in the paper, objections to classifications as menacing or dangerous dogs are a right under the Dog Control Act 1996. This paper gives effect to that right.

Risks and mitigations

19. Not applicable.

Disability and accessibility impact

20. Not applicable.

Climate Change impact and considerations

21. Not applicable.

Communications Plan

22. Not applicable.

Health and Safety Impact considered

23. Dogs can be classed as menacing if they pose a risk to the public as identified in the Act. The committee must determine whether to uphold or rescind an existing classification as a menacing dog.

Ngā mahinga e whai ake nei

Next actions

24. Following the meeting, the chairperson will issue a determination which will be attached to the standard meeting minutes.

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Attachments

canine solutions

31st December 2021

Canine Solutions Assessment Report

I was contacted by Fernanda Nunes after her German Shepherd, Lobo, had bitten a member of the public while out walking. Lobo is now classified as a dangerous dog.

I visited the Nunes on 11th December 2021.

Lobo

Lobo is a 6 year old, neutered, male German Shepherd, long coat.

He is a typical German Shepherd who likes to patrol the fence line and meet people at the door. He also likes to be the centre of attention, which has been inadvertently encouraged by the Nunes, as they love him and want to make him happy.

He attended our daycare in March 2020 for five play & train sessions. He has now returned under our recommendation for socialisation and walk training and has been attending regularly since 2nd December 2021 and we have not seen any signs of aggression towards people or dogs. In fact, he is an absolute delight. He walks beside the handlers while walking with a group of other dogs and sits when commanded at the roadside before crossing the road. He ignores any passing distractions.

The Home Visit

It is important for dogs to know their place in the pack and in their world, it is all about power and control. It was clear that Lobo was not respecting the Nunes as much as he should, and he had become quite demanding at times.

My initial observation was that he was unaware of personal space boundaries. He also liked to demand a lot of attention, which from discussions with the Nunes he was getting a lot of, even when it was often on his terms. They weren't aware that this was giving Lobo the power and control.

In fact, I really feel the Nunes got a lot out of my visit. They realised how much Lobo was controlling them, which is not good as this puts him in charge of them.

He is also territorial outside in the backyard, which allows him to think he is doing the job of protector.

Recommendations

General leadership & Management:

I explained the importance of not giving attention when Lobo demands it. They should interact with him on their terms, not his.

Control Zones:

Dogs need structure and clear boundaries, so they feel safe and secure knowing someone else is taking charge. The Nunes could see how Lobo was subtly controlling them. We discussed changing this pattern by introducing clearer boundaries in the house environment and creating periods of controlled time.

Containing to back section:
Even though Lobo has a secure area at the back of the house, I have recommended they cover the gate so he can't patrol the area. I have also explained why it is important that they discourage his territorial behaviour.

Walking:

Lobo has always walked respectfully beside the Nunes and on narrow pathways, through courtesy to others, the Nunes have always put Lobo behind them to allow people to walk past.

So it is unfortunate and with huge surprise that this incident occurred and it appears to be in similar circumstances to the previous incident in 2018. The Nunes have pointed out that in both incidents, Lobo was behind them and there was some level of engagement with the Nunes or with Lobo.

So it is clear that there must have been a trigger for Lobo to react this way and it supports the Nunes view that there was a level of engagement in both situations.

Lobo is continuing to be walked on a harness and a muzzle. I have recommended Lobo walks beside the Nunes and never behind them. I have also suggested they curve around people to create space, rather than walking straight past, or on narrow pathways get him to sit beside them to allow people to walk past, but they can still see him at all times.

Summary

The Nunes are respectful people and thought putting Lobo behind them while walking on narrow pathways to allow people to walk past was the courteous thing to do. They have walked this path regularly without incident.

From my understanding of the incident (it has been reported that the person reached out and spoke to Lobo and this was the trigger for him to jump and nip), and my observation of Lobo's behaviour, I can attribute his reaction as an attempt to protect his owners as he believed that was his role. This is undesirable behaviour which needs and can be addressed with consistent leadership at home and along the walk.

I also understand the Council's position for classifying Lobo to ensure public safety, especially since this is the second incident reported.

The Nunes learnt a lot about Lobo's behaviour at the home visit and they acknowledged that they had more work to do to ensure this does not happen again.

Taking the above into consideration including my observation of the injury incurred, I would highly recommend downgrading the classification to menacing, with the right to review in 6 to 12 months, after the Nunes have completed more training with Canine Solutions.

Update from the Nunes on 19th January 2022

'Lobo has been a lot calmer and less demanding. He is responding well to the strategies you gave us e.g. stops whining/barking when put on the lead, waits for us to go in front of him.

We had quite a few people visiting and staying with us in the last couple of weeks and he has behaved well, not jumping on people and staying quiet around us.

I'm still working on the 'answering the door' technique, but he gets quiet when told to leave it when barking at external noises.'

This is a great start and I am sure the Nunes acknowledge the benefits to continue consistently with the training provided.

If you have any questions regarding this matter, please feel free to call me.

Kind regards

Jo Goddard
Canine Solutions

ANIMATES vet care
YOUR PET'S LOCAL VET

Lobo	Mr & Mrs Fernanda & Marcel Borba	
Dog German Shepherd 6 y 7 m 18 d, , MN	[redacted]	[redacted]

After Lobo had his annual vaccination, his owners requested a letter to be written regarding his behaviour in clinic.

We have been seeing Lobo at Miramar Vet Care since 2015.

Lobo is registered as a friendly dog in our clinic. There have been no issues with his behaviour towards any vet staff that I can recall from his notes. He was well mannered in consult and did not require his muzzle for examination or vaccination.

It was recommended by myself that he gets fully assessed by a behaviourest for further judgement - he is already under the management of one.

Kind regards,

Dr Charlotte Gibson
Vet Director
Miramar Vet Care

[redacted]

George Dyer
[redacted]

Wellington City Council
PO Box 2199
Wellington, 6140

14 December 2021

RE: CHARACTER REFERENCE FOR GERMAN SHEPHERD "LOBO"

To the Wellington City Council:

I am writing to attest to the good character of "Lobo" – the German Shepherd belonging to Fernanda Borba Nunes and who resides at [redacted], and to formally object to Lobo being classified as a Dangerous Dog under section 31 or 33ED of the Dog Control Act 1996.

I grew up in a dog-loving family and have lifelong experience of dogs, including German Shepherds. I dog-sat Lobo on about twelve occasions for a full day each time after meeting Fernanda on a pet-sitting app. Lobo was easy to look after, despite his exuberance. Mostly, we spent time at the Wellington waterfront and at the off-leash area of Makara Beach. Lobo's striking appearance was cause for him to be frequently singled out for pats by strangers and he was always calm during these interactions and never exhibited any hostility or aggressive behaviour toward anyone.

On one occasion, Lobo was surrounded by a large group of children at Oriental Bay. This unfolded quickly and I did not have time to ask the group to give him space, as it can overwhelm some dogs. Consequently, Lobo was boxed-in by ten or so children all excitedly patting him and making a lot of noise. While some dogs would panic in this situation, Lobo did not show signs of stress or fear, and was happy with the attention, even licking a few of the children.

I was also a disability support worker at the time, and I often took Lobo with me to spend time with a client and his family. Despite loving dogs, my client has a learning disability that caused him to lack appropriate dog etiquette in many respects, and so would sometimes pat Lobo a bit too hard or withhold his toy from him to a degree that would, in other circumstances, be considered teasing a dog. Lobo didn't mind, and was patient with him, and ultimately, they formed a good bond to the extent that my former client still asks about him even now. Additionally, Lobo was often allowed off-leash in their backyard and played with my client's younger brother and sister, aged five and three, in such a way that made me think that he was conscious of his relatively big size compared to them.

In my experience, Lobo is a happy and well-behaved dog and I have full confidence in Fernanda as a responsible dog owner. I am therefore of the opinion that to classify Lobo as a Dangerous Dog under the Dog Control Act would be inconsistent with his good character.

Yours sincerely

George Dyer
Solicitor

31st January 2022

To whom it may concern,

My name is Heidi Holmes and I am the owner/director of Lush Puppies dog grooming salon based in Wellington.

I have been working in the grooming and animal care industry for close to twenty years, and owner of Lush Puppies for the last 13 years.

I am writing regarding one of my long-term customer's dog "Lobo". Lobo and his owners have been a regular client of ours at the salon, visiting consistently every 8 weeks for the last five years.

He has been a pleasure to groom, and his behavior or temperament have never been an issue. He is a quiet and compliant dog to groom, and I look forward to grooming him for the years to come.

I also feel I need to mention as well, the excellent care and attention his owners give to their dog. I know they put a lot of effort into making sure he receives regular grooming and exercise. He is indeed a well-loved dog.

[redacted]

Regards,

Heidi Holmes

Absolutely Positively Wellington City Council
Me Heke Ki Pōneke

Memorandum

Date: 28 January 2022
To: Helen Jones
From: Jude Austin
Cc: Alisi Puloka

File ref: SR# 338915

Subject: **Objection to Dog Classification – Section 33a Dog Control Act 1996**

Executive Summary

On 10 November 2021 at 6:31 pm. [redacted] contacted Animal Services advising that she had been attacked by an on-lead dog ("Lobo") and she had been bitten (Appendix 1). [redacted] sustained two puncture marks and bruising to her right upper arm, that required medical attention. The incident occurred on Evans Bay Parade, a public footpath at Greta Point.

