



NOTICE OF MEETING

DISTRICT PLAN AND REGULATORY COMMITTEE

TO: Penny Webster - Mayor
Crs Gaye Harding (Chairperson)
Michael Goudie
Dave Parker QSM
Grahame Powell
Suzanne Weld
Pat Delich (Alternate)
June Turner (Alternate)
Wayne Walker (Alternate)

The District Plan and Regulatory Committee will meet in the Committee Room, Centreway Road, Orewa on Wednesday, 9 June 2010 commencing at 9.00 a.m.

for: CHIEF EXECUTIVE
Rodger Kerr-Newell

OREWA
2 June 2010

* * * * *

PROGRAMME

<u>Time</u>		<u>Page</u>
9.00 a.m.	Application for permission to ride horses on Snells Beach and Omaha Beach – Anna Petrova and others	2
9.10 a.m.	Appeal against bark abatement notice – C & B Grant	5
9.30 a.m.	Appeal against menacing dog classification – Brian Field	8
9.50 a.m.	Appeal against menacing dog classification – Cassandra Manley	17

INDEX

<u>Item No.</u>	<u>Subject</u>	<u>Page No.</u>
1.	Apologies	1

Regulatory

2.	Notification of New Appeal(s)	1
3.	Application for permission to ride horses on Snells Beach and Omaha Beach – Anna Petrova and others	2
4.	Appeal against bark abatement notice – C & B Grant	5
5.	Appeal against menacing dog classification – Brian Field	8
6.	Appeal against menacing dog classification – Cassandra Manley	17
7.	Schedule of Delegated Decisions on Resource Consent Applications	20
8.	Public Excluded	24

CONFIDENTIAL

Regulatory

9.	New Appeal: ENV 2010-AKL-000167	25
10.	Update on Regulatory Appeals	56

District Plan

11.	Update on District Plan Appeals: Variation 101	65
12.	Proposed Plan Change/Variation 144	70
13.	Update on District Plan Appeals	128

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ITEM NO: 1

APOLOGIES

ITEM NO: 2

REPORT



TO District Plan and Regulatory Committee

ON 9 June 2010

FROM Laura Christian – Planner

APPROVED BY: Rob Goldsbury – Chief Legal Officer

SIGNATURE

A handwritten signature in black ink, appearing to be "Rob Goldsbury", with a horizontal line underneath.

SUBJECT NOTIFICATION OF NEW APPEAL(S)

In the event that there are matters to report on, these will be distributed as supplementary items prior to the meeting.

9.00 A.M.

ITEM NO: 3

REPORT



TO District Plan and Regulatory Committee
ON 9 June 2010
FROM Wayne Knightbridge – Animal Control/Bylaws Manager
APPROVED BY Lloyd Barton – Director: Customer Service
SIGNATURE

A handwritten signature in black ink, appearing to read "Lloyd Barton", written over a light blue horizontal line.

SUBJECT APPLICATION FOR PERMISSION TO RIDE HORSES ON SNELLS BEACH AND OMAHA BEACH – ANNA PETROVA AND OTHERS
FILE REF BC/1/1

PURPOSE OF REPORT:

<input type="checkbox"/> Information only	<input type="checkbox"/> Strategic decision	<input type="checkbox"/> Policy decision	<input checked="" type="checkbox"/> Statutory process
<input checked="" type="checkbox"/> Community issue	<input type="checkbox"/> Contract decision	<input type="checkbox"/> Delegation	<input type="checkbox"/> Appointment
<input type="checkbox"/> Administrative matter			

IMPLICATIONS:

(i)	Is this matter significant in terms of Council's Policy on Significance? No
(ii)	Implications in terms of Vision Rodney? No
(iii)	Implications in terms of Long Term Council Community Plan / Annual Plan? No
(iv)	Implications in terms of other Council Strategic documents or Council Policy? No
(v)	Is a budget amendment required? No
(vi)	Have the views of affected or interested persons been obtained and is any further public consultation required? No
(vii)	Does a decision on this matter require Auckland Transition Agency approval? (yes / no / advice being sought?) No

FINANCIAL IMPLICATIONS:

Capital cost implications	Not applicable
Is it currently budgeted for?	Not applicable
Funding source of capital costs	Not applicable
Ongoing operational cost implications	Not applicable
Is it currently budgeted for?	Not applicable
Funding and rating impact (whether resulting from capital expenditure or arising directly)	Not applicable

SUMMARY:

Anna Petrova, Jonathan Gumbley, Kateryna Varetska and Joanne Wade have applied for permission to ride their horses on both Snells Beach and Omaha Beach. The level of activity on both Snells Beach and Omaha Beach for significant periods of the year is low. The applicants seek permission to ride their horses on both Snells Beach and Omaha Beach during these times.

