HEARINGS COMMITTEE

AGENDA

Hearing to be held

FRIDAY 28 JULY 2017

9.30AM

In the Manawatu District Council Chambers,
135 Manchester Street, Feilding

[Signature]
Dr Richard Templer
Chief Executive
HEARING PANEL

Chairperson
Councillor Howard Voss

Members
Councillor Shane Casey
Councillor Alison Short
ORDER OF BUSINESS

1. HEARING OPENING

2. OBJECTION TO CLASSIFICATION OF MENACING DOG
   Report of the Senior Animal Control Officer dated 20 June 2017

3. MEETING CLOSURE
Objection to Dog Classification

Purpose

This report seeks the Hearings Committee’s consideration and decision on the objection lodged by Robert BELMONT against the issuing of a Menacing Dog Classification relating to the dog known as “BROWNIE” pursuant to the provisions of Section 33C(1) 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 “BROWNIE” belonging to Robert BELMONT, pursuant to Section 33C(1) of the Dog Control Act 1996, be upheld.

Report prepared by:
Robert Peterson
Senior Animal Control Officer

Approved for submission by:
Shayne Harris
General Manager - Corporate and Regulatory
1 Contribution to the Council Vision and Council Outcomes

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

Connected, vibrant and thriving Manawatu – the best rural lifestyle in New Zealand

<table>
<thead>
<tr>
<th>Manawatu District will improve the natural environment, stewarding the district in a practice aligned to the concept of kaitiakitanga.</th>
<th>The Manawatu will attract and retain residents.</th>
<th>Manawatu district develops a broad economic base from its solid foundation in the primary sector.</th>
<th>Manawatu and its people are connected via quality infrastructure and technology.</th>
<th>Manawatu’s built environment is safe, reliable and attractive.</th>
<th>Manawatu District Council is an agile and efficient organisation.</th>
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2 Background

2.1 Section 33C of the Dog Control Act 1996 provides that a Council must classify as menacing any dog that the Council has reasonable grounds to believe belongs wholly or predominantly to one or more of the breeds or types listed in Schedule 4. The breeds of dog listed in Schedule 4 of the Act are Brazilian Fila, Dogo Argentino, Japanese Tosa and Perro de Presa Canario. The type of dog listed in Schedule 4 of the Act is American Pit Bull Terrier.

2.2 On 8 June 2016, RFS 33364 was received stating that a “pitbull” type dog had attacked one of the complainant’s dogs while she had been out jogging with her two border collies. After investigation it was found that the dog belonged to Mr BELMONT and the dog’s name was BROWNIE.

2.3 Council records show that Mr BELMONT had a registered “German Shepherd / Labrador cross” named BROWNIE and both ACOs confirmed that when they saw the dog, they both recognised him to be of pitbull type and not German Shepherd/Labrador. They based this on their professional experience in identifying these types of dogs and is supported by the Pitbull Classification Policy and associated photographs, since adopted by the Manawatu District Council on 15 March 2017.

2.4 This policy assists the user in considering whether a dog may be wholly or predominantly a Pit Bull Type from information on characteristics and the colour charts provided by the American Dog Breeders Association contained within it.

2.5 Based on the photographs taken at the time BROWNIE has the colouring and physical characteristics of a pit-bull type as described and shown in the policy.

2.6 They advised Mr BELMONT that BROWNIE would be classified as Menacing due to his type.

2.7 A Menacing Classification letter was issued to Mr BELMONT on 8 July 2016.

2.8 Mr BELMONT objected to the classification on the 19 July 2016 and in part stated that he was in the process of getting a DNA test done through Robinsons Vets; that it could take up to six weeks to come through and that he would like the classification reviewed once the results were received.

2.9 A DNA result has not been received by Council from Mr BELMONT and due to the time it has taken since his objection, Council decided to proceed with the Hearings Committee application.
3 Discussion and Options considered

3.1 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) the matters relied on in support of the objection; and
(c) any other relevant matters.

3.2 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.

3.3 The following statements of evidence are appended to this report:

Statement of Evidence – ACO Herb VERSTEGEN

Statement of Evidence – ACO Lou FAIREST-HARPER

Statement of Evidence - Mr Robert BELMONT

4 Operational Implications

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

5 Financial implications

5.1 There are no financial implications associated with this matter.

6 Statutory Requirements

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

• 33C Dogs belonging to breed or type listed in Schedule 4 to be classified as menacing

• A territorial authority must, for the purposes of section 33E(1)(a), classify as menacing any dog that the territorial authority has reasonable grounds to believe belongs wholly or predominantly to 1 or more breeds or types listed in Schedule 4.


6.3 If a dog is classified as menacing under subsection (1), 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 33D.

7 Delegations

7.1 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.