On 11 November 2021, Senior Animal Control Officer (ACO) Vicki Harwood contacted [redacted] and commenced her investigation (Appendix 2).

On 11 November 2021, Dog Owners, Fernanda Borba Nunes and Marcelo Duque Cesar provided statements to Animal Services. Confirming the incident of Lobo attacking "ladies". In the statement from Ms Nunes, she states that she saw scratch marks on her upper arm (Appendix 3 & 4).

On 12 November, ACO Harwood received a statement from [redacted] about the incident that occurred on 10 November 2021 at 11:00 am. (Appendix 5).

On 19 November 2021, Senior ACO Harwood issued Mr Cesar with an Infringement Notice in relation to: Breach of Section 53 (1) failure to keep dog under control (Appendix 6) and Ms Nunes, a Dangerous Dog Classification' (Appendix 7) under the Dog Control Act 1996 (The Act).

On 26 November 2021, Ms Nunes notified Wellington City Council (WCC) that she wished to appeal the Dangerous classification of "Lobo" as a Dangerous dog under The Act. A hearing has been set with the Regulatory Processes Committee on 16 February 2022 at 9:00 am.

Medical records submitted to WCC indicate [redacted] suffered a dog bite on 10 November 2021.

The offending dog owner has a previous history- on 17 February 2018, where Lobo, whilst on lead, jumped up and bit a person (Appendix 8). An infringement notice under Section 53 (1) was issued for this significantly similar offence.

10 November 2021 Incident

On 10 November 2021, [redacted] contacted Animal Services via Fresh Service (The council's complaint logging system) (Appendix 1) at 6:31pm, to report that she had been attacked by a German Shepherd. Upon contact by ACO Harwood, [redacted] provided a statement of the event including photographs of her injury.

[redacted] has stated that:

"As we were walking past, I remarked to my daughter that it was a really good-looking German Shepherd and glanced at the dog as we continued to walk on. Next thing I knew, I saw the dog rush around the back of its two owners and felt its weight and a sharp pain in my upper right arm. The man then stepped behind his partner and grabbed the dog and pulled it off me".

I was stunned! My arm hurt, my sleeve was torn and when I lifted it up to look at my arm there was blood and two puncture wounds.

The woman came up to me and looked at my arm and announced she would pay my doctor's bill.

[redacted] later texted Ms Nunes to check on the dog's vaccination status to inform her GP. A text conversation was held. In this conversation [redacted] advises that Ms Nunes stated they don't encourage people to approach him *"because he can do harm only with his paws as it was the case with you".* [redacted] advised Ms Nunes that *"I was not near him he was on the other side of your partner, and he came round and bit my arm. My injury is not from a claw.* [redacted] stated "To which she replied *"I'm sure that if it was a bite your arm would be in critical condition by now. I didn't see what happened because I was walking ahead of them, but my partner saw it".*

Dog owner's response to incident

On 11 November 2021 Senior ACO Harwood received an email from Ms Nunes (Appendix 3), which confirms an incident occurred on the 10 November on Evans Bay Parade. [redacted] and Ms Nunes versions of the incident are similar, with the difference of Ms Nunes considering the injury a "scratch".

Ms Nunes states "

"When passing in front of passing in front of the Greta Point block of houses a couple of ladies were walking on the opposite direction. I started to walk ahead of my husband and Lobo to distance myself from the ladies as I wasn't wearing a mask. My husband did the same and was at the very opposite end of the sidewalk (in relation to the ladies) with Lobo on the other side. Just after passing by them, I heard one of the ladies saying something and turned to see what it was. She was complaining to my husband that Lobo had ripped the sleeve of her blouse.

"I walked back to approach her and asked if she was all right and to see what happened. It was only then that she lifted the sleeve and we saw scratch marks. I said she should see a doctor and contact me'.

Ms Nunes also stated "*The other lady with her said something like "I told her one shouldn't look directly at dogs, especially a German Shepherd.*

Ms Nunes advises she was walking ahead, and didn't see what happened, she describes what her husband told her. *I heard the lady saying something to Lobo and extending her arm towards him, and then all happened very quickly. Lobo came round from my other side and*

behind me and jumped in her direction, and I just pulled the leash back. I didn't expect anything to happen because he was quiet and didn't bark at her at all".

"I think its important to say that Lobo always uses a head collar and couldn't have bitten her because his head would have turned before reaching her. He was also not in an aggressive mode, as I said, he was calm and quiet, just sitting down whilst talking to the lady. We use a very short leash to avoid him approaching anyone as he is a big dog.

I'm very sorry for what happened to the lady and think nobody has to put up with dogs jumping on them, but also believe things have escalated from her end – she was initially just worried about her blouse and hadn't even seen the scratch on her arm until I got close."

"Now, she is claiming she was bitten, which is not correct. I think people need to take responsibility for their actions around dogs in the same way that owners need to be responsible for their dogs".

Ms Nunes' statement, confirms the text conversation with [redacted].

On 11 November 2021, Marcelo Duque Cesar provided an additional statement to his wife's (Ms Nunes) (Appendix 4)

On 15 November 2021, [redacted] provided her injury and treatment report issued by the Hataitai Medical Practice. This was accompanied by photos of [redacted]' injured arm. (Appendix 9). The medical report states;

- "Dog Bite",
- "dog bitten her R upper arm"

On 19 November 2021 Senior ACO Harwood, on completion of her investigation issued to Ms Nunes (Appendix 6&7);

- Infringement Notice 3740 for failure to keep dog under control, under Section 53(1) of the Act. Issued to Mr Cesar
- Notice of Classification as a Dangerous Dog under Section 31 of the Act and 36A Dog Control Amendment Act 2003.

On 15 November 2021, [redacted] (daughter) provided a witness statement to Senior ACO Harwood (Appendix 10)

On 26 November 2021 Ms Nunes advised Wellington City Council (WCC) that she wished to appeal the Dangerous dog classification (Appendix 11).

She advised of;

- Measures taken to avoid threats (retrospective)
- The day to day behaviour and temperament of the dog
- The severity of the incident

Below is the history of complaints received by WCC in relation to Ms Nunes and her dog "Lobo"

Type	Date	Complaint	Comments
Attack	**17/02/2018**	**On lead, person on walkway to Evans Bay, Nunes was walking LOBO. Lobo Jumped up and bit the victim on the arm.**	**Minor injury required tetanus shot. Issued with an infringement under Section 53(1).**
Barking	06/05/2019	Barking complaint	Owner spoken to, discussed options.
Barking	20/06/2019	Barking complaint	Noise abatement warning letter issued. Recommended bark collar.
Barking	7/12/2019	Barking complaint	Owner spoken to said they will be more vigilant.
Total	4		

Analysis

Evidence

State of the incident by [redacted]
Statement of incident by Ms Nunes
Supporting statement by [redacted]
Supporting statement by Mr Cesar
Medical records
Photograph of injury
Animal Services Attack Rating Report Assessment Chart

Breaches of legislation – Dog Control Act 1996

Section 5 – Obligations of Dog Owners
Section 57 & 58 – Dog Attacks
Section 63 – Owner Liable for Damage Done by Dogs

- The incident occurred in a public place, [redacted] was walking on Evans Bay Parade with her daughter Christina Mossaidis.
- Mr Cesar was walking Lobo, with his wife Ms Nunes. Mr Cesar had Lobo on lead. Ms Nunes was walking ahead and had kept her distance from [redacted] and her daughter. As Mr Cesar passed [redacted], Lobo went around the back and jumped up and bit [redacted] right upper arm.
- Medical records confirm [redacted] injury as a dog bite. WCC is satisfied that Lobo has rushed, attacked and bitten [redacted]. These are breaches under Sections 57, 57A and 58 of the Act.

- Ms Nunes states that she didn't see what happened but when she turned around and approached [redacted] that she saw her top had been torn and she was of the opinion that the injury was a scratch by Lobo's paws. WCC is satisfied that Ms Nunes did not witness the attack.

- Ms Nunes and Mr Cesar acknowledge that Lobo is a "jumper".

Senior ACO Harwood completed her investigation satisfied that "Lobo"

- was on lead and not under control
- rushed [redacted]
- attacked [redacted]
- Bit [redacted] causing an injury that required medical attention
- Has a previous history of jumping up and biting a person

Attack Rating Report

On the 16 November 2021, Senior ACO Harwood assessed "Lobo" against the Attack Rating Report assessment chart (Appendix 12). The assessment chart applies risk levels based on the following criteria;

- The seriousness of the attack
- Public Interest
- Legislative Intent
- Classified (unleased or muzzled)
- Victim Impact
- Dog Surrendered or Destroyed
- Observed aggression
- Negligence
- Co-Operation
- Previous history
- Dog registered at the time of incident
- Restraint
- Known by owner to be dangerous
- Recurrence Likelihood
- Trained to be aggressive
- Damages
- Breed characteristics

The outcome of "Lobo's" rating is a risk level of 34 requiring Senior ACO Harwood to issue; Dangerous Classification and Infringement. The classification and infringement was issued on 19 November 2022 (Appendix 6&7).