RECOMMENDATION:

That Anna Petrova, Jonathan Gumbley, Kateryna Varetska and Joanne Wade are granted permission to ride their horses on Snells Beach and Omaha Beach under the following conditions:

- (a) that the applicants remove and safely dispose of any equine faecal matter that is disposed in a public place;**
- (b) that the applicants only rides their horses adjacent to the water at low tide at Snells Beach and Omaha Beach;**
- (c) that the applicants are given permission to ride their horses on any weekday (being Monday to Friday) between 16 February and 30 November each year except during school holidays or when public holidays fall on a week day (Monday to Friday);**
- (d) that the applicants ride their horses at Snells Beach and Omaha Beach in a manner that does not cause a nuisance to other beach users;**
- (e) that while riding the applicants carry on their person a copy of the permission to ride on the beach and present that permission to any authorised officer on request;**
- (f) that the Council reserves the right to revoke the permission to ride a horse on Snells Beach and Omaha Beach at any time;**
- (g) that the applicants be given permission to ride their horses on Snells Beach and Omaha Beach from 6 a.m. to 9 a.m. between 1 December and 15 February.**

1.0 Background

Under Chapter 6 of the Rodney District Council General Bylaw 1998, it states "No person shall permit any stock, including horses to be on beaches adjacent to any urban area, without the consent of the Council or an authorised officer."

The applicants live near Snells Beach and wish to have the opportunity to ride their horses on Snells Beach or Omaha Beach.

2.0 Issues

Snells Beach and Omaha Beach fall within the parameters of urban beaches under the Rodney District Council General Bylaw. As such riding horses is prohibited under the current bylaw except where permission to do so has been granted by the Council.

Several other current exemptions for riding horses on urban beaches have been granted in the Rodney District, these being at Snells Beach, Arkles Bay, Hatfields Beach and Omaha Beach. None of these exemptions have received any justified criticism or complaint from other residents at the four sites.

Snells Beach and Omaha Beach are popular beaches with visitors to the area. There is an influx of visitors over the summer school holidays and for this reason the recommendation is that the applicants be permitted to ride their horses between 6am and 9am daily during the period 1 December to 15 February, rather than being excluded from the beach at this time.

Should the application be successful, it is recommended that the following conditions be imposed on the applicants:

- (a) that the applicants remove and safely dispose of any equine faecal matter that is deposited in a public place;
- (b) that the applicants only ride their horses adjacent to the water at low tide at Snells Beach and Omaha Beach;
- (c) that the applicants are given permission to ride their horses on any weekday (being Monday – Friday) between 16 February and 30 November each year except during school holidays or when a public holiday falls on a weekday;
- (d) that the applicants ride their horses on Snells Beach and Omaha Beach in such a manner that does not cause a nuisance to other beach users;
- (e) that while riding on the beach the applicants carry on their persons a copy of the permission to ride on the beach and present that permission to any authorised officer upon request;
- (f) that the Council reserves the right to revoke the permission to ride a horse on Snells Beach and Omaha Beach;
- (g) that the applicants be given permission to ride their horses on Snells Beach and Omaha Beach on each day from 6 a.m. – 9 a.m. between 1 December and 15 February.

3.0 Options

The District Plan and Regulatory Committee has the following two options:

- (a) approve the recommendation (as written or with amendments to the conditions); or
- (b) reject the recommendation and apply the current bylaw.

4.0 Conclusion

The applicants provided a reasonable proposal for riding their horses at Snells Beach and Omaha Beach. They are aware of the rights of other beach users. In their letter of application they state: 'We are always considerate of people around us. We always ride at low tide hours and during the least busy time of the day'.

Riding a horse on Snells Beach and Omaha Beach at low tide and at off-peak periods will not have an adverse effect on other beach users. It is considered that this use is compatible with other beach activity during the proposed times and that the application should be supported.

9.10 A.M.

ITEM NO: 4

REPORT



TO District Plan and Regulatory Committee
ON 9 June 2010
FROM Wayne Knightbridge – Animal Control/Bylaws Manager
APPROVED BY Lloyd Barton – Director: Customer Services
SIGNATURE

A handwritten signature in black ink, appearing to read "Lloyd Barton".

SUBJECT **APPEAL AGAINST BARK ABATEMENT NOTICE – C & B GRANT**
FILE REF DC/1/1

PURPOSE OF REPORT:

<input type="checkbox"/> Information only	<input type="checkbox"/> Strategic decision	<input type="checkbox"/> Policy decision	<input checked="" type="checkbox"/> Statutory process
<input type="checkbox"/> Community issue	<input type="checkbox"/> Contract decision	<input type="checkbox"/> Delegation	<input type="checkbox"/> Appointment
<input type="checkbox"/> Administrative matter			

IMPLICATIONS:

(i)	Is this matter significant in terms of Council's Policy on Significance? No
(ii)	Implications in terms of Vision Rodney? No
(iii)	Implications in terms of Long Term Council Community Plan / Annual Plan? No
(iv)	Implications in terms of other Council Strategic documents or Council Policy? No
(v)	Is a budget amendment required? No
(vi)	Have the views of affected or interested persons been obtained and is any further public consultation required? No
(vii)	Does a decision on this matter require Auckland Transition Agency approval? (yes / no / advice being sought?) No

FINANCIAL IMPLICATIONS:

Capital cost implications	Not applicable
Is it currently budgeted for?	Not applicable
Funding source of capital costs	Not applicable
Ongoing operational cost implications	Not applicable
Is it currently budgeted for?	Not applicable
Funding and rating impact (whether resulting from capital expenditure or arising directly)	Not applicable

SUMMARY:

Colin Grant is the registered owner of a four year old female Springer Spaniel cross, named Molly. Following complaints of barking from Mr Grant's property at 6 Ocean View Road, Hatfields Beach a bark abatement notice was issued requiring the dog owner to abate the barking nuisance on the property. The dog owner has appealed against the notice issued under section 55 of the Dog Control Act 1996.

