



# HEARINGS COMMITTEE (DOG HEARING) Open Minutes

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Meeting Date: Friday 22 June 2018

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Time: 2.00pm

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Venue Council Chambers  
Hawke's Bay Regional Council  
159 Dalton Street  
Napier

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Present Councillor Jeffery (In the Chair) Councillors Taylor and Wright

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In Attendance Manager Regulatory Solutions, Team Leader Animal Control

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Administration Governance Team

## **Apologies**

Nil

## **Conflicts of interest**

Nil

## **Public forum**

Nil

## **Announcements by the Chairperson**

Nil

## **Announcements by the management**

Nil

# AGENDA ITEMS

## 1. OBJECTION TO CLASSIFICATION OF DOG UNDER SECTION 33A OF THE DOG CONTROL ACT 1996 – ‘PAMPA’

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<i>Type of Report:</i>	Legal
<i>Legal Reference:</i>	Dog Control Act 1996
<i>Document ID:</i>	486727
<i>Reporting Officer/s &amp; Unit:</i>	Richard Munneke, Director City Strategy

### 1.1 Purpose of Report

The Hearings Committee has been delegated, by Council, the power to hear, consider and decide objections made under section 33B of the Dog Control Act 1996 ('the Act').

An objection has been made by Marianela Guerra in response to an animal being classified as a menacing dog under s33A of the Act, thus hearing is required.

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### At the Meeting

The Manager Regulatory Solutions was invited to present Council's case.

### Council Officer's Report – Ms Hayleigh Brereton and Mr Steve Cox

Ms Brereton and Mr Cox spoke to the Officer's report, providing an overview of the incident on 3 February 2018. Mr Cox had attended the site immediately following the incident, following notification by a witness. Mr Cox met the appellant, Ms Guerra, in the carpark of Dolbel reserve where the incident had occurred and identified the dog, which was then in the back of the car and panting heavily. Mr Cox advised that he took Ms Guerra's contact details at that time, including the car registration but did not seize the dog at the time as she "seemed genuine".

A further incident occurred on 12 March 2018 where the dog was outside of its property and approached two people aggressively.

In response to questions from the Panel it was clarified that:

- The appellant, Ms Guerra, had advised Mr Cox that the dog had got away from her
- The dog in question is a mixed breed with some hunting heritage; it is considered highly likely that the dog would worry or kill stock should it come into proximity again.

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### **Victim's Statement**

The stock owner spoke to the impacts of the incident at Dolbel Reserve noting that stock management is their business, so it was not only distressing to see the lamb distressed and hurt to the extent it had to be euthanised, but also had a financial impact.

The stock owner was concerned that it appeared Ms Guerra was unconcerned at the behaviour of the dog Pampa, and had made no offer to compensate the loss of the lamb.

The Panel noted that compensation could not be compelled under the Dog Control Act but could be encouraged as one way to redress any damage ensuing from a dog attack incident.

*The Hearing moved into Deliberations at 2.04pm*

### **Committee's recommendation**

Councillors Wright / Taylor

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**THAT** the classification of 'Pampa' as a menacing dog under s33A of the Dog Control Act 1996 be upheld.

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Carried

### **Deliberation Notes**

***In making its decision, the Panel gave consideration to the following:***

- A sheep had to be euthanised as a result of the dog Pampa's attack.
- It is the professional opinion of the warranted Animal Control Officer that the dog Pampa would again worry stock if given opportunity.
- The owner appears to have no regard for the seriousness of the incident and has made no offer of compensation to the stock owner.
- The instances of rushing people suggest there is a risk that the dog Pampa may attack a person.

### **Right of Appeal**

In accordance with section 27 of the Dog Control Act, the Appellants, having now lodged an objection under section 26, may appeal to the District Court against the decision of the Panel should they be dissatisfied with that decision. Any appeal must take place within 14 days of being notified of the Panel's decision.

The District Court, in hearing the appeal, shall consider the matters specified in section 26(3) of the Dog Control Act, and any submission by the territorial authority in support of its decision, and may uphold the determination, bring forward the date of termination, or immediately terminate the disqualification.

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*The Hearing (Dog Control – Pampa) closed at 2.09pm and the meeting adjourned.*

*The Meeting reconvened at 2.25pm and the Hearing (Dog Control – Molly) was opened.*

## 2. OBJECTION TO CLASSIFICATION OF DOG UNDER SECTION 33A OF THE DOG CONTROL ACT 1996 – ‘MOLLY’

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<i>Type of Report:</i>	Legal
<i>Legal Reference:</i>	Dog Control Act 1996
<i>Document ID:</i>	484879
<i>Reporting Officer/s &amp; Unit:</i>	Richard Munneke, Director City Strategy

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### 2.1 Purpose of Report

The Hearings Committee has been delegated, by Council, the power to hear, consider and decide objections made under section 33B of the Dog Control Act 1996 ('the Act').

