PALMERSTON NORTH CITY COUNCIL

AGENDA

HEARINGS COMMITTEE (EXTRAORDINARY)

2PM, THURSDAY 18 MARCH 2021

COUNCIL CHAMBER, FIRST FLOOR,
CIVIC ADMINISTRATION BUILDING
32 THE SQUARE, PALMERSTON NORTH

MEMBERSHIP

Aleisha Rutherford (Chairperson)
Patrick Handcock ONZM
Lorna Johnston

Agenda items, if not attached, can be viewed at:

pncc.govt.nz | Civic Administration Building, 32 The Square
City Library | Ashhurst Community Library | Linton Library

Heather Shotter

Chief Executive, Palmerston North City Council

Palmerston North City Council

W **pncc.govt.nz** | E **info@pncc.govt.nz** | P **356 8199**
Private Bag 11034, 32 The Square, Palmerston North

PALMERSTON NORTH CITY COUNCIL

PALMERSTON NORTH CITY COUNCIL

HEARINGS COMMITTEE

EXTRAORDINARY MEETING

18 March 2021

MEETING NOTICE

Pursuant to Clause 22 of Schedule 7 of the Local Government Act 2002, I hereby requisition an extraordinary meeting of the Hearings Committee to be held at **2.00pm on Thursday 18 March 2021 in the Council Chamber, first floor, Civic Administration Building, The Square, Palmerston North** to consider the business stated below.

CHAIRPERSON

ORDER OF BUSINESS

1. Hearing of Objection Pursuant to Section 33B Classification of Dog as Menacing under the Dog Control Act 1996

Parties:

Objector:

(Page 3)

Letter, dated 26 January 2021, from Mr Brad Coutts. (Attached)

(Page 4)

Letter setting out grounds to objection, dated 10 March 2021, from Mr Brad Coutts. (Attached)

Palmerston North City Council:

(Pages 5-23)

Report, dated 3 March 2021, by the Animal Control Officer, Mr Aaron Thornton. (Attached)

Right of Reply of Applicant

2. Exclusion of Public

That the public be excluded from the following parts of the proceedings of this meeting, namely agenda item 1.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

	General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
1.	Hearing of Objection Pursuant to Section 33B Classification of Dog as Menacing under the Dog Control Act 1996	Personal privacy	(a)(i)

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as follows:

1. Hearing of Objection Pursuant to Section 33B Classification of Dog as Menacing under the Dog Control Act 1996 – LGOIMA 7(2)(a) – personal privacy.

* Also that Committee Administrators (Susana Figlioli and Natalya Kushnirenko) be permitted to remain after the public has been excluded because of their knowledge and ability to provide the meeting with procedural advice and record the proceedings of the meeting.

* * * *

26 January 2021

Aaron Thornton
Animal Control Officer
Environment Protection Services
Palmerston North City Council
Private Bag 11034
PALMERSTON NORTH

Dear Aaron

Re: INFRINGEMENT NOTICE ADVISEMENT No. 4340 and OBJECTION TO MENANCING DOG CLASSIFICATION

Thank you for your letter dated 15 January 2021, received by me on 20th January 2021 advising of a complaint on 28th December 2020 regarding my dog Blaze and notification of classification of a Menacing Dog classification.

I understand you made several attempts to contact me regarding this complaint and I apologise if you had an incorrect phone number for me. I have recently changed my phone number which is now 7(2)(a) personal privacy and I acknowledge that I should have advised the PNCC of that change. My grandmother was advised today (by Herb) that a notice was left at her property at 74 Stanley Avenue on 28/29 December. No such notice was received by her.

I would like to dispute the alleged breach of the Dog Control Act 1996 **'Failure to keep dog controlled or confined resulting in a person being bitten'** and also the **Classification of a Menacing dog.** I strongly deny that Blaze bit the lady concerned and set out below what actually happened:

- My partner and myself were walking to my partner's car which was parked on the roadway outside the house at 84 Rongopai Street.
- Blaze was with us and was on a lead held by myself
- As we approached the footpath, a lady and another person walked close by us and Blaze 'nudged' her in the backside with her nose – something Blaze does when she is greeting people. She does this all the time to our family members and friends. The lady got a fright and stated that she had been bitten. I told her that she hadn't been bitten and Blaze was just saying hello - as the lady walked on my partner noticed that the lady was laughing.
- There was nothing aggressive whatsoever in Blaze's behaviour towards the Lady
- It was a completely innocent event and I gave it no further thought.

I would request that the lady provide evidence of a dog bite – such as photos of a puncture wound or torn clothing. Did she get a tetanus injection or anything that would indicate that she had received a dog bite?

I respectfully request that your classification of Blaze as a menacing dog be reviewed.