RECOMMENDATION:

That the bark abatement notice issued to Colin Grant be upheld.

1.0 Background

Under section 55 of the Dog Control Act 1996, where a dog control officer has received a complaint and has reasonable grounds for believing that a nuisance is being created by the persistent and loud barking or howling of dogs, the dog control officer may issue a notice requiring the dog owner to abate the barking nuisance on the property.

Any person on whom the notice is served under section 55(1) of the Act may, within seven days of receipt of the notice, object in writing to the territorial authority against the requirements of that notice.

The territorial authority shall consider the objection and may confirm, modify or cancel the notice.

No objection under section 55 of the Dog Control Act shall be considered unless seven days notice of the date, time and the place at which it is to be considered have been given to the objector, who shall be entitled to be represented and to be heard and may submit evidence and call witnesses in support of his or her objection.

As from the lodging of an objection with the territorial authority, and pending the receipt of a further notice upon determination of the objection, the notice setting out the requirements that are the subject of the objection shall be deemed to be suspended.

2.0 Issues

The first complaint about a barking dog on Mr Grant's property was received on 9 March 2010. The complainant stated that the dog had been barking all weekend and that the "dog barks at anything that moves". The officer visited two near neighbours who offered comments such as "the dog barks at anything or anyone that goes past the property. It has been like this for a long time."

The officer talked to the dog owner, Colin Grant, who seemed to be aware that there was a problem with his dog barking and he asked about the use of bark collars. The dog owner subsequently purchased a bark collar soon after the officer's visit.

There was a short respite in the barking after this but another complaint was received on 18 March 2010. The complainant said the dog barked at people and vehicles all the time; however, the complainant indicated that there was some respite when Mr Grant was home in the evenings and at weekends. The barking was at its worst when Mr Grant was at work during the week.

The officer again spoke with at least three near neighbours who stated that the dog barked excessively.

The officer who investigated the incident said that Mrs Grant had little or no control over the dog during the time of her visit to the property as the dog barked continuously for over 10 minutes while the officer was speaking to Mrs Grant.

3.0 Options

The Council has the following three choices:

- (a) confirm the notice;
- (b) modify the notice; or
- (c) cancel the notice.

4.0 Conclusion

Several neighbours confirm there is a barking nuisance on the property at 6 Ocean View Road, Hatfields Beach.

This has been an ongoing problem for neighbours covering a period of many months. After seeking the views of several near neighbours and experiencing the barking first hand, it was the officer's opinion that the barking constituted a barking nuisance as defined in the Dog Control Act 1996.

The Council has a responsibility to ensure that any statutory nuisance is abated. In this case a notice to abate the nuisance was issued to the dog's owner, Colin Grant.

Mr Grant has been given seven days to abate the barking nuisance on the property. During the appeal period Mr Grant has exercised his right to appeal against the bark abatement notice.

Sufficient evidence exists to support the issuing of the notice to abate the barking nuisance and it is recommended that the bark abatement notice be upheld.

9.30 A.M.

ITEM NO: 5

REPORT



TO District Plan and Regulatory Committee
ON 9 June 2010
FROM Wayne Knightbridge – Animal Control/Bylaws Manager
APPROVED BY Lloyd Barton – Director: Customer Services
SIGNATURE

A handwritten signature in black ink, appearing to read "Lloyd Barton".

SUBJECT **APPEAL AGAINST MENACING DOG CLASSIFICATION – BRIAN FIELD**
FILE REF DC/9/2

PURPOSE OF REPORT:

<input type="checkbox"/> Information only	<input type="checkbox"/> Strategic decision	<input type="checkbox"/> Policy decision	<input checked="" type="checkbox"/> Statutory process
<input type="checkbox"/> Community issue	<input type="checkbox"/> Contract decision	<input type="checkbox"/> Delegation	<input type="checkbox"/> Appointment
<input type="checkbox"/> Administrative matter			

IMPLICATIONS:

(i)	Is this matter significant in terms of Council's Policy on Significance?
	No
(ii)	Implications in terms of Vision Rodney?
	No
(iii)	Implications in terms of Long Term Council Community Plan / Annual Plan?
	No
(iv)	Implications in terms of other Council Strategic documents or Council Policy?
	No
(v)	Is a budget amendment required?
	No
(vi)	Have the views of affected or interested persons been obtained and is any further public consultation required?
	No
(vii)	Does a decision on this matter require Auckland Transition Agency approval? (yes / no / advice being sought?)
	No

FINANCIAL IMPLICATIONS:

Capital cost implications	Not applicable
Is it currently budgeted for?	Not applicable
Funding source of capital costs	Not applicable
Ongoing operational cost implications	Not applicable
Is it currently budgeted for?	Not applicable
Funding and rating impact (whether resulting from capital expenditure or arising directly)	Not applicable

SUMMARY:

Brian Field is the owner of a nearly three year old neutered male German Shepherd, named Cash. Mr Field has appealed under section 33B of the Dog Control Act 1996 against the classification of his dog as a menacing dog under section 33A. The Council may either uphold or rescind the classification.

RECOMMENDATION:

That the menacing dog classification under section 33A of the Dog Control Act 1996 against the dog known as Cash, be upheld.