8 Consultation

8.1 There are no community consultation requirements.

9 Cultural Considerations

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

10 Conclusion

10.1 Manawatu District Council Animal Control staff have a duty to enforce the provisions of the Dog Control Act 1996.

10.2 Pursuant to the provisions of Section 33C(1) of the Dog Control Act 1996, Manawatu District Council classified the dog known as “BROWNIE” as menacing as the Council has reasonable grounds to believe the dog belongs predominantly to the type listed in Schedule 4 to the Dog Control Act 1996.

11 Attachments

- Annex A: Manawatu District Council – CCR 33364
- Annex B: Menacing Classification letter
- Annex C: Statement of Evidence – ACO Herb VERSTEGEN
- Annex D: Statement of Evidence – ACO Lou FAIREST-HARPER
- Annex E: Statement of Evidence - Mr Robert BELMONT
- Annex G: Photograph of BROWNIE
- Annex H: Photograph of BROWNIE
- Annex I: Manawatu District Council Pitbull Classification Policy
Transaction Number 33364

Customer Details

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Temporary Phone No and Reference

Transaction Details

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<td>8 June 2016 9.24 a.m.</td>
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<td>Phone</td>
<td>Herb Verstegen</td>
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Animal Attacked

Details

Pitty attacked her dog in the park. This is the 3rd time same dog. dog is on a muzzle. belongs to older couple guy has walking stick and a big grey bushie beardand lady is old too. they have no control can't get there dog back. Tan male pitty with a wire muzzle

.questions>

Q> What has been attacked?
A> HER DOG LEVI

Q> What is the breed of the dog(s) that attacked?
A> PIT BULL (OWNERS RECKON ITS ONLY 1/4 PIT BULL)

Q> What is the description of the dog?
A> LARGE TAN MALE WITH WIRE MUZZLE

Q> When did the attack happen?
A> APPROX 9AM

Q> Where did the attack happen?
A> IN WALKWAY PARK OF AORANGI!

Q> Describe what happened:
A> PITT WAS OFF LEAD WELL AWAY FROM THE OWNERS. OWNERS HAVE NO CONTROL AND CAN NOT CALL THERE DOG BACK. DOG CIRCLED HER DOGS AND GO HER DOG ON THE GROUND THIS IS THE 3RD TIME THIS HAS HAPPENED AND LIBBY HAS SPOKEN TO THEM EACH TIME.

Q> What address does the dog come from?
A> NOT KNOWN

Q> What injuries were sustained?
A> NOT SURE

Q> Has your animal been taken to the vet?
A> NO

Q> Where is the dog that attacked now?
A> NOT SURE
Q: Who witnessed the attack?
A: ALL OWNERS
Q: Any other details:
A: NO ANSWER
Q: Check if dog is registered: Yes No N/A
A: N/A
Q: Name of ACO contacted:
A: HERB
Q: Time ACO contacted:
A: 9:24
</questions>

Further Details

09 JUN 2016 - 08:46a.m. - Herb Verstegen

spoke to comp, she does not know who the persons are that the dog belongs to, but has given a good description, we will keep an eye out in the area for the people involved and keep comp updated, she was happy with this course of action.

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<td>spoke to comp, she does not know who the persons are that the dog belongs to, but has given a good description, we will keep an eye out in the area for the people involved and keep comp updated, she was happy with this course of action.</td>
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8 July 2016

Robert Belmont
Feilding 4702

Dear Sir

Please find attached your notice of classification of dog as a menacing dog.

Yours faithfully

[Signature]

Herb Verstegen
Animal Control Officer
Manawatu District Council Notice of classification of dog as menacing dog

Section 33C, Dog Control Act 1996

To: Robert Belmont

Address: Feilding 4702

Dog: Brownie a 2 Yrs 4 Mths old Brown Male Retriever, Labrador/Terrier, American Pit Bull.

This is to notify you* that this dog has been classified as a menacing dog under section 33C(1) of the Dog Control Act 1996.

This is because the Manawatu District Council has reasonable grounds to believe that the dog belongs wholly or predominantly to American Pit Bull Terrier.

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

Signature of officer of Manawatu District Council

8/7/2016

*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 Manawatu District Council, produce to the Manawatu District Council, within 1 month after receipt of this notice, a certificate issued by a veterinarian 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 Manawatu District Council, produce to the Manawatu District 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 Manawatu District Council in accordance with the reasonable instructions of the Manawatu District 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 33C**

*Section 33D, Dog Control Act 1996*

You may object to the classification of your dog as menacing by lodging with the Manawatu District 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.

You must provide evidence to the Manawatu District Council that the dog is not of a breed or type listed in Schedule 4 of the Dog Control Act 1996.
Statement of Herb Verstegen Animal Control Officer for Manawatu District Council.

On the 8th of June 2016 at around 0840hrs, I received a call from the MDC call centre in regards to a dog attack that had happened earlier that morning on the walk way between the Aorangi Road bridge and Awa Street Feilding.

The complainant advised me that she had been jogging in the area with her two collie cross dogs, she advised me that she saw a large brown Pitbull type dog up ahead and called her dogs back to her to put them on a lead. The brown Pitbull type dog came running up to her dogs and although the pit bull was wearing a muzzle it "slammed" into her dog so hard it knocked it to the ground, she said that her dog reacted to this by growling and fighting back.