Yours faithfully

Brad Coutts

HEARING OF OBJECTION PIURSUANT TO SECTION 33B
CLASSIFICATION OF DOG AS MENACING UNDER THE DOG CONTROL ACT 1996

Submission to Committee provided by Brad Coutts for Hearing 2pm on Thursday 18 March 2021

The grounds on which I object are:

- Blaze is a very well trained and obedient dog who is very well 'socialised' both with humans and other dogs
- Blaze has never been aggressive at any time towards adults, children or other animals. She completely ignores people and other dogs when she is out socialising in public places like the river. (She does chase the odd bird)
- Until recently, Blaze has lived with myself at my grandmother's house. My Grandmother works at the Massey University Veterinary School and is very well versed in dog behaviour.
- The occasions when Blaze has approached and nipped a person are as follows:

    - While I was at work, Blaze had followed my grandmother to the letterbox when she was startled by a man who walked by at the same time. She was not able to see the man approaching as the fence was obstructing her view of the footpath. She 'nipped' the man in the backside and immediately obeyed my grandmother's command to go inside. I understand that this is on record as the Ranger later visited my grandmother and told her the man had confirmed that Blaze obeyed her immediately and did not in any way continue to 'menace' the man. She was obviously protecting my grandmother and her territory which is a natural reaction for a dog to make. She was not at all 'menacing' towards the man.
    - My grandmother **totally accepts responsibility** for Blaze's behaviour on that occasion and admits that she was careless in not checking that the door was closed before she walked to the letterbox. I feel strongly that Blaze should not be penalised for this incident. She was simply doing her 'duty' by protecting my grandmother

    - On the occasion when Blaze nipped the courier lady in the leg – this was a very similar circumstance. I had moved into a flat with Blaze and was at work during the day when my flat mate inadvertently let Blaze out of the front door (something that he had very strict instructions not to do) and again Blaze was simply protecting her territory. My flatmate accepts responsibility for this event and admits he was at fault.

    - With regard to the current occasion, I have explained the situation in my previous letter. I do not accept that Blaze bit the lady. I do accept that she went up to the lady and nudged her in the backside. I had Blaze on a lead at the time and believe she was just saying 'hello' to the lady.

On each of the above occasions, Blaze was not at fault. The adults involved take full responsibility for allowing this to occur and I would appreciate the opportunity to further explain these situations at a Council hearing. I believe that Blaze 'nipped' these people rather than 'bit'. A dog bite would leave a considerable wound. Blaze is a most friendly and lovely dog and I believe it is grossly unfair for her to be classified as menacing and to have the associated restrictions placed upon her.

I consider myself to be a very responsible dog owner and in fact have been complimented on numerous occasions by strangers with regard to how well behaved Blaze is.

Hearings Committee

Meeting of

Business Unit: Customer Experience, Environmental Protection Services
Date Created: 3rd March 2021

Hearing of Objection to Menacing Classification of Dog

Purpose

This report seeks the Hearings Committee's consideration and decision on the objection lodged by Brad Michael COUTTS against the issuing of a Menacing Dog Classification relating to his dog known as "BLAZE" pursuant to the provisions of Section 33A of the Dog Control Act 1996.

Significance of Decision

The Council's Significance and Engagement policy is not triggered by matters discussed in this report.

Recommendations

That the "menacing" classification imposed on the dog "BLAZE" belonging to Brad Michael COUTTS, pursuant to Section 33A of the Dog Control Act 1996, be upheld based on the evidence provided in this hearing.

Report prepared by:
Aaron Thornton
Animal Control Officer

Approved for submission by:
Herb Verstegen
Team Leader Animal Management and Education
Customer Experience, Environmental Protection Services

1 Contribution to the Council Vision and Council Outcomes

1.1 Relationship to the Council Outcomes that underpin the Council's Vision:

An innovative and growing city – We will drive entrepreneurship and innovation by providing the support, infrastructure, opportunities and conditions to enable traditional sectors to diversify and expand, and new industries and new economies to grow to create the employment opportunities that sustain and expand our city's future.	**A creative and exciting city –** We will work to make it easy for Palmerston North citizens to connect with each other and to the services, infrastructure, facilities, drinking water quality and opportunities that support individual development, health, prosperity and wellbeing, for the greater good of our community as a whole.	**A connected and safe community –** We will build Palmerston North's reputation as a creative and exciting place to live, work and study, that has great places for people, and the attractions, recreation options and experiences of a big city without the hassle and cost.	**An eco city –** Palmerston North will have a sustainable future and a reduced ecological footprint through effective planning of infrastructure and the protection, maintenance and enhancement of our natural and built environment. We are working towards our city becoming a low carbon economy.	**A driven and enabling Council** – We will drive entrepreneurship and innovation by providing the support, infrastructure, opportunities and conditions to enable traditional sectors to diversify and expand, and new industries and new economies to grow to create the employment opportunities that sustain and expand our city's future.

2 Background

2.1 Section 33A of the Dog Control Act 1996 provides that a Council may classify as menacing any dog that they consider may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of any observed or reported behaviour of the dog.