An objection has been made by Judith Connolly in response to an animal being classified as a menacing dog under s33A of the Act, thus a hearing is required.

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#### At the Meeting

The Manager Regulatory Solutions was invited to present Council's case.

#### Council Officer's Report – Ms Hayleigh Brereton and Mr Steve Cox

Ms Brereton and Mr Cox spoke to the Officer's report, providing an overview of the incident in January 2018. Mr Cox advised that he had been contacted by the victim on 30 January 2018, when it became apparent that the dog owner had not notified Council about an attack which took place at Westshore a few days prior.

Mr Cox made multiple attempts to contact the owner of the dog Molly, receiving no reply until 16 March 2018. The dog was unregistered so no address was on record; however when Mr Cox attended a barking complaint at a Taradale address it became apparent that the same owner was linked and an address was identified.

When Animal Control Officers attended the owner's home, three dogs were barking and snarling on arrival. The owner invited the two officers onto the property the dogs bailed them into a corner, and one bit the clipboard an officer used in defence. Mr Cox advised that the owner had no control over the dogs.

In response to questions from the Panel it was clarified that:

- The Officer's felt personally threatened by the dogs during their visit to the property; if the clipboard had not been held out in defence, one of the Officer's would have been bitten.
- The owner attempted to call the dogs but had no control and did not physically restrain them.

#### Victim's Statement -

The victim advised that they had been walking at Westshore beach when cut off by the owner's car pulling over to park directly in front of them.

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The dog Molly shot out of the car and came directly toward them, knocking them to the concrete. There were two other dogs also with the owner; the dog Molly returned to them and all three then advanced again as a pack. The owner had no control over the dogs.

The owner offered a ride to the medical centre but as it would have been in the car with the dogs the victim turned this down. The owner then took the dogs to their home and returned about 20 minutes later to take the victim to the medical centre. A woman from over the road where the incident had occurred waited with the victim in the meantime. One ankle was extremely swollen and the side of the body that had been landed on was very painful. The physical effects of the attack continue still, and impact on gardening and other activities that have been enjoyable previously.

The victim also stated that all dogs now incur a strong fear response, and they remain extremely anxious in case a child should be the recipient of a similar attack.

The owner contacted them once a few days after the incident at which time the victim stated that the owner needed to notify Council of the incident. The owner had made no further contact since that time.

In response to questions from the Panel it was clarified that:

- The dog owner paid for the initial medical bill, but there have been ongoing medical costs including regular chiropractic sessions. Although ACC covers half of the cost of these, the remaining amount is a cost that would not be required without the attack.

*The Hearing moved into Deliberations at 2.47pm*

### **Committee's recommendation**

Councillors Taylor / Wright

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**THAT** the classification of 'Molly' as a menacing dog under s33A of the Dog Control Act 1996 be upheld.

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Carried

### **Deliberation Notes**

***In making its decision, the Panel gave consideration to the following:***

- Based on observed behaviours it is considered highly likely that the dog continues to pose a risk to people.
  - The victim has had ongoing medical issues and costs as a result of the incident.
  - The psychological impacts of the incident also continue to impact negatively on the victim's quality of life.
  - The owner has demonstrated a high level of uncooperativeness in failing to notify Council of the incident, and failing to return the Animal Control Officer's call, leading to months of delay.
  - The incident carries an extremely high attack matrix score, including a very high score for likelihood of reoccurrence.
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- The Panel noted an earlier incident where the owner failed to control another dog, which then bit a cyclist.

### **Right of Appeal**

In accordance with section 27 of the Dog Control Act, the Appellants, having now lodged an objection under section 26, may appeal to the District Court against the decision of the Panel should they be dissatisfied with that decision. Any appeal must take place within 14 days of being notified of the Panel's decision.

The District Court, in hearing the appeal, shall consider the matters specified in section 26(3) of the Dog Control Act, and any submission by the territorial authority in support of its decision, and may uphold the determination, bring forward the date of termination, or immediately terminate the disqualification.

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*The Hearing (Dog Control – Molly) and the meeting closed at 2.53pm.*

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Approved and adopted as a true and accurate record of the meeting.

Chairperson .....

Date of approval .....