The complainant advised me that the two elderly owners of the offending dog were a good 100 meters away from the dog and were unable to call the dog off. When the owners did arrive they had some trouble gaining control of their dog. The complainant advised me that this was not the first time that this dog had rushed at her dogs.

The complainant did not get any details from the dog owners, but was able to give me a good description of the man, an older white male with greying hair and a grey beard, the couple drive an older style white van that they park on Awa Street.

I advised the complainant that I would keep an eye out for the van and the dog owners, but at this stage did not know who they were, and was for that reason unable to take any action at that stage. The complainant understood that and was happy with the course of action being taken by Animal Control.

I advised the other animal control officers of the situation and gave them the description of the van, dog and owners.

On Thursday the 7th of July 2016 at around 0800hrs I saw the van in question parked at the end of Awa Street. I took down the registration of the van (YF6528) and asked Rachelle JOHNSTON, MDC's Consents and Monitoring Team Leader to run that plate number through the MOTOCHEC site. The plate returned information stating that the van belonged to a Robert Cornelis BELMONT, residing at 16 Dalzien Place Feilding.

I checked on the MDC Ozone system to see if Mr BELMONT had any dogs registered to him at that address, and he did, an adult male brown German Shepherd Labrador cross named BROWNIE.

On Thursday the 7th of July at around 1330hrs ACO Lou FAIREST-HARPER and I visited the BELMONT's at their Dalzien Place address, we spoke to Mrs BELMONT who advised us that their dog BROWNIE had indeed run over to the lady with the collies and that there had been an altercation. She advised us that we had better talk to her husband who was at their building site in Sherwill Street East. ACO FAIREST-HARPER and I proceeded to the Sherwill street address to meet with Mr BELMONT.

At around 1335hrs on that same day ACO FAIREST-HARPER and I spoke to Mr BELMONT at Sherwill St, BROWNIE was there with him, we sighted BROWNIE and in my opinion BROWNIE was a Pit Bull type dog because of BROWNIES physical features, his large muscular skull and light eyes.
We spoke to Mr BELMONT at length about the incident that occurred on the 8th of June 2016. Mr BELMONT told us that although BROWNIE was not on a lead but he was under control and wearing a muzzle because he always wears a muzzle, as Mr BELMONT goes bush with BROWNIE and he does not want him harming native fauna.

Due to the differing stories between the complainant and Mr BELMONT, ACO FAIREST-HARPER and I were of the opinion that there was not enough evidence to classify BROWNIE as menacing by deed, but he did fall into the category of being classified by type.

We made Mr BELMONT aware that BROWNIE would be classified as menacing by type. Mr BELMONT said that this would be a problem as BROWNIE is a LANDSAR search dog and he cannot work while being on a lead. Upon discussing the LANDSAR issue with Mr BELMONT further it was ascertained that Mr BELMONT and BROWNIE are in fact not part of LANDSAR.

ACO FAIREST-HARPER and I left the Sherwill Street property at around 1400hrs.

I typed up the section 33C Menacing classification for BROWNIE on the 8th of July and sent it to Mr BELMONT.

To the best of my knowledge the information that I have supplied in this statement is true and correct.

Herb Verstegen

11/7/2016
My name is Lou FAIREST-HARPER, I am a warranted Animal Control Officer for both the Rangitikei and Manawatu District Councils.

On the morning of Thursday 7th July 2016, Animal Control Officer Herb VERSTEGEN advised me of an incident that happened about a month prior to this date which involved a complainant, her two dogs, an unknown dog and its owners.

ACO VERSTEGEN also explained that when the complaint first came in, there were no details about the rushing dog or its owners but a very clear description of the vehicle was given along with a description of the unknown dog and its owners.

ACO VERSTEGEN advised that he has seen a vehicle matching the one the complainant had described, earlier in the day, parked near the pound on Awa Street Feilding.

ACO VERSTEGEN noted down the registration number of the vehicle and asked Rachelle Johnston, Team Leader for Consents and Monitoring, to run the registration number for owner details. ACO VERSTEGEN checked the details given to him by Rachelle JOHNSTON on MDC’s Ozone system. Mr Robert BELMONT’s details were revealed and that he was the owner of a brown male German Shepherd/Labrador cross.

At approximately 13.30 on the 7th July 2016, I accompanied ACO VERSTEGEN to the property of 16 Dalzien Place, Feilding to firstly identify whether it was in fact Mr BELMONT and his dog that was involved in the incident and if so, explain to him that he must not allow his dog to rush up to people or their dogs, as was in this particular case.

Mr BELMONT was not at the property at the time of our visit, however we did speak with Mrs BELMONT, who was happy to explain what had happened (as per the complaint)

Mrs BELMONT confirmed that it was her dog ‘BROWNIE’ that did indeed rush up to a woman and her two dogs. The BELMONTs walk their dog on a regular basis and have come across the complainant and her dogs in the past.