2.2 At 1712 on the 18th of December 2020 a complaint was made to Palmerston North City Council regarding a dog being kept at 84 Rongopai St, Palmerston North. The complainant advised the call taker that at roughly 1600-1615 a dog that she described as a brindle pit-bull mix rushed down the driveway of 84 Rongopai St and nipped the back of her thigh. The bite did not puncture skin. Complaint number 55912 (Annex A)

2.3 At 1724 After hours animal control officer Jeremy MARTIN (Personal Protective Services) made contact with the complainant via phone and arranged for her to write an informal statement for him to collect prior to attending the dog owner's property.

2.4 1845 Jeremy collected the statement from the complainant. Statement (Annex B).

2.5 At 1900 Jeremy attended the property at 84 Rongopai Street. The dog and owner were not present; however, he spoke to a flatmate and left a card and advised someone would be in contact. PPS After hours complaint report (Annex C)

2.6 At 1300 on 29th December 2020 I called at 84 Rongopai Street, no one was home and I did not sight the dog. A note was left in the letter box to contact me.

2.7 At 1305 I called at 74 Stanley Street, Palmerston North, this is the address that our records indicate that the offending dog is registered to. This was known as a result of previous dealings

with the dog owner. On arrival the front door was open, as were several windows at the address. I called out in an attempt to attract the attention of anyone at the address, this was not successful. I left a note in the letterbox requesting the dog owner contact me. The dog was not sighted at the address.

2.8 My complaint notes indicate that as at the 15th January 2021, no contact had been made by the dog owner. At this time a decision was made to Classify the dog and issue an Infringement after reviewing the evidence I had at hand and consideration of the dogs history. Complaint history for the dog "BLAZE" (Annex D)

2.9 Considerations considered for issue of Classification and Infringement:

a) History of offending of a similar nature by the dog. From the 18th June 2019 through until the 28th December 2020, one aggressive dog complaint and three dog attacks have been reported.

b) An assessment matrix is used throughout New Zealand by numerous Territorial Authorities' Animal Control/ Animal Management services to give an indication of what action should be taken in dog attacks. Palmerston North City Council also uses this tool to give an indication of appropriate actions. In this case the score was assessed as 51, which is at the middle of the score range, this indicates an option of Classification and Infringement issue as an Officer action. Assessment Matrix (Annex E)

c) Case law that is routinely referred to during dog attack prosecutions and is taken into consideration when investigating dog bite/ attack incidents is ***Halliday vs New Plymouth District Council***, this in part mentions that ***"past behaviour is the best predictor of future behaviour".***

d) When taking the above statement into account, this is the 4th similar incident that the dog has been implicated in (three dog attacks and one aggressive dog complaint) whilst all have been reasonably minor this identifies to us that the dog owner has a disregard or is ignorant to his dogs behaviour. If there are no measures put in place this will result in further incidents of this nature occurring.

e) This was a minor bite which resulted in bruising but no skin breaks, the dog owner was present at the time, but he denied that the dog bit when the complainant advised him what happened. Despite several attempts to make contact with the dog owner he has not responded to requests. It is my belief that this dog will bite again, in which case Council would have little option left but to prosecute and seek destruction of the dog.

2.10 15th January 2021 Classification paperwork and Infringement issued and sent to Brad. (Annex F and G respectively)

2.11 Section 33B: Objection to classification of dog under section 33A, states:

(1) If a dog is classified under section 33A as a menacing dog, the ***owner***—

(a) may, ***within 14 days*** of receiving notice of the classification, object in writing to the territorial authority in regard to the classification; and

(b) has the right to be heard in support of the objection.

2.12 Objection to Classification of BLAZE as Menacing received from Brad COUTTS in writing on 26th January 2021.

2.13 The Hearings Committee in considering the objection may uphold or rescind the classification. In making its determination the committee must have regard to:

(a) the evidence which formed the basis for the classification; and

(b) any steps taken by the owner to prevent any threat to the safety of persons or animals; and

(c) the matters relied on in support of the objection; and

(d) any other relevant matters.

2.14 Following the hearing of the objection the Hearings Committee must, as soon as practicable, give written notice to the owner of—

(a) its determination of the objection; and

(b) the reasons for its determination.

3 Discussion and Options considered

3.1 The following documents are appended to this report:

a) Attack assessment matrix

b) Score range options

4 Operational Implications

5 There are no capital or operating expenditure implications or maintenance costs associated with this matter.

6 Financial implications

6.1 There are no financial implications associated with this matter.

7 Statutory Requirements

7.1 The provisions around classifying a dog as menacing are as follows:

33A - Territorial authority may classify dog as menacing

(1) This section applies to a dog that—

(a) has not been classified as a dangerous dog under section 31; but

(b) ***a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of—***

(i) ***any observed or reported behaviour of the dog***; or

(ii) any characteristics typically associated with the dog's breed or type.

(2) A territorial authority may, for the purposes of section 33E(1)(a), classify a dog to which this section applies as a menacing dog.