WCC is satisfied that;

- Three offences had occurred under of the Dog Control Act 1996.

- The incident occurred on public property.

- The dog "Lobo" was on lead and uncontrolled.
- The dog "Lobo" rushed and attacked [redacted].
- [redacted] suffered scratches, bruising and puncture wounds to her upper right arm.
- Based on evidence provided, the Dangerous dog classification was robust and justified.

Conclusion

Animal Services have an obligation under section 33A to classify a dog as Dangerous, to ensure that further aggressive and uncontrolled animal behaviour is prevented.

The dog "Lobo", when on a lead has jumped and bitten, therefore, is a risk to the public.

Lobo has come to the attention of Animal services in the past for jumping, biting and acting aggressively as presented in this report.

Based on a sufficient set of facts, the Attack Rating Report assessment was an appropriate cause of action.

The dog owner is obligated under the Act to ensure that the dog is kept under control in any public place.

The dog owner is obligated to ensure that they take all reasonable steps to ensure that the dog does not injure, endanger, intimidate or otherwise cause distress to any person.

WCC must keep in mind the public interest test, given the number of times complaints have been received and infringements issued in relation to significantly similar offences. It is in the public interest where WCC believe there are grounds for believing that the offence is likely to be continued, or repeated, for example where there is a history of recurring conduct (Solicitor-General's Prosecution Guidelines).

Wellington City Council has a responsibility to ensure that members of the public are protected from aggressive animals that can cause serious harm.

Wellington City Council must be confident that no further harm will occur to members of the public and therefore require the Dangerous dog classification to remain.

Jude Austin
Team Leader Public Health
Acting under Delegated Authority of the Dog Control Act 1996.
[redacted]

Animal Control: Greta Point Cafe #SR-270166

NOT REQUESTED

by [redacted] on **Wed, 10 Nov at 6:31 PM** via **Phone**

Requested for : [redacted]

Appendix 1

TICKET PROPERTIES

Urgency Low	**Impact** Low	**Priority** Medium	**Status** Resolved
Source Phone	**Type** Service Request	**Group** Animal Control Officers	**Agent** Vicki Harwood
Site Location --	**Telephone Number** --	**Common Issues** --	**Other Line number** --
Time call was made/received --	**Device Used** --	**Type of Call** --	**Category** External Customer Service
	Sub-Category --	**Skip notifications** --	**Incident address** Greta Point Cafe
Incident location -41.30405999999995,174.80271000000005	**Due by** Wed, 24 Nov at 2:36 PM		

DESCRIPTION

REQUESTED ITEMS (1)

Animal Control

DESCRIPTION

Animal Control issues and requests

Stage Requested	**Service** Report a dog attack	**What did the dog attack?** --	**If the attack just took place tick this box to make the report URGENT.** false
If after hours, have you called this through to the on-call animal control officer? false	**Description of dog** --	**Description** Caller has advised that earlier on in the day at about 11am she got bitten on the hand by a German Shepard that was on a leash and with its owners. Caller was walking along Evans Bay Parade on the sea side when the attacked happened right opposite the Greta Point Café. Caller was very busy earlier on that she did not call it though then but has a appointment tomorrow at the doctors due to the bruising on her hand caused from the bite. Caller has also advised that her daug	**Skip notifications?** false **Location** -41.30405999999995,174.80271000000005 **Incident address** Greta Point Cafe

hter has dog owners contact n
umber. [redacted]

Appdendix 1

APPROVAL LOGS

COMMENTS

From **System User Agent** (system.user@wcc.govt.nz) on **Wed, 10 Nov at 6:31 PM** as **Private note**

Address:

Greta Point Cafe

Open in Google Maps:

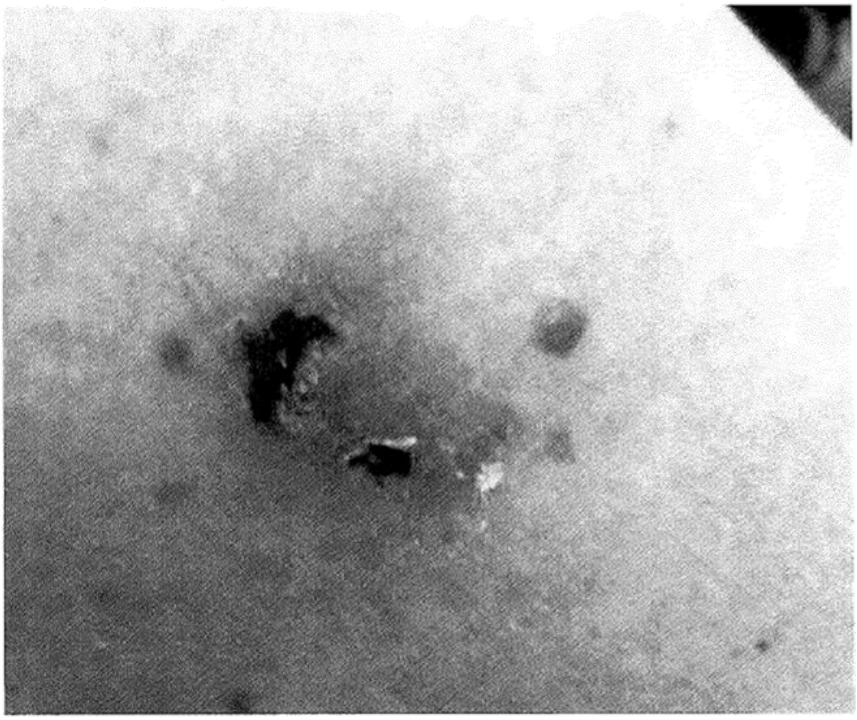
https://www.google.com/maps/search/?api=1&query=-41.30405999999995,174.80271000000005
(https://www.google.com/maps/search/?api=1&query=-41.30405999999995,174.80271000000005)

From [redacted] on **Wed, 10 Nov at 7:32 PM** as **Incoming email**

Thank you for logging this.

Please note the injury is to my upper arm. The dog jumped up and bit my arm, my hand was nowhere near it.

This is a photo of my arm



Regards
[redacted]

From **Vicki Harwood** [redacted] on **Thu, 11 Nov at 9:17 AM** as **Private note**

DOST. She advised that she is happy to provide a statement. She said the DO's cell is 0212642817. DOST. She said the lady walked past, spoke to him and he jumped up and scratched her. She is happy to provide a statement. Emailed COMP and DO.

From **Vicki Harwood** [redacted] on **Thu, 11 Nov at 2:36 PM** as **Private note**

Statement received from Female dog owner. Have asked that her husband provides a statement too as he saw/heard more than her.

From **Vicki Harwood** [redacted] on **Fri, 12 Nov at 10:26 AM** as **Private note** Appendix 1

Statements received from both dog owners.

From **Vicki Harwood** [redacted] on **Tue, 16 Nov at 9:47 AM** as **Private note**

15.11 1130. DO visited Statement signed and medical records/bills supplied.

From **Vicki Harwood** [redacted] on **Tue, 16 Nov at 3:58 PM** as **Private note**

Final report submitted. Dangerous classification agreed by Damian. File sent to Judith AUSTIN to peer review.

From **Vicki Harwood** [redacted] on **Fri, 19 Nov at 3:51 PM** as **Private note**

Judith @ WCC agreed with final decision. Dangerous classification issued against Lobo and DO's husband receive INF 3740 issued to DO husband (Marcelo) for 53(1). Lobo 339650

Appendix 2

ANIMAL SERVICES INCIDENT REPORT FOR ACTION

Incident	
WCC SR Number	270166
Date of Offence	10th November 2021
Time of Offence	1100hrs
Alleged Offence	Dog attacks person in a public place
Investigating Officer(s)	Vicki HARWOOD
Complainant Name	[redacted]
Complainant Address	[redacted]
Complainant Contact Number	[redacted]
Dog Owner Name	Fernanda Borba NUNES
Dog Owner Address	[redacted]
Dog Owner Contact Details	[redacted]
Dog Name	Lobo
Dog Breed	German Shepherd Dog
Dog Registration Tag	2115568
Dog Seized:	☐ Yes ☑ No
Date Impounded:	N/A
Seizure Notice Number:	N/A

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Appendix 2

Officers Report

Introduction:

The victim in this matter is [redacted]. She does not know NUNES and has not seen Lobo before.

The suspected offending dog is "Lobo" who is a male, black and tan, German Shepherd. Lobo is registered to NUNES at [redacted]

Background:

Lobo is registered to NUNES. Lobo has come to the attention of Animal Services on 4 occasions:

1. 17th February 2018. A person was walking on a walkway from Evans bay to Treasure Grove. NUNES was walking Lobo down the walkway. Lobo jumped up and bit the victim on the arm. She was not seriously injured but did require a tetanus shot due to injuries. NUNES was issued with an infringement under Section 53(1) WCC SR 2654114
2. 6th May 2019 – barking complaint WCC SR 2794269
3. 20th June 2019 – barking complaint WCC SR 2808625
4. 7th December 2019 – barking complaint WCC SR 2860865

Circumstances:

1. Around 1100hrs on Wednesday 10th November 2021 [redacted] was walking on Evans Bay Parade on the opposite side of the road to the Greta Point Café, close to NIWA. She was walking with her daughter [redacted] towards Kilbirnie.
2. NUNES and her husband CESAR were walking on the footpath on Evans bay Parade, heading towards the City. Lobo was on lead being walked by CESAR. Lobo was on his left hand side, next to the roadside.
3. As the two parties passed, Lobo jumped up at [redacted] and bit her on her right, upper arm, between her elbow and shoulder.
4. [redacted] saw that she was injured and when NUNES approached her they spoke and made her aware that she had been bitten.
5. Christina gave NUNES her number so they would have her mobile number.
6. [redacted] went to the GP on 11th November and the Dr prescribed antibiotics for 10 days and antibacterial cream. She is up to date with her tetanus.