Mrs BELMONT stated that her dog was not on a lead but he was wearing a muzzle at the time so there was no concern as he was not able to bite. Mrs BELMONT then advised Herb and I that it was probably best to speak further with her husband, Robert BELMONT, about the incident. Mrs BELMONT advised Herb and I that her husband was on their building site on Sherwill St East.

At approximately 13.35hrs on the 7th July 2016, Herb and I left Dalzien Place and went to the BELMONT’s building site in Sherwill St. There we were greeted by Mr BELMONT and his dog BROWNIE. We spoke to Mr BELMONT about the incident in question. Mr BELMONT also described the woman (complainant) as being “as mad as hell” and was yelling and screaming which made his dog react the way he did. Mr BELMONT explained that there was no need to have BROWNIE on a lead because BROWNIE was under his full voice control. Mr BELMONT also explained that his dog is always muzzled because he takes BROWNIE “bush” and is currently ‘in training with LANDSAR’.

Due to conflicting statements between the complainant and Mr BELMONT, there was not enough clear evidence to classify BROWNIE as menacing by deed, however it was noted immediately upon arrival by Herb and myself that BROWNIE was not of German Shepherd/Labrador cross breed and that he was more of the Pitbull type, based on the shape of Brownies head, pink nose and light coloured eyes, his defined muscular body and tapered tail.

This was discussed with Mr BELMONT and that BROWNIE falls under the menacing by type category.
The menacing conditions were explained to Mr BELMONT. Mr BELMONT advised Herb and I that the menacing classification would not be suitable for him or BROWNIE because of the LANDSAR training BROWNIE was a part of.

Upon discussing the LANDSAR issue further with Mr BELMONT, Mr BELMONT advised that he and BROWNIE were not, in fact, a part of LANDSAR.

Photographs were taken of BROWNIE by ACO VERSTEGEN for identification purposes.

ACO VERSTEGEN and I left Mr BELMONT’s Sherwill St property at approximately 14.00.

This statement has been provided with the knowledge of it being used in a hearing classification and is true and correct to the best of my knowledge.

Lou FAIREST-HARPER

14/07/16
Robert Belmont
Feilding

16 July 2016

Attn Herb Verstegen
Manawatu District Council
135 Manchester Street
Feilding

Dear Sir

Recent visit to myself by yourself and “Lou”

Last week you arrived unannounced at my building site stating that you were acting on a complaint that my dog had attacked another dog.

On reflection after your visit I am very concerned that because of the way that you came unannounced did not give me time to carefully consider and thus fully describe what happened during the incident and therefore you may not be appropriately responding to an incident where my dog has been very badly misrepresented, and was in fact himself attacked.

The other dog involved in the incident was not only a very aggressive but also tenacious in its attack of my dog.

It is also clear that the female owner has either no control over it, or worse, potentially may have trained it to defend her and attack other dogs while she is out jogging in public.

The facts of the incident were as follows:

My wife and I were walking our dog alongside the Orua River between Awa Street and the rail and road bridges. My dog was wearing an industrial grade stainless steel muzzle. My wife and were both carrying hikers walking poles, and a leash for our dog.

I have been using a muzzle on my dog so as to accustom him to wearing a muzzle when I “go bush”. The muzzle is to protect wildlife particularly any birds he may encounter. He has never been involved in any fights with other dogs nor attacked any person.

When my dog first noticed the jogger with her dogs approaching he lay down and maintained that position wagging his tail, a clear sign of non-aggressive friendliness.

At that time both dogs had been running loose without leads.

On sightiing my dog the female jogger became very animated and aggressive and ran at my dog.

Her dog then followed her example, rushed at my dog and started attacking him. My dog then attempted to defend himself, but due to his muzzle was unable.

I intervened and despite numerous blows with my lightweight hikers pole to the joggers dog, that dog still kept trying to attack my dog. Her dog was clearly intent on aggressive fighting action.

The jogger’s dog clearly shows scars of having been involved in previous fights.

The female jogger seemed unable to recall her dog nor did she seem to be able to separate her dog away from attacking my dog.
Once I had managed to separate the dogs, the jogger took her dog by the collar and then started to accuse me of having a dangerous dog, despite the fact of her dog being the one that attacked.

She then spoke to us (more like screamed at us) making several claims, including:

a) That she was the Vice President of a local dog training club.

b) That she always had her dogs with her when jogging to protect herself from being attacked by other dogs.

c) She admitted that our dog could not bite her dog because it had a muzzle but she expressed concern about her dog biting our dog because it was “frightened”.

We have since heard from other dog owners about her dog biting their dogs but because of her claimed “position” in the dog training club have been intimidated to not make a complaint.

During her rant she had to continue to restrain her dog by holding its collar while it still continued to be aggressive towards our dog and my wife and I. I had by then put my dog on a sitting “stay” which it then (on a very loose lead) very obediently held facing towards me and away from her and the aggressive dog. In complete contrast the jogger’s dog had to continue to be forcibly restrained.