1.0 Background

Section 33A of the Dog Control Act 1996 states:

'This section applies to a dog that –
(a) has not been declared 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 dogs breed or type.'

Section 33B states:

'(1) If a dog is classified as a menacing dog under section 33A the owner
(a) may within 14 days of receiving the 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;
(c) the matters relied upon in support of the objection;
(d) any other relevant matters.

The territorial authority must, as soon as practicable, given written notice to the owner of –
(a) its determination of the objection;
(b) the reasons for its determination.'

On 25 February 2010, the complainant states she was walking her dog back towards her vehicle in a carpark in Bluegum Avenue, Silverdale. There was a water truck connected to a water fill point parked near her vehicle. As she reached the rear of her vehicle she saw a black and tan German Shepherd come trotting out from behind the trailer unit of the water truck. As soon as the German Shepherd saw her dog it raced towards the complainant's dog. The complainant yelled at the dog as it approached but it made no difference. The German Shepherd attacked her dog causing her dog to yelp. The complainant started hitting the German Shepherd and yelling at the dog. The complainant stated that because the truck motor was running at the time the owner of the German Shepherd may not have been able to hear her. The attack subsided for a brief moment and the complainant managed to push her dog under her vehicle with her foot. The German Shepherd went around to the other side of the vehicle during which time the complainant managed to secure her dog inside her vehicle. The owner of the German Shepherd then came around from behind his truck and the complainant informed him that his German Shepherd had attacked her dog. He replied that his dog would not do that and that she would have to prove that in court.

At the time the German Shepherd continued to pace around her vehicle. The owner of the German Shepherd then yelled at his dog, opened the truck door, picked up his dog and put it in the truck. He then checked the complainant's dog for injuries.

The owner of the German Shepherd told the complainant that his dog was a failed Police dog. He said it would not bite her dog because the dog was released from Police dog training because it would not bite.

The attack aggravated a previous injury on the complainant's dog causing the dog to limp for a time afterwards. The complainant's report is attached as **Appendix 1**.

The complainant and her dog have been traumatically affected by this incident and she has not yet returned to this area where she previously walked her dog for over 10 years.

Mr Field's position is that his dog, Cash, did not attack the complainant's dog. He says that he let his dog out of his truck for a drink of water. As he completed filling his tanker he saw that Cash had wandered over near a neighbouring vehicle. He says he whistled and Cash returned. He then put Cash in the truck.

He then says a woman approached him and informed him that Cash had attacked her dog. Mr Field says that he heard no yelling, barking or other dog sounds during this episode. The woman then indicated she would report the matter to the Council. Mr Field's report is attached as **Appendix 2**.

The German Shepherd was not registered at the time of the offence and the dog owner has been issued infringement notices for keeping an unregistered dog and not having his dog under control.

The Council has a role in protecting the general welfare of the community. While parts of the witness statements are contradictory, on balance the report writer is of the view that it is very likely that the German Shepherd has attacked the complainant's dog in an unprovoked manner. It has maintained the attack even when attempts were made to curtail the incident. The dog has then shown continued interest in the complainant's dog until secured in the water truck. The complainant has a right to visit a public place without the fear of having her dog attacked by another dog.

In the writer's experience, dogs selected for Police dog training all show a heightened level of aggression and prey drive instincts and are selected on that basis.

2.0 Issues

While this is the first recorded complaint about Cash, the evidence suggests it is a dog that is aggressive in certain circumstances. Its history is somewhat uncertain due to the fact that the dog has not previously been registered.

Dogs trained as Police dogs are selected because of specific traits they demonstrate including aggression and high prey drive. A dog will not make it through the initial selection process unless it possesses these qualities. As an ex-Police dog this animal would need to be retrained to not be aggressive to other animals. It would seem reasonable that, placed in a similar situation in future, similarly aggressive behaviour could be expected from the dog.

The Dog Control Act 1996 has placed greater emphasis on ensuring that people and their animals can go freely about their business without feeling endangered or at risk of a dog attack. In this case Cash was running loose in a public place and attacked another dog being walked by its owner

3.0 Options

The Council has the following two options:

- (a) uphold the menacing dog classification; or
- (b) rescind the menacing dog classification.

4.0 Conclusion

It is very likely that the dog known as Cash attacked another dog in a public place. The attack was unprovoked and sustained until the dog owner managed to get her dog into her vehicle.

The Council has a duty to ensure that aggressive dogs do not pose a threat to the wider community. In this case classification as a menacing dog will impose the conditions needed to ensure public safety. It is recommend that the menacing dog classification be upheld.

APPENDIX 1

WITNESS REPORT

My full name is: _____

I live at: _____

My date of birth is _____ telephone No. is: _____

The following information is given in relation to the incident that happened on:

Date: 25-02-2010 Time: 1230 am/pm

At (location) Carport on Blue Gum Ave Silverdale



Involving (dog's name): Lancelotti Dog Reg No: _____

Breed: German Shepherd

Description of dog: black tan, large, long haired

Description of what happened: I was returning to my vehicle which was parked in the car park on Blue Gum Ave Silverdale with my ~~bag~~ ^{shopping bag} on back. There was a Foley water truck refilling up at the pump which is in the car park as well.