(3) If a dog is classified as a menacing dog under subsection (2), the territorial authority must immediately give written notice in the prescribed form to the owner of—

(a) the classification; and

(b) the provisions of section 33E (which relates to the effect of classification as a menacing dog); and

(c) the right to object to the classification under section 33B; and

(d) if the territorial authority's policy is not to require the neutering of menacing dogs (or would not require the neutering of the dog concerned), the effect of sections 33EA and 33EB if the owner does not object to the classification and the dog is moved to the district of another territorial authority.

8 Delegations

8.1 Council has delegated authority to the Hearings Committee to hear the objection to the Menacing Dog Classification and to make its determination based on the case presented. The committee may either uphold or rescind the classification.

9 Consultation

9.1 There are no community consultation requirements.

10 Cultural Considerations

10.1 There are no cultural considerations to be taken into account in this matter.

11 Conclusion

11.1 Palmerston North City Council Animal Control staff have a duty to enforce the provisions of the Dog Control Act 1996.

11.2 Pursuant to the provisions of Section 33A of the Dog Control Act 1996, Palmerston North City Council classified the dog known as "BLAZE" because of the ***observed and reported aggressive behaviour*** whilst off her owner's property.

11.3 Case law that is routinely referred to during dog attack prosecutions and other dog bite attack incidents is ***Halliday vs New Plymouth District Council***, in part mentions that ***"past behaviour is the best predictor of future behaviour"***. During 24 years' experience as an Animal Control Officer working for several different Territorial Authorities, I have found this statement to be very accurate, and have dealt with numerous cases where dogs that have been able to attack or bite have gone on to attack and bite again given the opportunity. My belief is that if the dog owner continues to allow the dog to act in the manner that it has in the past, that it will bite again. Council have a duty to protect the public from dogs of this nature, and in that respect, I consider that classification in this case is appropriate.

12 Attachments

- Annex A: CN 55912 – Dog Attack complaint report
- Annex B: Written Statement – Chelsea GREEN
- Annex C: After hours report – Jeremy MARTIN - Animal Control Officer
- Annex D: Complaint history – “BLAZE”
- Annex E: Assesment Matrix and score range options
- Annex F: Notice of Classification of Dog as Menacing Dog “BLAZE”
- Annex G: Infringement – Section 52A Dog Control Act 1996
- Annex H: Objection to Classification Letter – Brad COUTTS

ANIMAL CONTROL COMPLAINT REPORT

Complaint Information for Complaint No:55912

Complainant Details

Complainant	CHELSEA GREEN, ID # 75052
Address	7(2)(a) personal privacy
Phone No.	**Extension**
CEL	7(2)(a) personal privacy
Method of contact	PHONE
Date & Time	28 Dec 2020 at 05:12p.m.
Status	COMPLETED/RESOLVED
Date & Time completed	15 Jan 2021at 11:33a.m.

Complaint Details

Problem Type & subtype	ANIMAL/DOG ATTACK ON PERSON
Location	CONFIDENTIAL CHELSEA GREEN 84 RONGOPAI STREETANIMAL/DOG ATTACK ON PERSON
Details	Chelsea was walking near 84 Rongopai Street When a brindle pitbull mix rushed down the driveway and nipped the back of her thigh. The bite didn't puncture skin. attack occured at roughly 16.30pm. <questions> Q> Description/colour of dog A> REFER TO OWNER/ DOG DETAILS </questions>
Officer Referred to	Hour
Action 1	
Action 2	
Action 3	
Action 4	
Action 5	
Action 6	

Animal Associated with Complaint

Problem	DOG ATTACK ON PERSON
Offending Dog	BLAZE, Dog ID # 16794
Dog Menacing	**YES**
Dog Dangerous	**NO**

Owners - Dog details:

Dog Name	Dog Tag No	Dog Breed/s	Dog Colour/s	Gender	Dog Age
Blaze	2021/319	Terrier, American Staffordshire, Cross	Brindle	Female	5 Yrs 3 Mths

Offenders Details:	
Offender & address	BRAD COUTTS 7(2)(a) personal privacy
Parcel	0849/36
Phone #'s	7(2)(a) personal privacy

Date: Monday 28 Dec 2020

Name: Chelsea Green

ANNEX - B

7(2)(a) personal privacy

Approximately 4 - 4.15pm I was walking down Rongopai Street coming from Heretaunga St with my friend Renee Watts. As we came to 84 Rongopai (to the best of my knowledge) a couple appeared walking out of this driveway with a large Brindle coloured dog (no tag) My friend thought it was a Pit Bull or Crossbreed of some kind. The dog rushed at me and approached my stomach. I stepped back slightly and the male said 'sorry'. The dog was not on a lead. His blond female companion said nothing. The dog then went behind me and I felt a bite from behind at the top of my thigh. I said 'oh he bite me' The male said 'he didn't bite you' then they crossed the road and started to walk down Rongopai towards Roussell St. I was a bit frightened by the situation and noticed they never called off the dog, told him/her off and let them walk down the street without a lead. They then got in a car parked several houses down and drove off towards Heretaunga st. Car was white Sedan licence plate JZY 272 maybe