The jogger was either not carrying leads for her dogs, or at least made no attempt at any time to put either of her dogs on a leash. (Dog Control Act 1966 S54A)

Throughout the rant her dog continued to bark and yelp and strain to get at my wife and I and our dog. However, the second of her dogs did sit unrestrained, quiet and calm.

Finally she moved away, holding the collar of the aggressive dog so as to make it go with her.

It appears that either she is unable to control her dog (somewhat surprising considering her claim to be VP of the dog training club) or worse that she has trained the aggressive dog to attack and protect her while out jogging.

Since the incident I have had the opportunity to discuss the incident with other dog owners and have found that her dog has also attacked other dogs, even attempting to take on a 50 kg Malamute.

It seems that her claims to be VP of the club combined with threats that she will report other dogs has meant that other owners whose dogs have been attacked have not reported those attack incidents to the council.

The aggressive nature of her dog is serious enough that the Malamutes owner has warned her that should her dog attack again he will let his dog off its lead to defend itself.

We also now have a situation that my wife is very reluctant to walk our dog by herself in case she meets this jogger and her aggressive dog again. My wife would not be able to defend herself or our dog from another attack from her dog. It took repeated blows by myself and then I had to forcibly remove the viscous dog from attacking our dog before its owner was able to restrain her dog. My wife simply does not have the strength to effectively do either.

I now carry a much heavier stick when walking in case I have to defend myself from this viscous dog.

Please advise what action you are prepared to take to ensure that this dangerous dog made safe for public and other dog owners who may not carrying a heavy stick and/or do not have the strength to defend themselves.

Yours faithfully,

Robert Belmont

19
Robert Belmont

19th July 2016

Attn Herb Verstegen
Manawatu District Council
135 Manchester Street
Feilding

Dear Sir,

**Objection to Classification of Dog**

I have received your notice dated 8th July of re-classification of my dog.

Please note that I wish to object to my dog being classified as being wholly or predominantly American Pit Bull Terrier.

I do not believe that this is correct.

I am now in the process of getting a DNA test done through Robinsons Vets for the dog.

At present we are waiting for the results to come back to us.

I have been advised that it could take approximately six weeks before we receive the results.

Once we receive the results I would like to have the classification reconsidered.

Yours sincerely,

Robert Belmont
Contents

Statutory Context ........................................................................................................................................... 2

What is a Pit Bull? ....................................................................................................................................... 2

How will Manawatu District Council identify when a dog is wholly or predominately a Pit Bull Type ........................................................................................................................................... 3

Resource Booklet American Pit Bull Terrier Type (APBT) ........................................................................ 4

   HEAD ............................................................................................................................................................ 4
   EARS ............................................................................................................................................................. 6
   EYES .............................................................................................................................................................. 7
   BODY ............................................................................................................................................................ 8
   SKIN & COAT ............................................................................................................................................... 11
   COAT COLOUR ............................................................................................................................................ 12
   LEGS ............................................................................................................................................................ 13
   TAIL ............................................................................................................................................................. 15

Date adopted: 15 March 2017
Statutory Context

The Dog Control Act 1996 (from hereon with referred to as ‘the Act’) sets out to control specified breeds and types of dogs in two ways. First, by requiring a territorial authority to classify as ‘menacing’ any dog specified in schedule 4, and secondly, by prohibiting the importation of dogs of those breeds and types

Schedule 4 of the Act specifies:

- American Pit Bull Terrier (type)
- Brazilian Fila.
- Dogo Argentino.
- Japanese Tosa.
- Perro de Presa Canario.

There has been little dispute regarding the ‘breeds’ identified in Schedule 4 as there has been a long history in professional dog circles for the grouping of dogs based on physical characteristics.

As a useful guide the Federation Cynologique Internationale (FCI) is recognised as the World Canine Organisation and recognises 344 breeds which are compiled by the 91 country members who contribute the standard of the breeds (detailed description of the ideal type of the breed) in co-operation with the Standards and Scientific Commissions within the FCI.

There has been no known dispute over the identification of the breeds within Schedule 4 from the Courts or from within canine expert circles.

However, the term American Pit Bull Terrier does carry with it uncertainty. The Act (and Courts) have failed to provide clarification on precisely what was meant by a pit bull ‘type’ and in that absence of clarity territorial authorities have used largely subjective reasons for determining whether a dog is a Pit Bull type or predominately a Pit Bull type.

What is a Pit Bull?

The term Pit Bull is considered to be a social construct which groups any number of dogs with particular physical characteristics, and is not considered a ‘breed’.

In some circles Pit Bull is a term used to describe American Pit Bull Terrier, the Bull Terrier, the American Staffordshire Terrier, and the Staffordshire Bull Terrier that may have been mixed together, or mixed blood lines with other breeds of dogs.