I had got to the back of my vehicle when I saw a black tan German Shepherd dog come trotting out from behind the trailer unit on the Foley water truck. When the dog saw my dog Spike he took off running towards me. I yelled out at the dog but it didn't make any difference. The German Shepherd went straight for Spike

Given to:  

and came down and the top of him flattening
to the ground. I was helping and
I started hitting the dog with my fist
still yelling out but as the truck was turning,
the owner of the German Shepherd ran out
towards me. I was trying to shove my dog under
my vehicle with my foot. The German Shepherd
must have eased off for a moment and I managed
to push it under my vehicle. The German Shepherd
went around the passenger side of my vehicle at
which time I got Spike into the driver's side.
The owner then came around from the back of his
white truck and I told him his dog had attacked
my dog, he replied that his dog wouldn't retreat
and it'd have to prove it in court. I told him my
dog was hurt & going to go to the vet, he
asked if there was any blood.

Describe any injuries received: no punctures - aggravated
previous injury

Describe any emotional effects of incident: dog subdued, wary of
other dogs, ~~anxious~~ worry of going back to the rescue.

Describe medical/vet care that was required: _____

The cost of the medical/vet care was: \$ _____

[Signature]
Owner's file

The German shepherd was facing around my vehicle trying to see in. The gentleman then yelled at the dog and opened his truck and picked up dog and threw in the truck. He then had a look at my dog to check for injuries and said 'He's alright, he's starting to wag his tail!'

He told me his German shepherd is a failed police dog about 2 1/2 yrs old. He said it wouldn't bite my dog as it was kicked out from the police force because it wouldn't bite. He also said that the only time I may see his dog again is at Cresta beach where it goes run up to people with its hackles up and frightens people.

I took my dog home to see how he settled as he was subdued and punched over. He is limping on his right rear leg which he has had issues with and is now aggravated.

From [Signature] 11/4

APPENDIX 2



CR: 6034617

DOG OWNERS REPORT

The information given below may be used in evidence should this matter be put before the Court.

The information is being provided to assist the Rodney District Council to investigate the incident and determine if further action should be taken, such action may include prosecution.

My full name is: BRIAN VERDEN FIELD

I live at: 15134 EAST COAST RD
ALBANY

My date of birth is: 11/10/53 My telephone No is: 0776364511

My place of work is (if applicable): FOLEY'S WATER

The following information is given in relation to the incident that happened on:

Date: 25/1/10 Time: 1230 am/pm

At (location) BLUE GUM AVE SILVERDALE

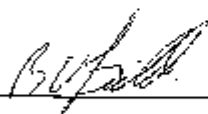
Involving (dog's name) CASH Dog Reg No: 17204

Breed: GERMAN SHEPARD

Description of dog: MALE BLACK AND TAN 2 1/2 YEARS OLD

Description of what happened: I WENT TO THE WATER FILL POINT
AT BLUE GUM RESERVE IN SILVERDALE AND PARKED BY
THE FILL POINT. I GOT OUT OF MY WAGON AND CASH
GET OUT AT THE SAME TIME. WE BOTH WENT TO THE
BACK OF MY TRUCK AND CONNECTED THE WATER HOSE.
AFTER MY TRUCK WAS FILLED, I WAS PUTTING AWAY THE

HOSE WHEN I HEARD A LADY SHOUTING I STOPPED
ROUNDED THE BACK OF MY TRUCK AND SAW A LADY
SENT OVER PICKING HER DOG UP, I THINK AN APOLOUS
BULL TERRIER, WHITE AND BLACK, CASH WAS BESIDE HER
WITH HIS NOSE UP HER DOGS BUM. SHE PUT HIM IN
THE DRIVERS DOOR AS I WHISTLED CASH, HE CAME
STRAIGHT OVER AND I PUT HIM IN MY WAGON. THINKING
NOTHING OF WHAT HAD HAPPENED, I WENT BACK TO
LIGHT I WAS BURNING. THE LADY CAME OVER AND TOLD
ME CASH HAD ATTACKED HER DOG. I SAID NO HE
HASN'T AS HE WOULDN'T BITE. HE'S AN EX POLICE DOG
WHO GOT KICKED OUT BECAUSE HE WOULDN'T BITE. WE
BOTH WENT TO HER CAR AND HAD A LOOK AT HER DOG.
I COULDN'T SEE ANY MARKS OF WOUNDS ON HER DOG
AND HE WAS CALM. HIS TAIL WAGGED WHEN I WAS STOPPING
HIM TO LOOK FOR BLOOD. I SHOWED THE LADY THAT
HE WASN'T WOUNDED AND APOLGISED FOR CASH BARKING
HIM. I THEN WENT BACK TO MY WAGON AND CARRIED
ON WITH MY WORK.

Signed:  this 5th day of APR 2010

9.50 A.M.

ITEM NO: 6

REPORT



TO District Plan and Regulatory Committee
ON 9 June 2010
FROM Wayne Knightbridge – Animal Control/Bylaws Manager
APPROVED BY Lloyd Barton – Director: Customer Service
SIGNATURE

A handwritten signature in black ink, appearing to read "Lloyd Barton".