Scene:

The incident happened on the footpath in a public place.

Victim:

I obtained an emailed (since signed in person) statement from [redacted]. In it she advises that:

1. She was walking towards Kilbirnie with her daughter.
2. She saw NUNES, CESAR and Lobo walking towards them
3. As they were walking past, she remarked to her daughter that Lobo was a really good looking dog and glanced at him
4. She saw Lobo rush around the back of CESAR and NUNES
5. She then felt Lobo's weight on her and a sharp pain in her upper right arm
6. She saw CESAR step behind NUNES and pull Lobo off her
7. She lifted up her sleeve (which was ripped) and saw two puncture wounds which were bleeding
8. NUNES approached her, looked at her arm and said she would pay any Dr's bills
9. Christina asked for NUNES phone number which she gave

Appendix 2

10. NUNES text sent a text later that day and told her that they are always careful around people when walking him and that they don't encourage people to approach him
11. NUNES said that they don't encourage people to approach Lobo because he can do harm with his paws
12. She replied that she did not go near him as he was on the other side of CESAR and he had gone to her
13. NUNES replied that had Lobo bitten she would be in a critical condition by now
14. She went to the Dr's the following day and was prescribed AB's and AB cream for the 2 puncture wounds

[redacted] advises that a result of the incident, her top was ripped and she has incurred costs of $106 for Dr's visits and $18.50 for prescriptions. She has been extremely upsetting for her. She has high blood pressure and following the bite, this has elevated causing her to take double her normal medication to help with this. She is now also very anxious around large dogs which she has never been before.

Witness 1 – [redacted]

[redacted]'s daughter, [redacted] was walking with her. She has provided an emailed statement advising that:

1. She and her Mum were taking an early lunch and went for a quick walk
2. She saw NUNES, CESAR and Lobo walking towards them
3. Her Mum commented that Lobo was a "good looking Shepherd" as they walked past
4. Lobo was on the outside, near the road
5. Lobo got away from his owner and leapt at [redacted] who was beside her next to the fence line
6. She saw her Mum looked shocked and try to steady herself then noticed blood on her torn top
7. She asked NUNES for her name and number

Alleged Offender/s

Both CESAR and NUNES have provided emailed statements. Both have confirmed that:

1. They were walking Lobo on Evans Bay Parade towards the City
2. Lobo was walking on CESARS left hand side, closest to the road
3. They saw [redacted] and Christina walking towards them

CESAR has said that:

1. As they passed, he heard [redacted] saying something to Lobo, extending her arm and clicking her fingers as if trying to get his attention
2. Lobo went behind him and CESAR felt him pull in [redacted]'s direction
3. He pulled the leash and continued walking
4. He did not know or notice that something had happened
5. He says that Lobo was quiet and he did not hear him bark
6. He didn't have any interaction with [redacted]

NUNES has said that:

1. She was ahead of CESAR and Lobo and did not see what happened
2. After they passed the ladies, she heard one of them say something and turned to see what it was
3. She approached [redacted] to see if she was alright
4. [redacted] lifted her sleeve and she saw scratch marks
5. She told [redacted] she should see a Dr and gave her contact details
6. [redacted] contacted her later that day by text and she told her that Lobo is a "jumper and very big so can sometimes he can do harm with only his paws"

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Appendix 2

7. She believes that Lobo only scratched her and could not have bitten her as he had a halti on (see pics)

Exhibits/ Evidence

Investigating Officer Checklist	Yes / No	If yes how many?	If no, provide explanation
Victim Statement	YES	1	
Witness Statement	YES	1	
Photographs of Injuries	YES	7	Plus one of the ripped shirt
Alleged Offending Dog Identified	YES		
Photograph of Dog	YES	2	
Dog Owners Statement	YES	1	
Previous Service Requests	YES	1	
File Prepared	YES		
Entered onto Complaint Database	YES		
Vet Notes / Bills	N/A		
Medical Notes / Bills	YES		
Copy of Seizure Notice	N/A		

Conclusion

As a result of this investigation, I find that:

1. While being walked on lead in a public place, Lobo was able to jump up and bite [redacted] on her arm causing 2 puncture wounds and scratch marks nearer her armpit
2. [redacted] required a Dr's visit and antibiotics following the incident
3. Lobo was involved in an incident in February 2018 (WCC SR where he also jumped up, while being walked on lead and bit a member of the public walking past causing injury
4. [redacted] is willing to sign her statement in front of a Justice of the Peace

It is my recommendation that once the sworn statement is received that Lobo be classified as a Dangerous Dog under Section 31 of the DCA 1996 and that CESAR receives an infringement under section 53 (1) for failing to control Lobo in a public place.

Investigating Officer		
Name: Vicki Harwood	**Signature:**	**Date:** 16/11/21

Appendix 2

Reviews:

Animal Management Team Leader Peer Review		
Name: DAMIAN NUNNS	**Signature:**	**Date:** 16/11/21
Notes:		

Recommend referral for legal opinion ☑

Final Decision
Agreed Action: AGREED AS SCORE HIGH ON MATRIX LIKELY DO WILL OBJECT TO CLASSIFICATION

☐ **Legal opinion confirmed if final decision has changed from the proposed action.**

☐ **Investigating Officer informed of changes.**

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Appendix 3

Vicki Harwood

From: Fernanda Borba Nunes [redacted]
Sent: Thursday, 11 November 2021 1:48 PM
To: Vicki Harwood
Subject: [EXTERNAL] Re: Dog incident

Hi Vicky

Thank you for your call this morning. I'm sending my statement below. Please feel free to contact me if you need further information.

Time, location and date of the incident
My husband and I were walking with Lobo on Evans Bay Parade (city direction) on 10 Nov 2021 at around 11am.

What happened before, during and after. Was anything said etc.
When passing in front of the Greta Point block of houses a couple of ladies were walking on the opposite direction. I started to walk ahead of my husband and Lobo to distance myself from the ladies as I wasn't wearing a mask. My husband did the same and was at the very opposite end of the sidewalk (in relation to the ladies) with Lobo on the other side. Just after passing by them, I heard one of the ladies saying something and turned to see what it was. She was complaining to my husband that Lobo had ripped the sleeve of her blouse. My husband was standing, and Lobo was sitting down by him at that point. There was no barking before or after and Lobo was calm and quiet, so it took me a few seconds to understand what happened. I walked back to approach her and asked if she was all right and to see what happened. It was only then that she lifted the sleeve and we saw the scratch marks. I said she should see a doctor and contact me and gave her my phone number. The other lady with her said something like "I told her one shouldn't look directly at dogs, especially a German Shepherd".
Because I was walking ahead, I couldn't see what happened by myself, so I'm transcribing what my husband told me: "I heard the lady saying something to Lobo and extending her arm towards him, and then all happened very quickly. Lobo came round from my other side and behind me and jumped in her direction, and I just pulled the leash back. I didn't expect anything to happen because he was quiet and didn't bark at her at all."

Anything else you feel may be important
Later in the afternoon the lady sent me a text saying she had an appointment with a GP the next day and was asking whether Lobo had his shots and was healthy. I replied to her and explained that he is a jumper and very big, so sometimes he can do harm with only his paws. She then replied that he bit her and that wasn't an injury from a claw.
I think it's important to say that Lobo always uses a head collar and couldn't have bitten her because his head would have turned before reaching her. He was also not in an aggressive mode, as I said, he was calm and quiet, just sitting down while I was talking to the lady. We use a very short leash to avoid him approaching anyone as he is a big dog. I'm sending some photos of him on the leash so you can see for yourself what we use to walk him.

I'm very sorry for what happened to the lady and think nobody has to put up with dogs jumping on them, but also believe things have escalated from her end – she was initially just worried about her blouse and hadn't even seen the scratch on her arm until I got close. She didn't ask for or wanted my phone number and I had to insist with her to take it. Now, she is claiming she was bitten, what is not correct. I think people need to take responsibility for their actions around dogs the same way that owners need to be responsible for their dogs. I would like to see a picture of her injury again, if possible, please.

Could you please tell me what I can do to protect myself from situations like that where the story told by the other party is different from mine, but I'm doing everything I can as a responsible owner? would using a camera on top of my dog be enough proof? or would the outcome be the same anyway (e.g. penalties to me and my dog)?

1

Appendix 3

On a completely separated 'dog related' topic, I would like to take the opportunity to ask for your advice.