The American judiciary have grappled with the question “what is a Pit Bull” more than other countries. In Toledo v. Tellings, Lucas App. L-04-1224, 2006-Ohio-975, the county dog warden summed up in his evidence that there really was no way to tell whether or not a dog was a ‘pit bull’, and that the determination was a matter of subjective opinion. Differences of definition, lack of agreement between visual identifications and DNA breed signatures, disagreement among observers looking at the same dog, and poor understanding of the meaning of breed and genetic relatedness, mean that an individual’s belief as to whether or not a dog is a ‘pit bull’ may have no scientific significance what so ever.

---

1 Section 33C, Dog Control Act 1996
2 The FCI does not recognise Pit Bulls as a breed, nor does the American Dog Breeders Association, or the New Zealand Kennel Club.
How will Manawatu District Council identify when a dog is wholly or predominately a Pit Bull Type

There has been an increasing trend for dog owners to have their dog tested using the BITSA (Breed identification Through Scientific Analysis) test – especially with respect to using this as a means for proving a dog is not a Pit Bull related breed.

BITSA is a test which uses DNA analysis to provide a history of a dog’s ancestry. The profile obtained is cross-referenced against an extensive genetic database to provide a breed signature. In the case of BITSA – the database uses DNA collected from registered pedigree dogs throughout Australasia. Specifically it is noted that BITSA does not carry breed signatures for American Pit-bull terriers and a note on the BITSA website states that it cannot detect Pit Bull Terriers (as well as other restricted breeds).

According to BITSA the profile of the dog can determine whether both parents of a dog were a particular breed, but it cannot be used to serve as evidence of a pedigree of dog. The reason for this is that BITSA does not have a conclusive catalogue of all breeds of dogs.

Furthermore many dogs are so highly cross-bred that very quickly the purebred characteristics (and the genetic breed signatures) are no longer able to be identified.

While the above relates to a specific DNA testing service, the general issues identified with this service are likely to apply to other services offering DNA testing for dogs. For these reasons the Manawatu District Council will not accept DNA testing as evidence of whether a dog is wholly or predominately a Pit Bull.

The Manawatu District Council will however use as a means of considering whether a dog may be wholly or predominately a Pit Bull Type the information on characteristics and colour charts provided by the American Dog Breeders Association which is located [https://adbadog.com/pit-bull-color-chart/](https://adbadog.com/pit-bull-color-chart/) for Pit Bulls.

Additionally the Council will rely on information provided by the dog’s owner at the time of registration, thus placing the responsibility of the dog’s owner in determining the type of dog which they own.
# Resource Booklet American Pit Bull Terrier Type (APBT)

## HEAD

| Description | Head - The APBT head is a key element of breed type. It is large and broad, giving the impression of great power, but it is not disproportionate to the size of the body. Viewed from the front, the head is shaped like a broad, blunt wedge. Viewed from the side, the skull and muzzle are parallel and joined by a well defined, moderately deep stop.  
Head Shape - The skull is large, flat or slightly rounded, deep, and broad between the ears. Viewed from the top, the skull tapers just slightly toward the stop. There is a deep median furrow that diminishes in depth from the stop to the occiput. Cheek muscles are prominent but free of wrinkles. When the dog is concentrating, wrinkles form on the forehead, which give the APBT his unique expression.  
Muzzle - The muzzle is broad and deep with a very slight taper from the stop to the nose, and a slight falling away under the eyes. The length of muzzle is shorter than the length of skull, with a ratio of approximately 2:3. The topline of the muzzle is straight. The lower jaw is well developed, wide and deep. Lips are clean and tight.  
Teeth - The American Pit Bull Terrier has a complete set of evenly spaced, white teeth meeting in a scissors bite.  
Nose - The nose is large with wide, open nostrils. The nose may be any colour. |

<table>
<thead>
<tr>
<th>Mesaticephalic Head Shape:</th>
<th>Dog Anatomy:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medium skull with a medium muzzle. Broad at the base but short in length.</td>
<td></td>
</tr>
</tbody>
</table>

| Standard Cheek Muscle | Outline:  
Prominence of cheek muscle helps form overall head picture. |

| Standard Flews/Jowls: | Examples:  
Looseness and length of upper and lower lip. |

---

Note: Images of Mesaticephalic Head Shape, Standard Cheek Muscle, and Standard Flews/Jowls are provided in the document.
**NOT:**
Dolichocephalic  
E.g. Greyhound:

Brachycephalic  
E.g Pug:

---

**Scissor Teeth**  
Known as the bite, where teeth meet.

**Not:**
Undershot e.g. Bulldog

Pincer/Level e.g. Great Dane
## EARS

**Ears** - Set high on the head and free from wrinkles.

<table>
<thead>
<tr>
<th>Pointed Ear Shape</th>
<th>Dog Anatomy:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Semi Erect Ear</td>
<td></td>
</tr>
<tr>
<td>Carriage</td>
<td></td>
</tr>
</tbody>
</table>