Signed: 7(2)(a) personal privacy

(Chelsea Green)

ANNEX - C

PALMERSTON NORTH CITY COUNCIL

Palmerston North City Council Animal Control Complaint

Job: Dog Attack
Complaint No: 55912

Date: 28/12/20
Time: 17:12
Officer: PPS Jorey

COMPLAINANT DETAILS

Complainant Name: Cleclsen Green

Address: [redacted]

Ph: Hm: Wk:

Mobile: [redacted]

Message/Location:
large Blk brinde dog came out of 84 Rongipi St and bit/nipped at leg as walked past while they were going to their car

OUTCOME DETAILS

ACO Action:

17:24 Called Client. arranged time to go see get statement.

18:45 at clients get statement.

19:00 at rongipi st. owner of dog not there spoke with Blk male. left card advised some one will be in contact.

19:30 home.

Complainant Notified Y/N

How Phone/Personal/Letter

SUBJECT DETAILS

Associated Name: Brad Coutts

D.O.B:

Address: 84 Rongipi St.

Ph: Hm: Wk:

Mobile [redacted]

Owner ID: Animal ID: Tag No:

Animal/Dog Details:

IMPOUNDING

Animal Type: Impound No:

Pound Book Complete Y/N

Answer Phone Updated Y/N

For Stock Only:

Kms Start: 127539 Finish: 127546.

Total: 7

Time Started: 17:12

Time Finished: 19:20

Droving/Transport Charged Y/N

YOUNG HEART EASY LIVING MANAWATU

ID/Date/Time	Details/Subtype	Contact/Location	Status	Referrals
39880 23 Sep 2016 04:30p.m.	ANIMAL/LOST DOG	CONFIDENTIAL WENDY MAHAREY [redacted] 7(2)(a)	COMPLETED	Ross McDermott
40016 05 Oct 2016 12:27p.m.	ANIMAL/PREFERRED OWNER APP	CONFIDENTIAL BRAD COUTTS [redacted] 7(2)(a)	COMPLETED	
51331 18 Jun 2019 10:21a.m.	ANIMAL/DOG ATTACK ON PERSON	CONFIDENTIAL BRIAN KNIGHT [redacted] 7(2)(a)	COMPLETED	Charles Kereama-Graham
53925 26 Mar 2020 01:48p.m.	ANIMAL/AGGRESSIVE DOG	CONFIDENTIAL KAREN BLAIR [redacted] 7(2)(a	COMPLETED	Ross McDermott
55020 03 Sep 2020 02:28p.m.	ANIMAL/DOG ATTACK ON PERSON	CONFIDENTIAL LAURA MABER [redacted] 7(2)(a	COMPLETED	Ross McDermott
55912 28 Dec 2020 05:12p.m.	ANIMAL/DOG ATTACK ON PERSON	CONFIDENTIAL CHELSEA GREEN [redacted] 7(2)(a) p	COMPLETED	Hour

ANNEX - D

ANNEX - E

Assessment Matrix

(applies for offences under Sections 57 and 58 Dog Control Act 1996)
(attacks)

The following assessment matrix is to be used as a means of gauging the alleged offence to determine if the attack will be considered 'serious'. The scale is based on a 'score' for each matter to be assessed. The 'score' (unless expressly restricted to a range) is totally dependent on the officer's interpretation of the incident being investigated.

Complaint Number 55912 ..... **Dog Owner** 89612 .....

Assessing Officer 4 .....

Dog

- **Level of aggression displayed in the attack**

☐ ☐ ☒ ☐ ☐ ☐ ☐ ☐ ☐ ☐ **Score:** 3

1 2 3 4 5 6 7 8 9 10

Low Intensity (nip and run off) (intimidating) (bite and retreat) (growling) Medium Intensity (multiple bites and retreat) (snarling) Extreme Intensity (hanging on – shaking)

- **Factors involved that led to the attack occurring**

☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☒ **Score:** 10

1 2 3 4 5 6 7 8 9 10

Uncharacteristic Accidental; Reaction; Provoked; Territorial Puppies Breed; Protection Prey Drive; Unprovoked *(no obvious reasoning)*

- **Previous history** – *(last 6 months)*

☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☒ ☐ **Score:** 9

1 2 3 4 5 6 7 8 9 10

Barking; Growling; Straying Impounded; Snarling; Rushing aggressive behaviour; Minor Biting; Attack

- **Previous history** – *(6 months to 2 years)* ***Note: Cannot be a shaded box***

■ ■ ■ ■ ☐ ☐ ☐ ☐ ☐ ☐ **Score:**

5 6 7 8 9 10

Snarling; Rushing; Minor biting; Attack

- **Previous history** – *(2 years to 5 years)* ***Note: Cannot be a shaded box***