SUBJECT **APPEAL AGAINST MENACING DOG CLASSIFICATION – CASSANDRA MANLEY**
FILE REF DC/9/2

PURPOSE OF REPORT:

<input type="checkbox"/> Information only	<input type="checkbox"/> Strategic decision	<input type="checkbox"/> Policy decision	<input checked="" type="checkbox"/> Statutory process
<input type="checkbox"/> Community issue	<input type="checkbox"/> Contract decision	<input type="checkbox"/> Delegation	<input type="checkbox"/> Appointment
<input type="checkbox"/> Administrative matter			

IMPLICATIONS:

(i)	Is this matter significant in terms of Council's Policy on Significance? No
(ii)	Implications in terms of Vision Rodney? No
(iii)	Implications in terms of Long Term Council Community Plan / Annual Plan? No
(iv)	Implications in terms of other Council Strategic documents or Council Policy? No
(v)	Is a budget amendment required? No
(vi)	Have the views of affected or interested persons been obtained and is any further public consultation required? No
(vii)	Does a decision on this matter require Auckland Transition Agency approval? (yes / no / advice being sought?) No

FINANCIAL IMPLICATIONS:

Capital cost implications	Not applicable
Is it currently budgeted for?	Not applicable
Funding source of capital costs	Not applicable
Ongoing operational cost implications	Not applicable
Is it currently budgeted for?	Not applicable
Funding and rating impact (whether resulting from capital expenditure or arising directly)	Not applicable

SUMMARY:

Cassandra Manley is the owner of a five year seven month old female Dogue de Bordeaux, named Fudge. Ms Manley has appealed under section 33B of the Dog Control Act 1996 against the classification of her dog as a menacing dog under section 33A. The Council may either uphold or rescind the classification.

RECOMMENDATION:

That the menacing dog classification under section 33A of the Dog Control Act 1996 against the dog known as Fudge, be upheld.

1.0 Background

Section 33A of the Dog Control Act 1996 states:

'This section applies to a dog that –

- (a) has not been declared 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 dogs breed or type.'*

Section 33B states:

- (1) If a dog is classified as a menacing dog under section 33A the owner*
 - (a) may within 14 days of receiving the 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.*
- (3) 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;*
 - (c) the matters relied upon in support of the objection;*
 - (d) any other relevant matters.*

The territorial authority must, as soon as practicable, given written notice to the owner of –

- (a) its determination of the objection;*
- (c) the reasons for its determination.'*

On 8 April 2010, the complainant was walking his dog on a lead from Alexandra Street into Great North Road, Riverhead.

The complainant crossed the road onto the other side of Great North Road because of an incident a week previous when the dog known as Fudge had rushed out at his dog.

As the complainant passed number 17 Great North Road he observed the same dog (Fudge) run across the road towards him and his dog. The complainant stopped and Fudge went up to his dog and grabbed his dog by the neck. The complainant kicked Fudge several times but she did not release his dog. Fudge eventually released the complainant's dog and ran back to her property.

The complainant believes his dog was saved from more serious injury because his dog was wearing a choker chain. As it was his dog sustained a puncture wound to the neck and substantial hair loss in the area that was bitten.

The Dogue de Bordeaux, otherwise known as a French Mastiff, is descended from dogs that were traditionally used for hunting and later for guarding purposes. They have been described as a fearless breed and aggressive at times. The breed is said to have a split personality – being calm and gentle at times, yet protective and dominant at others.

The Council has a role in protecting the general welfare of the community. The complainant had every right to walk in a public place without the fear of having his dog attacked by another dog. Fudge has attacked the complainant's dog in an unprovoked manner. Fudge has maintained the attack even when several attempts were made by the complainant to stop the attack. Should the dog be in similar circumstances in future it is believed that it will act in a similarly aggressive manner.

Classifying this dog as menacing will require the dog owner to muzzle the dog when the dog is at large or in a public place. This will provide some level of protection for others in the community.

2.0 Issues

Whilst this is the first recorded complaint about Fudge, it is clearly a dog that is aggressive in certain circumstances or when the opportunity arises as demonstrated by the previously unreported incident by the same complainant.

The Dog Control Act 1996 has placed greater emphasis on ensuring that people and their animals can go freely about their business without feeling endangered or at risk of a dog attack. In this case Fudge was running loose in a public place and attacked another dog being walked by its owner.

The breed of dog known as Dogue de Bordeaux can be quite aggressive and protective at times. Council officers have had many difficult experiences with aggressive members of this breed of dog.

3.0 Options

The Council has the following two options:

- (a) uphold the menacing dog classification; or
- (b) rescind the menacing dog classification.

4.0 Conclusion

The dog known as Fudge attacked another dog in a public place. The attack continued until the dog's owner managed to force the attacking dog away from his dog.

The Council has a duty to ensure that aggressive dogs do not pose a threat to the wider community. In this case classification as a menacing dog will impose the conditions needed to ensure public safety.

It is recommended that the menacing dog classification be upheld.

ITEM NO: 7

REPORT



TO District Plan and Regulatory Committee
ON 9 June 2010
APPROVED BY Ian Dobson – Manager: Resource Consents
SIGNATURE

A handwritten signature in black ink, appearing to read "Ian Dobson".

SUBJECT **SCHEDULE OF DELEGATED DECISIONS ON RESOURCE CONSENT APPLICATIONS**
FILE REF TP/1/6

Note: Councillors should raise any queries they may have with the relevant director prior to the day of the meeting so that these may be responded to on the day.