### Standard Ear Type

**Examples:**

- **Not:**
  - Button Shape e.g. Wirehaired Fox Terrier
  - Bat Shape e.g. Boston Terrier
  - Rounded Long Shape e.g. Basset Hound

- Rounded Short Shape and/or Dropped Carriage e.g. Labrador
- Erect Carriage e.g. German Shepherd
- Rose Carriage e.g. Greyhound.
<table>
<thead>
<tr>
<th>EYES</th>
<th>Eyes - Eyes are medium size, round to almond-shaped, and set well apart and low on the skull.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Almond Eye Shape</td>
<td>Examples:</td>
</tr>
<tr>
<td></td>
<td><img src="image1" alt="Almond Eye Shape Example" /></td>
</tr>
<tr>
<td></td>
<td><img src="image2" alt="Almond Eye Shape Example" /></td>
</tr>
<tr>
<td></td>
<td><img src="image3" alt="Almond Eye Shape Example" /></td>
</tr>
<tr>
<td></td>
<td><img src="image4" alt="Almond Eye Shape Example" /></td>
</tr>
<tr>
<td>Not:</td>
<td>Round Shape e.g. Pug</td>
</tr>
<tr>
<td></td>
<td><img src="image5" alt="Triangular Shape Example" /></td>
</tr>
<tr>
<td>Standard Eye Type</td>
<td>Examples:</td>
</tr>
<tr>
<td></td>
<td><img src="image6" alt="Standard Eye Type Example" /></td>
</tr>
<tr>
<td></td>
<td><img src="image7" alt="Standard Eye Type Example" /></td>
</tr>
<tr>
<td></td>
<td><img src="image8" alt="Standard Eye Type Example" /></td>
</tr>
<tr>
<td>Not:</td>
<td>Protruding Type e.g. Chihuahua</td>
</tr>
<tr>
<td></td>
<td><img src="image9" alt="Deep Type Example" /></td>
</tr>
<tr>
<td></td>
<td><img src="image10" alt="Deep Type Example" /></td>
</tr>
</tbody>
</table>
**Standard Eye Set**
Eye position in the skull

**Not:**

Wide Set e.g. Amstaff

Oblique Set e.g. Greyhound

<table>
<thead>
<tr>
<th><strong>BODY</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Description</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Neck</strong></td>
<td>The neck is of moderate length and muscular. The neck should be narrowest just behind the ears and widen downward gradually to blend smoothly into the withers (top of the shoulders). The skin on the neck is tight and without dewlap.</td>
</tr>
<tr>
<td><strong>Forequarters</strong></td>
<td>The shoulder blades are long, wide, muscular, and well laid back. The upper arm is roughly equal in length to the shoulder blade and joins it at an apparent right angle.</td>
</tr>
<tr>
<td></td>
<td>The forelegs are strong and muscular. The elbows are set close to the body. Viewed from the front, the forelegs are set moderately wide apart and perpendicular to the ground. The pasterns are short, powerful, straight, and flexible. When viewed in profile, the pasterns are nearly erect.</td>
</tr>
<tr>
<td><strong>Back</strong></td>
<td>The back should be short and strong, slightly sloping from withers to rump. The top-line should be slightly higher at the withers than at the rump, with subtle arch just over the lion area.</td>
</tr>
<tr>
<td><strong>Chest</strong></td>
<td>The chest should be deep, but not to broad, with wide sprung ribs. As the fore chest (also known as the brisket) goes down between the front legs to meet the chest, the fore chest should be deep enough at its lowest point to be even with the dog as elbow when viewed by the side.</td>
</tr>
</tbody>
</table>

**Medium Height**

Between 30-45cm

**Dog Anatomy:**
<table>
<thead>
<tr>
<th>Examples:</th>
<th>Not:</th>
<th>Deep Chest Shape</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Small e.g Jack Russell Terrier</td>
<td>Small e.g Jack Russell Terrier</td>
</tr>
<tr>
<td></td>
<td>Large e.g Labrador</td>
<td>Large e.g Labrador</td>
</tr>
<tr>
<td></td>
<td>Giant e.g English Mastiff</td>
<td>Giant e.g English Mastiff</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Not:</td>
<td>Not:</td>
</tr>
<tr>
<td></td>
<td>Barrel: E.g Bulldog</td>
<td>Barrel: E.g Bulldog</td>
</tr>
<tr>
<td></td>
<td>Ovoid/Standard: E.g Jack Russell</td>
<td>Ovoid/Standard: E.g Jack Russell</td>
</tr>
<tr>
<td><strong>Stocky Build</strong></td>
<td><strong>Examples:</strong></td>
<td></td>
</tr>
<tr>
<td>-----------------</td>
<td>--------------</td>
<td></td>
</tr>
<tr>
<td></td>
<td>![Example 1]</td>
<td>![Example 2]</td>
</tr>
</tbody>
</table>

**Not:**

- Solid: E.g Mastiff
- Fine: E.g Greyhound

<table>
<thead>
<tr>
<th><strong>Standard Body Length</strong></th>
<th><strong>Examples:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>![Example 1]</td>
</tr>
</tbody>
</table>

**Not:**

- Elongated: E.g Dachshund

<table>
<thead>
<tr>
<th><strong>Sloping Topline</strong></th>
<th><strong>Examples:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Gradient of the back from the withers to the rump</td>
<td>![Example 1]</td>
</tr>
</tbody>
</table>
**SKIN & COAT**

**Coat** - The coat is glossy and smooth, close, and moderately stiff to the touch. The hair should be rather course in texture.

