

PALMERSTON NORTH CITY COUNCIL

AGENDA

HEARINGS COMMITTEE

1PM, 13 MARCH 2019

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



MEMBERSHIP

Tangi Utikere (Chairperson)
Susan Baty
Lorna Johnson

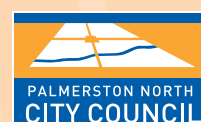
Agenda items, if not attached, can be viewed at:

**pncc.govt.nz | Civic Administration Building, 32 The Square
City 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

HEARINGS COMMITTEE

EXTRAORDINARY MEETING

13 March 2019

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 **1.00pm on Wednesday 13 March 2019 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:

Applicant:

Letter, dated 1 December 2018, from Mr Terry Rickard.
(Attached)

(Page 5)

Palmerston North City Council:

Report, dated 20 February 2019, by the Animal Control Officer,
Mr Aaron Thornton. (Attached)

(Pages 6-10)

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 (Rachel Corser, Courtney Kibby and Penny Odell) 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.

* * * *

Terry Rickard

1st December 2018

Animal Control Services

Palmerston North City Council

Private Bag 11034

Palmerston North

Dear Animal Control Officer,

Re: Complaint No. 49251. Notice of Classification of Dog as a Menacing Dog, letter dated 27 Nov 2018.

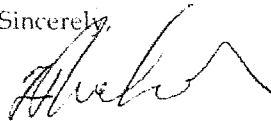
I wish to object to the classification as there were no witnesses to the "Alleged" offence.

The rabbit which is a prey animal was roaming free and there is no proof that it died due to an attack by our dog. Our dog was unlucky to be found with the dead rabbit but she, Karma, did not have any blood on her. There are a number of cats in the neighbourhood that could have easily harmed the rabbit.

I would like a copy of the statements and or reports pertaining to the alleged attack please?

We got Karma from Charlie Graham almost 5 years ago and there have been no complaints lodged against her in this time.

Sincerely,



Terry Rickard

**BEFORE THE HEARINGS COMMITTEE – PALMERSTON NORTH CITY
COUNCIL (PNCC)**

IN THE MATTER

Of a notice of objection under section 33B of the Dog
Control Act 1996 (DCA)

AND

IN THE MATTER

Objection to the classification of a dog as menacing under
section 33A of the DCA.

BY

Terry Rickard

**STATEMENT OF EVIDENCE OF
AARON THORNTON (ANIMAL CONTROL OFFICER), PNCC**

Menacing Dog Objection Hearing:
Terry Rickard
Oasis

20 February 2019

1. INTRODUCTION

- 1.1 My name is Aaron Thornton and I am an Animal Control Officer with the Palmerston North City Council. I have been responsible for classifying a dog owned by Terry Rickard as menacing under section 33A of the DCA.
- 1.2 Terry Rickard owns a white female English Pointer Cross named Karma.
- 1.3 At 4.48 pm on 19 November 2018 PNCC received a complaint from a veterinary surgeon of a dog attack on a rabbit.
- 1.4 The investigation identified the rabbit was attacked and killed on a property in Wincanton Place, Palmerston North.
- 1.5 The investigation revealed that the rabbit was attacked and killed by Terry Rickard's dog, Karma.
- 1.6 Terry was issued with a notice of warning for failing to keep a dog under control, an offence against section 52A of the DCA.
- 1.7 Karma was classified as menacing under section 33A of the DCA. Terry was advised of the classification on 27 November 2018.
- 1.8 Terry objected to the classification on 1 December 2018.

2 DESCRIPTION OF THE ATTACK

- 2.1 At 4.48 pm on 19 November 2018 a complaint (number 49251) was received by the PNCC. This reported that a client of Animates Vet Care had presented with a dead rabbit, allegedly killed by a dog.
- 2.2 I followed up and established that the rabbit was attacked by a dog on the rabbit owner's property on Wincanton Place. The rabbit owner witnessed the rabbit in the dog's mouth and identified the dog as his neighbour's dog.
- 2.3 In an interview at 5.50 pm on 19 November 2018 with Terry Richard, the dog owner, acknowledged he confirmed that his dog was responsible for the attack.
- 2.4 At 5.50 pm on 19 November I uplifted and impounded the dog under Section 57 of the Dog Control Act 1996– Dog Attacking Persons or Animals.
- 2.5 At 1.53 pm on 23rd November 2018 I phoned and spoke to the complainant, and advised him that I would be dealing with the incident by way of written warning and menacing

classification. He was open to this and agreed that that would be an appropriate way to deal with the incident.

- 2.6 At 1.56 pm on 23 November 2018 I contacted Terry and advised him that I would be giving him a written warning and classifying the dog as menacing. He was open to this and agreed that that would be an appropriate way to deal with the incident.

3 EVIDENCE

- 3.1 The evidence considered in the issuing of the menacing classification and infringement notice was:
- a. Admission of dog owner that his dog was responsible for the attack.
 - b. Information from the rabbit owner that:
 - i. The dog was on his property
 - ii. The dog was seen with his rabbit in its mouth, which died from its injuries
 - c. The assessment matrix, 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, identifies an option of Classification and Dog Control Notice/ Warning as a minimum action in this case.
 - d. DCA case law routinely referred to during dog attack prosecutions and other dog bite attack incidents is *Halliday vs New Plymouth District Council*, that "past behaviour is the best predictor of future behaviour".

4 DOG CONTROL ACT 1996 – SECTION 33A AND 33B

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.

33B Objection to classification of dog under section 33A

- (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) The territorial authority considering an objection under subsection (1) may uphold or rescind the classification, and in making its determination 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.
- (3) The territorial authority 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.

5 OBJECTIVES AND POLICIES

- 5.1 Section 4 of the Dog Control Act 1996 identifies the objects of the Act to include making better provisions for the care and control of dogs by making special provision

in relation to menacing dogs and impose on owners of dogs obligations to ensure that dogs do not injure, endanger or cause distress to any domestic animal.

- 5.2 Clause 10 of the PNCC Dog Control Policy 2018 requires dogs classified by Palmerston North City Council as menacing under sections 33A or 33C of the Dog Control Act 1996, or any dog classified as menacing which is transferring to Palmerston North City Council to be neutered.
- 5.3 PNCC Goal 3: A connected and safe community includes the safe communities activity of providing regulatory services that contribute to health and safety in respect to stray and aggressive dogs.

6 CONCLUSION

- 6.1 Palmerston North City Council Animal Control staff have a duty to enforce the provisions of the Dog Control Act 1996.
- 6.2 Pursuant to the provisions of Section 33A of the Dog Control Act 1996, Palmerston North City Council classified the dog known as “Karma” because of the observed and reported aggressive behaviour whilst off his owner’s property.
- 6.3 Case law and national animal control practice identify classification as menacing as the appropriate action in such cases.

Aaron Thornton
Animal Control Officer
Palmerston North City Council