■ ■ ■ ■ ■ ■ ■ ☐ ☐ ☐ **Score:**

8 9 10

Minor biting; Attack

- **Type of 'control' situation the dog was in**

☐ ☐ ☐ ☐ ☐ ☒ ☐ ☐ ☐ ☐ **Score:** 6

1 2 3 4 5 6 7 8 9 10

Secured on own property *(access /no access)*; Owner control / leash / verbal; At large private property *(owner present)* *(no owner present)*; Secured/At large public place *(outbuilding)*; At large other persons private property access to neighbouring property

Use Only One (Do NOT score if NIL previous record)

Dog Total: 28

(Min 3 - Max 40)

Owner

- Attitude to the incident

☐ ☐ ☐ ☐ ☐ ☐ ☐ ☒ ☐ ☐ Score: 8

1 Excellent 2 3 Cooperative 4 5 Average 6 7 8 Disregard 9 10 Obstructive
('Couldn't care less')

- Previous History - – *(last 6 months)*

☐ ☐ ☐ ☐ ☒ ☐ ☐ ☐ ☐ ☐ Score: 5

1 Education 2 Verbal 3 4 D/C Notice (non attack / attack) 5 6 7 Infringement Notice *(non attack / attack)* 8 9 10 Prosecution

- Previous history – *(6 months to 2 years)* ***Note: Cannot be a shaded box***

■ ■ ■ ■ ☐ ☐ ☐ ☐ ☐ ☐ Score:

5 D/C Notice (non attack / attack) 6 7 Infringement Notice *(non attack / attack)* 8 9 10 Prosecution

- Previous history – *(2 years to 5 years)* ***Note: Cannot be a shaded box***

■ ■ ■ ■ ■ ■ ■ ☐ ☐ ☐ Score:

8 9 10 D/C Notice and Infringement Notice Prosecution
(biting / attack)

- Level of Responsibility towards Control of Dog

☐ ☐ ☐ ☐ ☐ ☐ ☐ ☒ ☐ ☐ Score:

1 Control provisions were in place Above average 2 3 Average 4 5 Below average 6 7 Ignorant of rules and/or regulations 8 Disregard of previous warnings/actions 9 10 Deliberate

- Likelihood of dog being a continuing threat to the safety of persons, stock, poultry, domestic animals or protected wildlife ***(at the same address – same owner)***
  Note: cannot be a shaded box

☐ ■ ☐ ■ ☒ ■ ■ ■ ■ ■ Score: 5

1 Nil 2 3 Possible 4 5 Probable

Why? This is the 4th complaint of this type, will happen again if dog is not controlled, owner shows no concern about dogs behaviour.

- Registration Compliance – ***Note: cannot be a shaded box***

☒ ■ ☐ ■ ☐ ■ ■ ■ ■ ■ Score: 1

1 Current 2 3 Not Current 4 5 Never Been

Use Only One (Do NOT score if NIL previous record)

Owner Total: 19
(Min 4 - Max 40)

Victim 1 – (person)

- Victim impact as a result of the attack (psychological)
  Note: cannot be a shaded box. *VIS may be required if 5 or 7*

1 Good | 3 Angry | 5 Shaken | 7 Trauma

Score: 1

- Effects/ Injuries as a result of the attack (physical)

1 Torn Clothing/ | 2 | 3 Bruising Scare | 4 | 5 Property damage | 6 Bite Marks | 7 Stitches Punctures | 8 | 9 Extensive | 10 medical attention

Score: 3

Victim 1 Total: 4
(Min 2 Max 17)

Victim 2 – (stock; poultry; domestic animal; protected wildlife)

Use Only One

- Effects / Injuries as a result of the attack *(not applicable if death)*

1 Bruising | 2 | 3 Bite Marks Endangered | 4 | 5 Stitches | 6 | 7 Minor Vet Punctures | 8 | 9 Major Vet | 10 Euthanasia

Score:

- Death of stock, poultry, domestic animal, or protected wildlife.
  NOTE: (poultry – not above 3; protected wildlife – not below 4; domestic animals and stock – not below 6)

1 | 2 Poultry | 3 | 4 Protected Wildlife | 5 | 6 | 7 Domestic Animals | 8 | 9 | 10 Stock

Score:

- Victim impact in relation to being the owner of stock; poultry or domestic animals as a result of the attack. If protected wildlife the victim impact of the complainant (psychological)
  Note: cannot be a shaded box. *VIS may be required if 5 or 7*

1 Good | 3 Angry | 5 Shaken | 7 Trauma

Score:

Victim 2 Total: 4
(Min 2 Max 17)

Overall Total: 51
(Min 9 Max 97)

SCORE RANGE OPTIONS – (Min 11 / Max 97)

Use the following **Guide** based on the matrix score to provide a gauge as to the type of enforcement action to apply for attacks pursuant to Section 57 or 58 Dog Control Act 1996.
(one or more options may apply)

Complaint Number 55912 ..... *Assessment Score* 51 .....