Lobo has been attacked twice by dogs that were walking off leash while I was walking him. Luckily, nothing major happened to him, but in one instance I was pushed by the fighting dogs while still holding Lobo's leash and fell over some rocks (on the path behind Niwa). I could have been seriously injured, but again luckily nothing major happened to me, except from some bruises. But in both times, I wouldn't dare trying to separate the dogs and just held the leash until the other owner took their dog away.

How should I react in this case (to stop the fight)? should I report the dog owner even if nothing serious happened? what if my dog injures the other dog while defending himself? is there anything that could be done to tell owners they shouldn't be walking their dogs off leash?
I recently heard a horrifying story from an acquaintance where he and his dog were attacked by a Rottweiler that was off leash - his dog died, and he had several injuries on his hand and arm. These things make you feel afraid of going out for a walk with your dog...

I look forward to hearing back from you.

Thank you and kind regards
Fernanda

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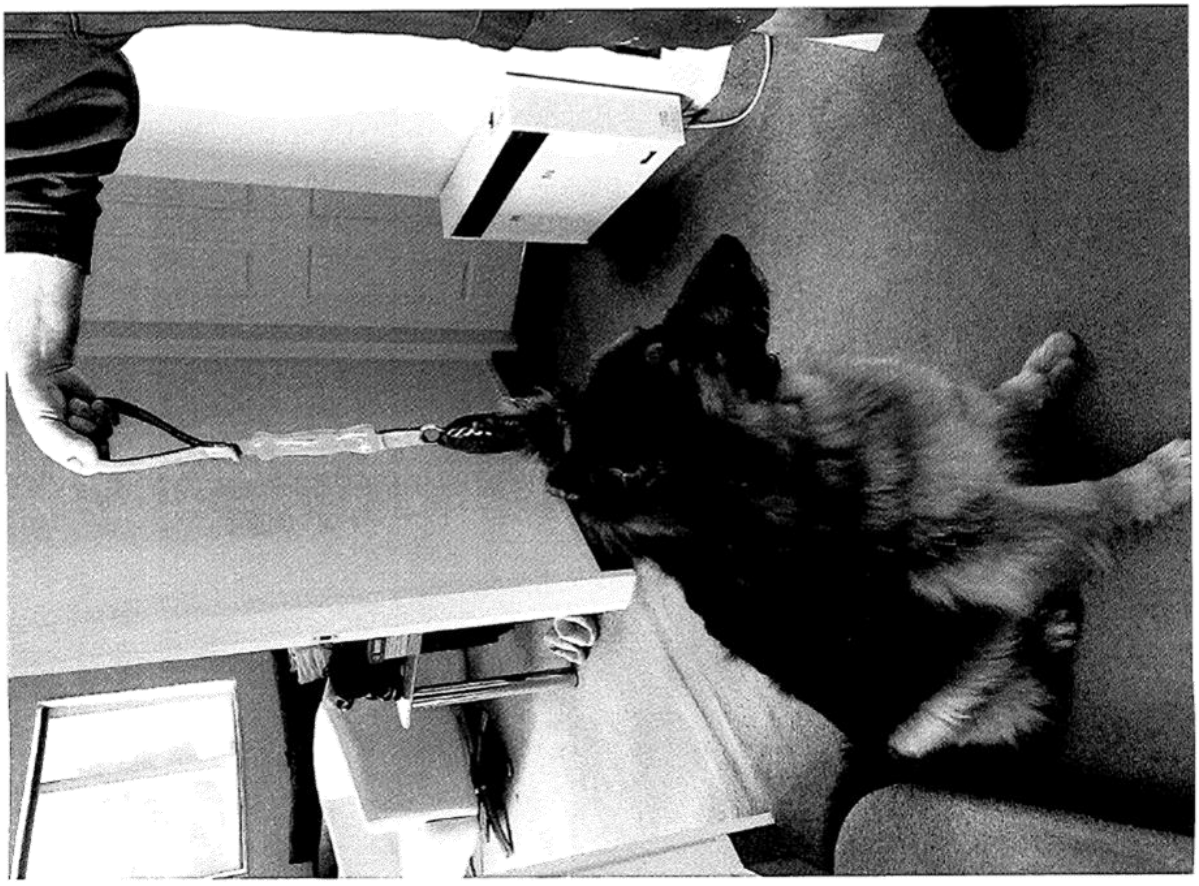

Appendix 3

Appendix 4

Vicki Harwood

From: marcelo duque cesar [redacted]
Sent: Thursday, 11 November 2021 6:36 PM
To: Vicki Harwood
Subject: Fw: [EXTERNAL] Re: Dog incident

Hi Vicky

As requested, I'm sending my statement in addition to my wife's (Fernanda Borba Nunes) in regard to the incident involving my dog Lobo.

Time, location, and date of the incident

My wife and I were walking with Lobo on Evans Bay Parade (city direction) on 10 Nov 2021 at around 11am.

What happened before, during and after. Was anything said etc.

When I saw two ladies walking towards us, I moved with Lobo to the left side of the sidewalk to distance myself from them because I wasn't wearing a mask, and they weren't either. Lobo was on my left side while the ladies were passing on the right side.

I heard the lady saying something to Lobo, and saw her extending her arm towards him and snapping her fingers to call his attention. Lobo came round from my left side and behind me and I felt him pulling the leash in her direction, so I just pulled the leash back and continued walking. All happened very quickly. After taking a few steps further, I stopped because my wife was walking back and started talking to the lady. I didn't even notice that something had happened because Lobo was quiet and didn't bark at her at all. The lady was very calm as well, so I couldn't understand why my wife was insisting on giving her phone number. I didn't have any interaction with the lady.

My question to you is: If I had recorded on film the whole event and could prove that what I'm saying is a 100% truth, what would be the outcome? Would I still be penalised because of what my dog did? I'm asking this because 90% of the time, people ask me first if they can pet my dog, as they should, and I always deny because he is a jumper. I have no control over the people who do not ask me first, and instead make impulsive moves towards my dog that excite him. I would appreciate you answering my questions.

Thank you and kind regards

Marcelo Duque Cesar

From: Fernanda Borba Nunes [redacted]
Sent: Thursday, 11 November 2021 6:32 PM
To: Marcelo Duque Cesar [redacted]
Subject: Fwd: [EXTERNAL] Re: Dog incident

Fernanda Borba Nunes
[redacted]

Begin forwarded message:

Appendix 5

Vicki Harwood

From: [redacted]
Sent: Friday, 12 November 2021 3:26 PM
To: Vicki Harwood
Subject: [EXTERNAL] RE: Dog Incident

Hi Vicki
Thank you for your prompt call
Time, date, Location
Incident happened on Wednesday 10 th November 2021 at around 11.00 AM on Evans Bay Parade on the opposite side of the road just past Greta Point Café , a bit closer to NIWA.

The dog owners were walking in the direction of the city and we were walking in the direction of Kilbirnie.
Our positioning was as follows:

My daughter	Myself	Dog's female owner (Fernanda)	Dog's male owner	The Dog	The road

As we were walking past I remarked to my daughter that it was a really good looking German Shepherd and glanced at the dog as we continued to walk on.
Next thing I knew, I saw the dog rush around the back of its two owners and felt its weight and a sharp pain in my upper right arm.
The man then stepped behind his partner and grabbed the dog and pulled it off me.

I was stunned! My arm hurt, my sleeve was torn and when I lifted it up to look at my arm there was blood and two puncture wounds.
The woman came up to me and looked at my arm and announced she would pay my doctor's bill.
I was shocked at the time and didn't know how to react. Now that I think about it that was a strange first comment for her to make?
Luckily my daughter had the presence of mind to ask the woman to text us her name so we would have that and her mobile number.
(Fernanda [redacted])
I think that at the time I was just shocked. I am almost 69 and suffer from high blood pressure so I make it a point to try and not get too excited or upset about anything as it elevates the blood pressure.
I think I was generally shocked and confused. I've been around dogs all my life and have never had any incident.

I text the woman to ask if the dog was healthy and up to date with its vaccinations as the GP would want to know. Maybe it would influence the need for a tetanus shot?
I told her "Thinking about it we were really lucky that I am an adult as if it was a child at a lower height the consequences could have been very serious".
She replied that the dog was healthy and that they are always careful around people when walking him.
She said they don't encourage people to approach him "because he can do harm only with his paws as it was the case with you".
I was nowhere near him and certainly did not approach him so I replied "I was not near him he was on the other side of your partner and he came round and bit my arm. My injury is not from a claw"
To which she replied " I'm sure that if it was a bite your arm would be in critical condition by now. I didn't see what happened because I was walking ahead of them, but my partner saw it".

How did I feel:
I was surprised and shocked. I was in pain, my arm was red and hot and blue bruising was appearing.
I was angry. I was annoyed my good Italian linen tunic top was damaged. There is hole in it with a piece of fabric missing so it can't be repaired.

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To top it off in the email exchange this woman was upsetting me further with her attitude and lies. I know what a scratch from a claw looks like and I did not approach her dog.
Last night I did not sleep as the reality of a dog attack finally registered by about 11PM. I had visions of a big shepherd face next to mine and was freaking thinking what if it had been a child who would have screamed and probably aggravated an already aggressive dog.
Also my arm was hot and a bit swollen.
I was also really concerned that at no point, not at the time of the incident nor in her 2 texts did this woman say any of the important things that I would expect of a responsible dog owner:

- This has never happened before, I am so sorry, can we do anything for you?
- We will make sure we walk him with a muzzle on in public places in future
- We will enrol him in dog obedience classes to make sure this doesn't happen again
- We will buy a better harness and restraint for him
- I promise my partner will keep him reined in closer in future

I don't have a dangerous dog but those are the first things that would come into my mind, not " I'll pay your doctor's bill". How does that protect other people in the future?
Today I feel dizzy and headachy so just as well I am going to the doctor as the blood pressure could be elevated because of this nasty incident.