<table>
<thead>
<tr>
<th><strong>Standard Skin</strong></th>
<th><strong>Examples:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Refers to the tautness of the skin</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Short Coat Length</strong></th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th><strong>Smooth Coat Type</strong></th>
<th><strong>Not:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Excess Skin e.g. Shar Pei</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Not:</strong></th>
<th><strong>Examples:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Rising Topline e.g. Greyhound</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Not:</strong></th>
<th><strong>Examples:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Level Topline e.g. Rottweiler</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Not:</strong></th>
<th><strong>Examples:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Wire Haired Type e.g. Wire Haired Pointer</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Not:</strong></th>
<th><strong>Examples:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Curly Haired Type e.g. Poodle</td>
<td></td>
</tr>
<tr>
<td>COAT TYPE</td>
<td>Examples of Colours</td>
</tr>
<tr>
<td>-------------------------</td>
<td>--------------------</td>
</tr>
<tr>
<td>Hairless Type e.g. Chinese Crested</td>
<td></td>
</tr>
<tr>
<td>Long Coat Length e.g. Afghan Hound</td>
<td></td>
</tr>
<tr>
<td>Medium Coat Length e.g. Border Collie</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Brindle</td>
<td></td>
</tr>
<tr>
<td>Cream</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## LEGS

### Description

**Hindquarters** - The hindquarters are strong, muscular, and moderately broad. The rump is well filled in on each side of the tail and deep from the pelvis to the crotch. The bone, angulation, and musculature of the hindquarters are in balance with the forequarters. The thighs are well developed with thick, easily discerned muscles. Viewed from the side, the hock joint is well bent and the rear pasterns are well let down and perpendicular to the ground. Viewed from the rear, the rear pasterns are straight and parallel to one another.

**Legs and Feet** – The front legs should be strong and sturdy. The feet should point directly to the front, not towards each other or away from each other. The pasterns (which are the lower part of the front leg, from the joint just above the foot down to the foot) should stand erect and strong.

### Medium Leg Length

**Dog Anatomy:**

![Diagram of dog anatomy showing hindquarters and legs.]

### Bowed Leg Shape

**Diagram:**

- Correct foot with high arch
- Flat feet
- Light round feet
- Splayed toes
<table>
<thead>
<tr>
<th>Well Developed Thigh Muscles</th>
<th>Examples:</th>
</tr>
</thead>
<tbody>
<tr>
<td><img src="image1" alt="Image" /></td>
<td><img src="image2" alt="Image" /></td>
</tr>
<tr>
<td><img src="image3" alt="Image" /></td>
<td><img src="image4" alt="Image" /></td>
</tr>
</tbody>
</table>

**Not:**
Long Legged e.g. Great Dane

![Image](image5)

Short Legged e.g. Maltese Terrier

![Image](image6)
<table>
<thead>
<tr>
<th><strong>TAIL</strong></th>
<th><strong>Straight Leg Shape e.g. Wirehaired Fox Terrier</strong></th>
<th><strong>Crooked Leg Shape e.g. Lhasa Apso</strong></th>
</tr>
</thead>
</table>

**Tail** - The tail is set on as a natural extension of the top-line, and tapers to a point. When the dog is relaxed, the tail is carried low and extends approximately to the hock. When the dog is moving, the tail is carried level with the backline.

### Medium Tail Length

### Low Tail Carriage

The way the tail is commonly presented and carried

### Bee Sting Tail Type

Medium and tapered
<table>
<thead>
<tr>
<th>Not:</th>
<th>Short Tail e.g. Boston Terrier</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long Tail e.g. Irish Wolfhound</td>
<td></td>
</tr>
<tr>
<td>High Carriage e.g. Scottish Terrier</td>
<td>Screw Type e.g. Bulldog</td>
</tr>
<tr>
<td>Curl Type e.g. Basenji</td>
<td>Whip Type e.g. Pointer</td>
</tr>
<tr>
<td>Plume e.g. English Setter</td>
<td>Crank Type e.g. Staffordshire Terrier</td>
</tr>
<tr>
<td>Spitz Type e.g. Samoyed</td>
<td>Straight Type e.g. Airdale Terrier</td>
</tr>
</tbody>
</table>

**Source Materials:**

2. ‘Pawsitive Pitbulls’ Website: [www.pawsitivepitbulls.com](http://www.pawsitivepitbulls.com)
3. ‘Pitbull Lovers” Website: [www.pitbulllovers.com](http://www.pitbulllovers.com)