Score: **11 – 34** *(tick box/s)* **(OFFICER OPTIONS)**

- ☐ Dog Control Notice and S33AMenacing Classification *(deed)*
- ☐ Dog Control Notice
- ☐ Verbal Warning
- ☐ Education
- ☐ S33CMenacing Classification *(breed)*
- ☐ Notice to Register

Note:

- Notice to Register **must** accompany the above (unless dog handed over)
- S33C Menacing Classification **must** accompany the above (if applicable)
- S33A or S33C Menacing Classification would **not** apply if the dog was destroyed.

Score: **35 – 84** *(tick box/s)* **(T/A OPTIONS)**

- ☐ S57 Prosecution and Dog Seizure Retention
- ☐ S57 Prosecution
- ☐ S25 disqualification (upon conviction)

(OFFICER OPTIONS – where classifying need T/A approval)

- ☒ S52 Infringement Notice and S33AMenacing Classification *(deed)*
- ☐ S53(1) Infringement Notice and Dog Control Notice
- ☐ S53(1) Infringement Notice
- ☐ Dog Control Notice and S33AMenacing Classification *(deed)*
- ☐ S31 classification (if applicable)
- ☐ S33CMenacing Classification*(breed)*
- ☐ S42 Infringement Notice
- ☐ Dog Control Notice
- ☐ Notice to Register

Note:

- Notice to Register **must** accompany the above (if applicable unless dog handed over or destroyed) where medical/veterinary attention is **not** required.
- S42 Infringement Notice **must** accompany the above (if applicable unless dog handed over or destroyed) where medical/veterinary attention **is** required or a **death** of stock, poultry, domestic animal or protected wildlife has resulted.
- S33C Menacing Classification **must** accompany the above (if applicable)
- S33A or S33C Menacing Classification would **not** apply if the dog was destroyed.
- Where medical/veterinary attention is required the officer **shall** give higher consideration to the more serious action option (providing it is relevant to the circumstances of the case).

Score: **85 – 97** *(tick box/s)* **(T/A OPTIONS)**

☐ S58 Prosecution and Dog Seizure Retention

☐ S57 Prosecution

☐ S57 Prosecution and Dog Seizure Retention

☐ S25 Disqualification

Note:

- S42 Infringement Notice **must** accompany the above (if applicable unless dog handed over or destroyed)
- Where extensive medical repair and/or hospitalisation is required the T/A **shall** give higher consideration to the more serious action option.
- Seizure of Dog (if applicable)
- S25 disqualification (upon conviction)

Details:

Dog ID#: 16794

Owner ID#: 89612

Impound Notice#: .....

Seizure Notice#: .....

Notice to Register#: .....

Decision of Council: ☐ **Prosecution** ☒ **No Prosecution**

(If 'No Prosecution' the ACO uses assessment score above under Officer Options for alternate action)

Reason for either Prosecution OR No Prosecution: *(see Factors to Consider for Prosecution decision)*

This is the 4th similar incident that the dog has been implicated in (3 dog attacks and 1 aggressive dog) all have been reasonably minor but is showing that the dog owner has a disregard or is ignorant to his dogs behaviour.
This was a minor bite which resulted in bruising but no skin breaks, the dog owner was present at the time but denied that the dog bit. Despite several attempts to make contact with the dog owner he has not responded to requests.
It is my belief that this dog will bite again, in which case I think Council would have little option left but to prosecute and seek destruction of the dog.

Signed: **Date:**
(Manager)

ANNEX - F

Palmerston North City Council

Notice of Classification of Dog as Menacing Dog.

Section 33A Dog Control Act 1996

To: BRAD COUTTS

Address: 7(2)(a) personal privacy

FILE COPY

Dog:

Name:	BLAZE	Tag:	319
Gender:	FEMALE	Breed:	Terrier, American Staffordshir
Age:	5 yrs 1 mth	Colour:	BRINDLE
Tattoo:		Distinguishing marks:	WHITE CHEST

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

This is because

33A Territorial Authority may classify dog as menacing

(1) This section applies to a dog that

(b) a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of –

(i) any observed or reported behaviour of the dog; or

(ii) any characteristics typically associated with the dog's breed or type.

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

Signature of officer of [Palmerston North City Council]

15th January 2021
Date

FILE COPY

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

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

Effect of classification as menacing dog

Sections 33E, 33F, and 36A, Dog Control Act 1996

You—

(a) must not allow the dog to be at large or in any public place or in any private way (other than when confined completely within a vehicle or cage) without the dog being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; and

(b) must, if required by the [Palmerston North City Council], produce to the [Palmerston North City Council], within 1 month after receipt of this notice, a certificate issued by a registered veterinary surgeon 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

(c) where a certificate under paragraph (b)(ii) is produced to the [Palmerston North City Council], produce to the [Palmerston North City Council], within 1 month after the date specified in that certificate, a further certificate under paragraph (b)(i).

You will commit an offence and be liable on conviction to a fine not exceeding $3,000 if you fail to comply with all of the matters in paragraphs (a) to (c) above.

A dog control officer or dog ranger may seize and remove the dog from you if you fail to comply with all of the matters in paragraphs (a) to (c) above. The officer or ranger may keep the dog until you demonstrate that you are willing to comply with paragraphs (a) to (c).

As from 1 July 2006, you are also required, for the purpose of providing permanent identification of the dog, to arrange for the dog to be implanted with a functioning microchip transponder. This must be confirmed by making the dog available to the [Palmerston North City Council] in accordance with the reasonable instructions of the [Palmerston North City Council] for verification that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location.

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

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

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

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

Right of objection to classification under section 33A

Section 33B, Dog Control Act 1996

You may object to the classification of your dog as menacing by lodging with the [Palmerston North City Council] a written objection within 14 days of receipt of this notice setting out the grounds on which you object.

You have the right to be heard in support of your objection and will be notified of the time and place at which your objection will be heard.

ANNEX - G

INFRINGEMENT NOTICE

Palmerston North City Council
Te Marae o Hine – The Square
Private Bag 11034
Palmerston North 4442
P 64 6 356 8199 F 64 6 351 4515
W www.pncc.govt.nz

(ISSUED UNDER THE AUTHORITY OF SECTION 66 OF THE DOG CONTROL ACT 1966)

Notice No: 4340	TERRITORIAL AUTHORITY: PALMERSTON NORTH CITY COUNCIL PRIVATE BAG 11034 PALMERSTON NORTH

TO:

FULL NAME OF DOG OWNER:	COUTTS, BRAD MICHAEL	Date of Birth	7(2)(a) personal privacy
FULL ADDRESS:	7(2)(a) personal privacy		

Details of alleged infringement offence(s)

Section of Dog Control Act 1996 Amendment Act 2004 contravened:	Section 52A Dog Control Act 1996	
Nature of Infringement	Failure to keep dog controlled or confined	
Location of Offence	Rongopai Street, Palmerston North	
Date and Approximate time of Offence	On 28 Dec 2020 At 04:15p.m.	
Day of week	~~S~~ (M) ~~T W T F S~~	
Fee	$200.00	
Additional Details Registration number and/or description of dog:	2021/319	Failure To Keep Dog Controlled Or Confined.

The infringement fee is payable to the Palmerston North City Council within 28 days from: 15 Jan 2021

The fee for this offence is $200.00

Officer Number: 4

The infringement fee may be paid by one of the following options:

Online	Post to	In person
Using debit or credit card at eservices.pncc.govt.nz/online-services, enter the notice number.	Palmerston North City Council Private Bag 11034 Te Marae o Hine - The Square Palmerston North 4442 *(Please ensure cheques are crossed "not transferable" or "account payee only")*	Customer Service Centre Palmerston North City Council Te Marae o Hine - The Square Palmerston North

IMPORTANT
PLEASE READ THE SUMMARY OF RIGHTS PRINTED OVERLEAF

ANNEX - H

26 January 2021

Aaron Thornton
Animal Control Officer
Environment Protection Services
Palmerston North City Council
Private Bag 11034
PALMERSTON NORTH

Dear Aaron

Re: INFRINGEMENT NOTICE ADVISEMENT No. 4340 and OBJECTION TO MENANCING DOG CLASSIFICATION

Thank you for your letter dated 15 January 2021, received by me on 20th January 2021 advising of a complaint on 28th December 2020 regarding my dog Blaze and notification of classification of a Menacing Dog classification.

I understand you made several attempts to contact me regarding this complaint and I apologise if you had an incorrect phone number for me. I have recently changed my phone number which is now 7(2)(a) personal privacy and I acknowledge that I should have advised the PNCC of that change. My grandmother was advised today (by Herb) that a notice was left at her property at 74 Stanley Avenue on 28/29 December. No such notice was received by her.

I would like to dispute the alleged breach of the Dog Control Act 1996 **'Failure to keep dog controlled or confined resulting in a person being bitten'** and also the **Classification of a Menacing dog.** I strongly deny that Blaze bit the lady concerned and set out below what actually happened:

- My partner and myself were walking to my partner's car which was parked on the roadway outside the house at 84 Rongopai Street.
- Blaze was with us and was on a lead held by myself
- As we approached the footpath, a lady and another person walked close by us and Blaze 'nudged' her in the backside with her nose – something Blaze does when she is greeting people. She does this all the time to our family members and friends. The lady got a fright and stated that she had been bitten. I told her that she hadn't been bitten and Blaze was just saying hello - as the lady walked on my partner noticed that the lady was laughing.
- There was nothing aggressive whatsoever in Blaze's behaviour towards the Lady
- It was a completely innocent event and I gave it no further thought.

I would request that the lady provide evidence of a dog bite – such as photos of a puncture wound or torn clothing. Did she get a tetanus injection or anything that would indicate that she had received a dog bite?

I respectfully request that your classification of Blaze as a menacing dog be reviewed.

Yours faithfully

Brad Coutts