Back from the doctor:
Doctor filled out an ACC claim form.
She stated categorically that the 2 puncture wounds are result of dog bite.
She found bruises under my arm that I had not noticed before that she felt were probably claw marks from where the dog was holding itself up on me while it bit me.
Luckily I did not need a tetanus shot as I had one 4 years ago
She prescribed oral antibiotics for 10 days and an antibacterial cream to be applied to the wounds
The inflamed red area has to be monitored and medical assistance sough immediately if it grows any bigger.
But the really bad news is that this incident has upset me and my blood pressure is now exceptionally high so I have to double the dosage of the blood pressure drugs to avoid having a stroke until I return to normal levels again.

The ACC consultation cost $61.00 and there seems to be an additional cost of $45.00 presumably for the other checks she had to do like blood pressure etc to check how I am as a result of the attack, and prescriptions.
The antibiotics etc totalled $15.00 at the pharmacy. The balance prescription cost was for my usual hayfever/ allergy medication which my expense nothing to do with the dog attack.

Photos of my arm and damaged tunic top that cost $179 (and I've only worn 3 times as I was saving it for good) follow:

I took my dog to the vet yesterday afternoon for her annual checkup and there were 2 German Shepherds in the waiting room and I was nervous as hell, I've never had such a reaction to dogs before.
Vet noticed my arm and said it was definitely a 'bite'.

I've got the receipts and the ACC form if you want to come round to collect. Sorry didn't get back to you earlier my mother is 92 and I sometimes have to drop everything and disappear and be with her for half a day or so which is what happened this morning.
Warm Regards
[redacted] [redacted]

Appendix 5

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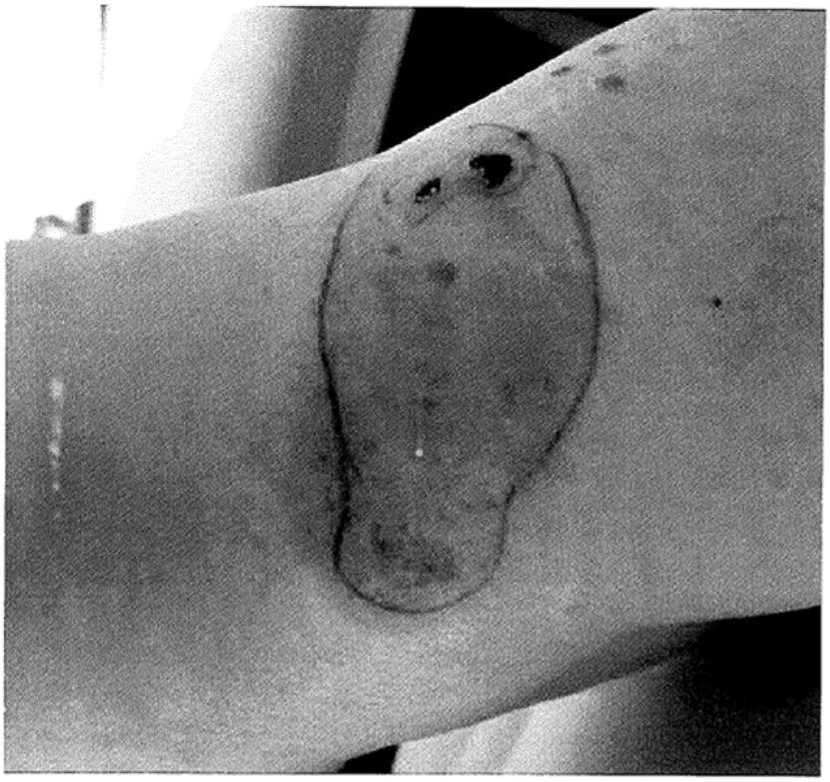
Appendix 5

Bite with doctor's marking

Appendix 5



I can't photograph them too well but in the lower part of the photo there are some bruises under my arm the doctor saw, presumably from claw pressure as his paw was in my armpit while he bit my arm further up.

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Appendix 5

From: Vicki Harwood [redacted]
Sent: Thursday, 11 November 2021 9:26 am
To: [redacted]
Subject: Dog Incident

Hi [redacted]

As discussed earlier, can you please provide a statement regarding the incident yesterday.

- Time, date and location of incident
- Where was the dog and roughly how close was he to you
- What happened before, during and after. Was anything said etc
- Ideally medical reports and any costs incurred
- How it made you feel
- Anything else you feel may be important

Once I have both statements, I can put my report together and will get back you soon.

If you have any questions please do let me know.

Regards,

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INFRINGEMENT NOTICE

(Issued under authority of Section 66 of the Dog Control Act 1996)

Absolutely Positively Wellington City Council
Me Heke Ki Pōneke Appendix 6

Number	3740	**Notice**	
Territorial Authority	**WELLINGTON CITY COUNCIL**		

DETAILS OF DOG OWNER

Mr / Mrs / Ms / Miss / Dr *(circle which applies)*	
First name(s)	Marcelo Duque
Last name	CESAR
Street address	[redacted]
	[redacted]
Date of birth	[redacted]

ALLEGED INFRINGEMENT OFFENCE DETAILS

Date: 10/11/2021 Time: 11.00 **hrs** Day of week: S M T (W) T F S

Road/Street: Evans Bay Parade Locality: Evans Bay

✔	OFFENCE COMMITTED INDICATED BY BOX TICKED	Fee	Dog Control Act 1996 Section
☐	Failure to register dog *This does not include the dog registration fee. You will need to register your dog separately without delay.*	$300	42
☑	Failure to keep dog under control	$200	53(1)
☐	Failure to implant microchip transponder in dog	$300	36A(6)
☐	Failure to comply with any bylaw authorised by section 20	$300	20(5)
☐	Failure to comply with effects of classification of dog as menacing dog	$300	33EC(1)
☐	Failure or refusal to supply information or wilfully providing false particulars	$750	19(2)
☐	Failure to supply information or wilfully providing false particulars about dog	$750	19A(2)
☐	Failure to keep dog controlled or confined	$200	52A
☐	Other offence		

Additional details of offence *(if any)*:
Dog owner failed to control dog in a public place resulting in attack on a member of public.

Infringement Fee Payable
$ $200.00

Reg no. or description of dog
Male, black and tan, German Shepherd Dog

PAYMENT OF INFRINGEMENT FEE *Do not detach – please present both copies of this notice when making payment*

The infringement fee is payable within 28 days after: **19/11/2021**
(Earliest date notice delivered personally, or posted)

Officer number: 11

The infringement fee may be paid at the address shown below. Cheques or money orders should be "not transferable".
Wellington City Council, 101 Wakefield Street, PO Box 2199, Wellington

PDWCC99582

IMPORTANT – PLEASE READ THE SUMMARY OF RIGHTS PRINTED OVERLEAF

NOTICE OF CLASSIFICATION OF A DOG AS A DANGEROUS DOG

Section 31, Dog Control Act 1996
Section 36A, Dog Control Amendment Act 2003

Appendix 7

ANIMAL SERVICES
Servicing Hutt City and Wellington communities
HUTT CITY

To Fernanda Borba NUNES		
Address [redacted]		
Name of dog Lobo		Animal ID/SR [redacted]
Registration number 2115568		Microchip number 9 4 1 0 0 0 0 1 3 7 1 7 9 6 8
Colour Black and tan	Sex Male	Breed German Shepherd Dog

This is to notify you* that this dog has been classified as a dangerous dog under section 31(1)b of the Dog Control Act 1996.

This is because, under section 31(1)(b) of the Dog Control Act 1996, Wellington City Council has, on the basis of sworn evidence attesting to aggressive behaviour by this dog on one or more occasions, reasonable grounds to believe this dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife.

This is because

On Wednesday 10th November 2021 at around 1100hrs, Lobo was being walked on lead on Evans Bay Parade when he jumped up and bit a member of the public. The bite resulted in injuries that required medical attention.

A summary of the effect of the classification is attached.