The schedule below summarises, for the Committee's information, recent decisions made by staff on delegated authority.

NORTHERN WARD

Type of Delegation	Officer	Applicant/ Owner	Address	Application	Decision/ Date
G	Land Surveyor	Conner Holdings Ltd R56239	94 – 160 Ridge Road 15 Charles Street Scott's Landing	For consent to a Discretionary Activity to undertake a boundary relocation of two existing sites.	Non-Notified Approved 17/05/10
A	Team Leader Resource Management	Northwood Developments Ltd L56256	55 Ashmore Crescent, Warkworth	For consent to a Restricted Discretionary Activity to remove a totara tree approximately 10 metres in height.	Non-Notified Approved 19/05/10
A	Team Leader Resource Management	J & H Hewetson L53400/A	47 Wilson road, Warkworth	For consent to a Discretionary Activity for a Variation to Land Use Consent L53400 to extend and alter an existing dwelling.	Non-Notified Approved 20/05/10
A	Team Leader Resource Management	Rodney District Council L56308	State Highway 1, Warkworth	For consent to a Discretionary Activity for a proposed shearing shed exceeding the minimum yard requirement of 10 metres by 6.68 metres.	Non-Notified Approved 20/05/10
G	Land Surveyor	B McPhun & L Scott R53153A	921A Takatu Road, Tawharanui	For consent to a Discretionary Activity to a Variation to subdivision R53153, to reposition proposed Lot 1.	Non-Notified Approved 24/05/10
A	Land Surveyor	Prime Resources Company Ltd R51443A	Wenzlick Road, Moir Hill Road and State Highway 1, Puhoi	For consent to a Discretionary Activity for a Variation to conditions to adjust the boundaries of Lots 2-5 and 24-34, alter the staging of the subdivision, and remove the requirement to undertake earthworks, form building platforms on and construct accesses to these lots prior to issue of titles.	Non-Notified Approved 24/05/10
A	Council Arborist Resource Management	Warkworth District Court L56307	4 Elizabeth Street, Warkworth	For consent to a Discretionary Activity to prune branches of an English Elm tree.	Non-Notified Approved 25/05/10

Type of Delegation	Officer	Applicant/ Owner	Address	Application	Decision/ Date
A	Council Arborist Resource Management	A Hay L56134	180 Ridge Road, Scotts Landing	For consent to a Discretionary Activity to remove 1x eucalypt tree and 1x macrocarpa tree.	Non-Notified Approved 25/05/10
A	Independent Commissioners	Matakana Museum Limited L55593	1151 Leigh Road Omaha Flats	For consent to a retrospective consent to legalise four existing activities on the site within the existing woolshed building with these activities being: a café, circuit room/exercise studio / 12 functions per year, art gallery	Full Notification Approved 10/05/10

WESTERN AND CENTRAL WARDS

Type of Delegation	Officer	Applicant/ Owner	Address	Application	Decision/ Date
G	Land Surveyor	M Flego R40974A	220 Waitakere Road, Taupaki	For consent to a Discretionary Activity for a Variation of conditions of consent pursuant to section 127 of the Resource Management Act 1991 following new flood plain levels adopted by Rodney District Council.	Non-Notified Approved 19/05/10
A	Team Leader Resource Management	S Geertsema L56231	54 Foley Quarry Road, Okura Bush	For consent to a Discretionary Activity for the erection of a principal dwelling within a defined building platform requiring 160m ³ of earthworks covering approximately 690m ² .	Non-Notified Approved 24/05/10
A	Team Leader Resource Management	Muriwai Surf Lifesaving Club Inc L55639	341 Motutara Road, Muriwai Beach	For consent to a discretionary Activity to construct a new community lifeguard clubhouse and will require the removal of a macrocarpa tree and earthworks.	Non-Notified Approved 25/05/10
A	Team Leader Resource Management	S Geertsema L56224	54 Foley Quarry Road, Okura Bush	For consent to a Discretionary Activity for the erection of an accessory building requiring earthworks within the Okura Bush Policy area.	Non-Notified Approved 25/05/10
A	Team Leader Resource Management	D Patten L55806	118 O'Brien Road, Coatesville	For consent to a Discretionary Activity for the construction of a new farm building that is located entirely within the 30 metre front yard control and 4.5m from the front boundary.	Non-Notified Approved 25/05/10
A	Team Leader Resource Management	Dairy flat Cartage (DFC) Ltd L56068	Wilks Road, Dairy Flat	For consent to a Non-Complying Activity to continue to operate a supply yard for an additional two years. The supply yard will stock and ell various hard landscaping, decorative and drainage aggregates.	Non-Notified Approved 25/05/10
G	Team Leader Resource Management	Tome River Ltd R55723	Corner of Ararimu Valley Road and Zanders Road, Ararimu	For consent to a Non-Complying Activity for subdivision of the underlying site to create four sites based on the protection of native bush and wetland. Earthworks and bush removal will be required for shaping of the accessway and building platforms.	Non-Notified Approved 28/05/10

HIBISCUS COAST WARD

Type of Delegation	Officer	Applicant/ Owner	Address	Application	Decision/ Date
G	Land Surveyor	C Habershon R56254	52b Bay Street, Red Beach	For consent to a Restricted Discretionary Activity to amend the cross lease title plans to reflect the additions and alterations which have occurred on site.	Non-Notified Approved 17/05/10
A	Team Leader Resource Management	G Taylor & R Brook L56294	18 Zita Avenue, Matakana	For consent to a Restricted Discretionary Activity for proposed additions to an existing dwelling exceeding height in relation to boundary on both side boundaries.	Non-Notified Approved 17/05/10
A	Council Arborist Resource Management	Mannes Trustees Ltd L56065	1/43 Weiti Road, Orewa	For consent to a Discretionary Activity to remove a magnolia tree which has become too large for the section.	Non-Notified Approved 18/05/10
A	Team Leader Resource Management	J Hart L56276	38 Old North Road Orewa	For consent to a Controlled Activity to additions and alterations to an existing dwelling located within the Residential Landscape Protection Zone.	Non-Notified Approved 19/05/10
G	Team Leader Resource Management	Kensington Park Holdings Ltd R56275	Puriri Boulevard Orewa	For consent to a Non-Complying Activity for a unit title subdivision for 36 residential apartments.	Non-Notified Approved 19/05/10
A	Team Leader Resource Management	J & A Beaumont L56281	Duck Creek Road, Stillwater	For consent to a Discretionary Activity to erect a new residential dwelling and undertake earthworks of 640m ³ within the General Rural zone.	Non-Notified Approved 21/05/10
A	Ecology Adviser Resource Management	B Cox L56259	1252 Whangaparaoa Road, Army Bay	For consent to a Discretionary Activity to restructure, formative prune and contain canopies of 10 pohutukawa trees.	Non-Notified Approved 21/05/10
A	Council Arborist Resource Management	L Adams L56279	38 McKenzie Avenue, Arkles Bay	For consent to a Discretionary Activity for work on a pohutukawa tree on the road reserve.	Non-Notified Approved 25/05/10
A	Council Arborist Resource Management	J Rushen L56264	10 Lucy Foster Lane, Red Beach	For consent to a Discretionary Activity to remove a karaka tree.	Non-Notified Approved 25/05/10
A	Council Arborist Resource Management	D Barclay L56323	101 Red Beach Road, Red Beach	For consent to a Discretionary Activity to remove a liquid ambar tree that has been undermined whilst repairing a water leak.	Non-Notified Approved 25/05/10
A	Team leader Resource Management	Sunnyheight Nurseries Ltd L56064	50 Tavern Road, Silverdale	For consent to a Discretionary Activity for the removal of 3 native and 54 exotic trees, and the trimming of 4 exotic trees.	Non-Notified Approved 28/05/10
G	Team Leader Resource Management	Supreme Investment Homes Ltd R37916/A	1, 1A and 3 Parkwood Crescent and 10 Voyager Drive, Hobbs Bay	For consent to a Discretionary Activity to vary condition 1 of Resource Consent R37916 to allow a change in the overall design of the dwellings, height to boundary infringements, retaining walls and total earthworks volume.	Non-Notified Approved 28/05/10
A	Team Leader Resource Management	Mainstay Developments Ltd R55751/A	44 & 45 Hibiscus Coast Highway, Silverdale	For consent to a Discretionary Activity to vary consent RMA 55751 to create 29 lots rather than 27 lots as approved.	Non-Notified Approved 31/05/10

Type of Delegation	Officer	Applicant/ Owner	Address	Application	Decision/ Date
G	Team Leader Resource Management	P & M Wilson R55144	9 Whangaparaoa Road, Red Beach	For consent to a Non-Complying Activity for a combined land use and subdivision consent; subdividing the site into 4 lots. Land use consent for the removal of rubinia, eucalyptus and macrocarpa trees that over 6 metres in height. Due to re-alignment of existing Right of Way, it is proposed to cancel existing ROW easements and replace it with new proposed ROW, telecommunication, electricity, water and gas easements.	Non-Notified Approved 31/05/10

RECOMMENDATION:

That the report on decisions relating to:

- A Land Use Resource Consent Applications [s.88 of the Resource Management Act 1991] (Controlled Activity, Discretionary Activity, Non-Complying Activity, Preservation or Conservation of Landscape);**
- B Lapsing of Consents [s.125 of the Resource Management Act 1991];**
- C Change or Cancellation of Consent Conditions by Consent Holder [s.127 of the Resource Management Act 1991];**
- D Existing Uses [s.10 of the Resource Management Act 1991];**
- E Non-Conforming Buildings [s.10 of the Resource Management Act 1991];**
- F Any Other Decision Relating to Activities;**
- G Subdivision Consent [s.105 of the Resource Management Act 1991] and Development Plans [s.409];**

made pursuant to delegated authority from the Council, be received.

ITEM NO: 8

SUBJECT PUBLIC EXCLUDED

That the public be excluded from the following parts of the proceedings of this meeting, namely:

Agenda Item No(s). 9, 10, 11, 12 and 13

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	Grounds under section 48(1) for the passing of this resolution
Appeals / Proposed District Plan 2000	Refer grounds	That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Local Authority to deliberate in private on its decision or recommendation in any proceedings before it where: (i) a right of appeal lies to any court or tribunal against the final decision of the Local Authority in those proceedings; or (ii) the Local Authority is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings. (section 48(1)(d) Local Government Official Information and Meetings Act 1987.)

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