Dog Control Officer 11	Date 19/11/21

*For the purposes of the Dog Control Act 1996, you are the owner of a dog if–

- You own the dog; or
- You have the dog in your possession (otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, or damage, or distress, or for the sole purpose of restoring a lost dog to its owner); or
- You are the parent or guardian of a person under 16 who is the owner of the dog and who is a member of your household living with and dependent on you

Animal Services | 21 Meachen Street, Seaview, Lower Hutt 5010 | animals@huttcity.govt.nz
Hutt City Council | 531 High Street, Private Bag 31912, Lower Hutt 5040 | 04 570 6666 | huttcity.govt.nz
Wellington City Council | 101 Wakefield Street, PO Box 2199, Wellington 6140 | 04 388 8212 | wellington.govt.nz
RSA-FORM-026 HCC-WCC | DOC/14/5988 | February 2014

EFFECT OF CLASSIFICATION AS A DANGEROUS DOG

Appendix 7

Section 32 and 36, Dog Control Act 1996

You are required:

a. Within one month after receipt of this notice, to ensure that the dog is kept within a securely fenced portion of your property that it is not necessary to enter to obtain access to at least one door of any dwelling on the property; **and**

b. Not to allow the dog to be at large or in any public place or in any private way (other than when confined completely within a vehicle or cage),

   i. without the dog being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; **and**
   ii. the dog being controlled on a leash (except in a designated dog exercise are; **and**

c. To produce to the Council, within one month after receipt of this notice, a certificate issued by a registered veterinary surgeon and certifying–

   i. That the dog is or has been neutered; **or**
   ii. That for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; **and**

d. Where a certificate under paragraph (c)(ii) is produced to the Council, to produce to the Council within one month after the date specified in that certificate, a further certificate under paragraph (c)(i); **and**

e. In respect of every registration year commencing after receipt of this notice, to pay dog control fees for that dog at 150% of the level that would apply if the dog were not classified as a dangerous dog; **and**

f. Not to dispose of the dog to any other person, without the written consent of the Council in whose district the dog is to be kept.

You will commit an offence and be liable on conviction to a fine not exceeding $3000 if you fail to comply with any of the matters in paragraphs (a) to (f) above. In addition, on conviction, the Court must order the destruction of the dog unless satisfied that the circumstances of the offence were exceptional and do not justify the destruction of the dog.

You will also commit an offence and be liable on conviction to a fine not exceeding $3,000 if you sell or otherwise transfer the dog, or offer to do so, to any other person without disclosing that the dog is classified as a dangerous dog.

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

RIGHT OF OBJECTION TO CLASSIFICATION

Section 31(3), Dog Control Act 1996

You may object to the classification by lodging with the Council a written objection within 14 days of receipt of this notice setting out the grounds on which you object. You are entitled to be heard in support of your objection and will be notified of the time and place at which your objection will be heard.

PROHIBITED, DANGEROUS, AND MENACING DOGS

Section 36B, Dog Control Amendment Act 2003

36A Microchip transponder must be implanted in certain dogs

(1) This section applies to a dog that–
   (a) is classified as dangerous under section 31 on or after 1 December 2003; or
   (b) is classified as menacing under section 33A or section 33C on or after 1 December 2003; or
   (c) is registered for the first time on or after 1 July 2006.

(2) The owner of the dog must, for the purpose of providing permanent identification of the dog, arrange for the dog to be implanted with a functioning microchip transponder of the prescribed type and in the prescribed manner.

...

(5) The owner must comply with subsection (2)–
   (b) within 2 months after the date on which the dog is classified as dangerous or menacing or is registered (as the case may be), in any other case.

28/02/2018

Appendix 8

Enquiry Trace Form - Preview

Enquiry: 2654114 Logged by: Renee Corlett

Service: Animal Control

Subject: After Hours Urgent Classification: Request for Service on 17/02/2018 12:14

Desc.: Treasure grove path leading from Evans bay the caller was attacket by a dog. The dog jumped up and bit her and the owner had no control. The dog was on a lead and was a Black and Brown Alsation. Owner of dog is Ladys Sanada Nunes 0212642817 Dog is called Logo. Please asses.

Site: Evans Bay Pde (R0509), Hataitai, Wgtn

Site Address: Evans Bay Pde

Location: Evans Bay Pde
Hataitai
Wgtn

Area: Hataitai - Kilbirnie
Ward: Eastern

Customer: 2565654 Contact: Kathrine Miller
Telephone: 0211065341

Name: [redacted] Time: 17/02/2018 12:14

Address: [redacted] Method: Telephone Call

Telephone: [redacted]

Current Status:

No.	Effective	Status	Officer	Follow up Date
3	28/02/18 02:47:51 p.n	Completed - Contractor	Animal Officers AH	

Notes: 17/02/18 12.30 hrs ACO spoke with comp, she was walking up walkway from Evans bay to treasure Grv. DO was coming down and her dog bit comp on elbow, two puncture wounds. Comp required Tetanus shot. Both DO and Comp have supplied statements. DO to receive a $200 infringement under Section 53(1). ACO 13 339650 Lobo

tus history:

No.	Effective	Status	Officer	Notes
2	17/02/2018 12:15	Request Logged	Animal Officers AH	12:15pm [redacted]
1	17/02/2018 12:08	Request Logged	Animal Officers AH	

ised Status:

erated by : [redacted] Signed : ..... Date : ..... Time :

Appendix 9

DR PHILIP WONG
[redacted] TAPIRI STREET
HATAITAI

EFTPOS
ATE: 11NOV21 [illegible]: 13:24
ID: 10751245001 [illegible]: 751245001
RAN: 000609 CREDIT
CARD [redacted]
ARD:

APPL: MasterCard
RID: A0000000041
PIX: 1010
TC:09A1437168749C39
TVR:0000048000
ATC: 01AF
TSI:E800
UTH: R04250

URCHASE NZ$ 106.00
OTAL NZ$ 106.00

ACCEPTED

NVOICE NUM 000436
CUSTOMER COPY

I MEDICAL PRACTICE
Street, Hataitai, Wellington,
New Zealand 6021
86 3598 Fax: 04 386 1651
Kristy Chong, Dr Ramani Thiruchelvam
lth is Number 1. Invest in it.

x Invoice/Receipt
GST No [redacted]

Chart No: [redacted]

11 Nov 2021

	Description	Amount (GST Incl)
11 Nov 2021 234488	[redacted] Professional Services	61.00
	Dr Kristy Chong	
	Consultation ACC	61.00
	Accident: PM95919 - 10 Nov 2021 - Dog bite (TE60.00)	
11 Nov 2021 234488	Professional Services	45.00
	[redacted] *Dr Kristy Chong*	
	Consultation	45.00
11 Nov 2021 156409	Payment Received, Thank You	106.00 Cr
	234487 - Consultation ACC	
	234488 - Consultation	
	Total	106.00
	GST 13.83	

Prescription Receipt/Information
Unichem Kilbirnie Pharmacy
37 Bay Road
Kilbirnie
Wellington

9990009954972

[redacted]

Printed on 11 Nov'21

Dr Kristy Chong Hataitai Medical Practice

	Patient Price
11Nov21 1937953/0	$5.00
11Nov21 1937954/0	$5.00
11Nov21 1937955/0	$5.00
11Nov21 1937956/0	$13.50
11Nov21 1937957/0	$5.00
11Nov21 1937958/0 [redacted]	$38.50

Check recipient is patient named above

[redacted] **Unichem Kilbirnie Pharmacy 11/11/21**
Prescription count, for exemption card
Personal: 14

Please note our bank account has changed.
Open MONDAY to FRIDAY 8.30 am to 5.30pm
SATURDAY AND SUNDAY 10.00am to 4.00pm
If there are repeats that you need, please phone 387 9254 or e-mail the pharmacy on scripts@kilbirniepharmacy.co.nz. We do deliver, if you are unable to come in
For internet payments;- our bank account is 01-0731-0229511-046

$18-50 is for antibiotics and bacterial cream related to dog bite.

Appendix 9

Part A: Personal Details — ACC Injury Claim Form

Surname [redacted]
Forenames [redacted] Gender [redacted]
Date of Birth
Address

Phone Work [redacted] Home [redacted]

Ethnicity [redacted]

Part B: Injury and Employment Details

Accident Date 10 November 2021 Time 11:00 AM
Scene 90 Other
Location 347 Wellington City Accident in NZ Y

Description dog bitten her R upper arm
Road Accident N Sport [redacted]
Occupation
Earner Status
Usual Work Type
Work Accident N
Employer Name
Employer Address

Part C: Patient Authorisation and Declaration

To assess cover and/or entitlements, ACC may need to collect medical and other records about you from a third party.
For more details see ACC's privacy notice at **www.acc.co.nz/privacy.**

I authorise:
- ACC to collect medical and other records which are or may be relevant to my claim
- the treatment provider to lodge this claim for me.

I declare that the information I have given in this form is true and correct.

Patients Signature: _____ Date : 11/11/2021

Authorised representative's Name
Authorised representative's relationship to patient

Part D: Injury Diagnosis and Assistance [redacted]

Diagnosis 1 TE60 (Dog bite)
Diagnosis 2
Diagnosis 3
Diagnosis 4
Diagnosis 5
Diagnosis 6
Diagnosis 7
Diagnosis 8
Diagnosis 9
Diagnosis 10

Injury Comments (TE60.00) Confirmed

Treatment injury claim N
Assistance Required N

Referral 1
Referral 2
Referral 3
Treatment Objectives

Rehabilitation 1 No need for ACC to call Health Provider

Part E: Work Capacity

Normal Hours N
Selective Hours N

Type
Hour per day From: To:
Restriction

Comments:

Unfit for From: To:
Return to work on

Part F: Treatment Provider Declaration

ACC Provider No 14JFAC
Provider ID
Facility Hataitai Medical Practice
Agency Hataitai Medical Practice
Provider Dr Kristy Chong

Provider's Signature : _____ Date : 11/11/2021

Appendix 9

15/11/21

Appendix 10

Vicki Harwood

From: [redacted]
Sent: Monday, 15 November 2021 11:31 AM
To: Vicki Harwood
Subject: [EXTERNAL] FW: 70 Year Old Female Bitten By German Shepard Dog on Evans Bay Footpath.

From: [redacted]
Sent: Monday, 15 November 2021 11:21 am
To: [redacted]
Subject: Re: 70 Year Old Female Bitten By German Shepard Dog on Evans Bay Footpath.

To whom it may concern,

Re: 70 Year OId Female Bitten By German Shepard Dog on Evans Bay Footpath.

Facts of the bite event:

- Mum and I were taking an early lunch break from work and going for a quick walk.
- Walking along Evans Bay Parade near Greta Point, a couple with a dog walked towards us.
- Mum remarked to me that it was a good looking shepherd as we were walking past them.
- The dog was on the outside near the road and then suddenly it got away from its owners and leapt up at Mum who was next to me on the fenceline side of the footpath.
- Mum stopped walking and steadied herself and looked shocked. Mum's top was torn and had blood spots on it.
- I was upset and worried about Mum. I asked the woman for her name and number as Mum looked too shaken to think of what to do.
- Dogs that behave like that need to be dealt to. Does that dog have a history?
- Unfortunately the dog is probably a reflection of bad owners that don't realise the responsibility of owning a dog like that.

Christina

Ngā mihi

[redacted]

[redacted]

[redacted]

1

Appendix 11

Judith Austin

From: Damian Nunns [redacted]
Sent: Tuesday, 30 November 2021 11:29 am
To: Judith Austin
Cc: Helen Jones
Subject: FW: [EXTERNAL] FW: Objection to notice of classification of a dog Lobo SR338915

Hi Ladies, please see objection below. Would you prefer me to respond with the process?

Regards Damian

From: [redacted]
Sent: Monday, 29 November 2021 10:58 AM
To: Info at WCC <Info.atWCC@wcc.govt.nz>
Cc: Damian Nunns [redacted]
Subject: [EXTERNAL] FW: Objection to notice of classification of a dog Lobo SR338915

Dear all

Please see email below – objection to dangerous classification. We have set the classification to Objection received on Teamwork. Please advise outcome and we will update our details for you. We have also acknowledged receipt of the objection notice by reply email.

Kind regards

Lydia Torr

Approvals and Operations Officer| Kaiaarahi Whakaae Mahi | Wellington City Council
[redacted]

Please note: We are no longer accepting cheques from 1 April 2021.

From: Fernanda Borba Nunes [redacted]
Sent: Friday, 26 November 2021 2:44 pm
To: [redacted]
Subject: Objection to notice of classification of a dog

Dear members of the Council

I'm writing you regarding notice received on 19 November 2021 which communicates that my dog 'Lobo', registration number 2115568, has been classified as 'dangerous'.

I would like to appeal the classification based on:

1

Appendix 11

Measures taken to avoid threat to others – Since a previous incident that occurred almost 4 years ago, we have taken measures to avoid any further threat to anyone by using a very short leash and a head-collar to allow better control (pictures already provided to the council with my statement).

Important to mention that, with exception of using a muzzle, Lobo has been kept with all the security requirements since we have him, because we know dogs may be unpredictable. That includes:

- being neutered at 11 months, and microchip implanted
- being kept within a fully fenced section without access to the entrance of the property
- always kept on a leash in public spaces
- having training sessions (with Jan Voss, and at Canine Solution).

To address the recent incident, and to avoid any other in future, we have now engaged a Dog Behaviorist, Jo Goddard, who will assess Lobo's behaviour and provide a report to you in support of this submission. In addition to the training techniques to be provided by Jo in the consultation, Lobo will undergo ongoing further training at her dog care centre (Canine Solutions). We have an appointment on 11 December and expect that you will be hearing from her soon after.

The recent and the previous incident have similarities concerning the circumstances, where both persons have approached Lobo. His reaction to that is something that we expect to correct with training, and we are confident we can achieve that with Jo Goddard's help.

The day-to-day behaviour and temperament of the dog – All his life, Lobo has been going to the groomer, dog park, dog day-care, and cared by pet sitters, without any other incident ever occurring with people or dogs. Despite displaying the behaviour of a regular German Shepherd – protective and loud barker, Lobo is an affable dog and quickly warms up to visitors to our home and other people he interacts with. If necessary, I can provide testimony from people who have interacted with him in the circumstances mentioned above.

The severity of the incident - The injury was minor and did not require urgent medical attention. When mentioning medical attention, one must consider that there are various degrees of that, and in this case was use of antibiotics and antibacterial cream (as informed by the council) as a precaution.

My husband and I are truly sorry for what happened and sympathise with the person injured. I can assure you that this incident has caused a huge amount of distress to us as well, as we have taken this very seriously.

I am asking the Council to please reconsider the classification of Lobo as a 'dangerous' dog.
Your consideration of this submission would be much appreciated.

Thank you and kind regards
Fernanda Borba Nunes

34

Appendix 12

ATTACK RATING REPORT			
CCM No			
NAME:			
		5 to 35	13
(This section relates to the physical seriousness of the attack).			
Level 5	Rushing person.		
Level 7	Attack person - no visible injury.		
Level 8	Animal injured		
Level 10	Stock Worried		
Level 12	Animal killed - Non Dog		
Level 13	Attack person Causing Injury		
Level 17	Dog Killed		
Level 21	Serious but not hospitalised		
Level 22+	Admitted to Hospital and/or suffers long term effects		
Level 35	Death of a person.		
PUBLIC INTEREST		0 to 3	1
Public expectation of how the incident should be managed based on seriousness of incident			
LEGISLATIVE INTENT			2
(Legislative intent has been factored into the report and remains constant @ 2 points).			
CLASSIFIED (unleashed or unmuzzled)		0 or 3	0
Classified menacing by Breed (Classifications by deed are captured by other aspects of the assessment.)			
VICTIM IMPACT		0 to 5	3
(This section does not relate to the level of retaliation sought by the victim, rather the effects on the victim as a result of the attack.			
Level 0	The victim is not concerned about the outcome.		
Level 5	The victim is likely to continuously suffer as a result of the attack		
DOG SURRENDERED/DESTROYED		0 to 1	1
The fact the dog has been surrendered for destruction has some influence on decision however would be enevitable outcome if prosecution pursued.			
Level 0	The dog has been surrendered for destruction or destroyed.		
Level 1	The dog has not been surrendered for destruction.		
OBSERVED AGGRESSION		0 to 2	0
(Based on the Officers observation only. It should be noted that a dog may act aggressively under certain stimuli and show absolutely no signs of aggression in the absence of that stimuli).			
Level 0	No signs of aggression		
Level 2	Very aggressive		
NEGLIGENCE		0 to 6	3
(Evaluate the degree of negligence).			
Level 0	Not the result of negligence of the owner.		
Level 2	A lack of understanding of the true nature of dogs		
Level 4	The incident is the direct result of carelessness.		
Level 6	The incident is a result of connivance		
CO-OPERATION		0 to 2	0
Level 0	Co-operative and forthcoming with information		
Level 2	Unco-operative to the point that Police assistance was required		

Appendix 12

PREVIOUS HISTORY		0 to 5	3
Level 0	No history		
Level 1	History without aggression		
Level 3	History with aggression (Over one year old)		
Level 4	History with aggression (under one year old)		
Level 5	Classified as dangerous.		
DOG REGISTERED AT THE TIME OF THE INCIDENT		0 to 2	0
Level 0	The dog is currently registered		
Level 2	The dog is not currently registered		
RESTRAINT		0 to 4	0
Level 0	The dog was under adequate restraint ie caged or fenced in.		
Level 1	The dog was under inadequate restraint ie could have been accidentally approached or could have easily escaped		
Level 2	The dog was at large (unknown).		
Level 4	The dog was at large (known).		
KNOWN BY OWNER TO BE DANGEROUS		0 to 4	4
Level 0	Not known by the owner to have shown previous aggression.		
Level 4	Known by the owner to have previously attacked.		
RECURRENCE LIKELIHOOD		0 to 3	2
Level 0	The circumstances relating to this incident are such that a reoccurance is highly unlikely		
Level 3	The circumstances relating to this incident are such that a reoccurance is highly likely		
TRAINED TO BE AGGRESSIVE		0 to 2	0
Level 0	Not trained at all to be aggressive.		
Level 1	Encouraged to be a guard dog.		
Level 2	Professionally trained guard dog.		
DAMAGES		0 to 1	1
Level 0	No damages or damages paid voluntarily.		
Level 1	Did not voluntarily offer to pay/Damages unpaid.		
BREED CHARACTERISTICS		0 to 4	1
This section is evaluated mainly based on our experience. In the case of a mixed breed, evaluate the most predominant identified breed. Example – Pit Bull type dogs are renowned for their propensity to attack.			
Level 0	Not known for its aggression.		
Level 1	Known as a guard dog breed.		
Level 4	Notorious for attacking.		
TOTAL			34

09 – 29 = WARNING NOTICE, MENACING CLASS & OR INFRINGEMENT
30 – 36 = DANGEROUS DOG CLASSIFICATION & OR INFRINGEMENT
Over 37 = PROSECUTION
General Comments and Recommendation: