



# HEARINGS COMMITTEE (DOG HEARING) Open Minutes

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Meeting Date: Friday 17 August 2018

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Time: 2.00pm

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Venue Council Chamber  
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 Director City Strategy, Director City Services, Team Leader  
Animal Control, Animal Control Officer

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Administration Governance Team

## **Apologies**

Nil

## **Conflicts of interest**

Nil

## **Announcements by the Chairperson**

The Chair advised that the open part of the hearing is being recorded for administrative purposes.

# AGENDA ITEMS

## 1. OBJECTION TO CLASSIFICATION OF DOG UNDER SECTION 31 OF THE DOG CONTROL ACT 1996

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<i>Type of Report:</i>	Legal
<i>Legal Reference:</i>	Dog Control Act 1996
<i>Document ID:</i>	602889
<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 31 of the Dog Control Act 1996 ('the Act').

An objection has been made by Marna Baxter in response to an animal being classified as a dangerous dog under s31 of the Act, thus hearing is required.

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### At the Meeting

#### Council Officer's Report – Mr David Whyte

Mr Whyte reviewed the Officer's Hearing Report, outlining the events of 12 March 2018 as reported by the appellant Ms Baxter in two statements and the sworn evidence of the owner of the dog that was attacked at that time.

Following the event being reported to Council on 15 March 2018, an investigation was undertaken by Council's warranted Animal Control Officer, including an dog attack evaluation as per SOLGM best practice. The initial recommendation was a prosecution under s57 of the Dog Control Act, in recognition of the significance and further complications of the injuries incurred, and the attack taking place in a designated off-lead public exercise area. This recommendation was reviewed at the request of the Appellant and in the light of Council's desire to seek compliance, was revised to a Dangerous Dog classification under s31(1)(b) of the Act.

This classification is a requirement on Council under s31(1)(b) in the presence of sworn evidence attesting to aggressive behaviour by the dog on one or more occasions.

Mr Whyte advised that Council is unaware of any steps having been taken by the Appellant to prevent any further threat to animals. The dog Wolf was unregistered at the time of the attack, and had not been registered prior.

As the incident occurred in Napier, although the owner is not a resident here, Council has the ability to classify the dog and to inform the appropriate territorial authority should the classification be upheld.

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**Appellant – Ms Marni Baxter or representative**

In the absence of the appellant and her legal representative, Ms Baxter's statements were taken as read by the Panel.

**Victim's Representative**

The victim's representative spoke to the event and the ensuing experiences of the household. They have experienced high levels of stress both over the attack and the notification to Council, from which they feared personal repercussions.

The Panel were advised that Pedro experienced severe wounding and it is believed that he was also shaken during the attack, as a few days after the attack the tissue below the wounds became necrotic which the vet advised is not unusual when a dog is shaken during an attack.

Pedro spent an extensive period at the vets and has experienced trauma levels which the vet compared to PTSD in humans. While Ms Baxter paid the original vet bill of approximately \$200, the further care has incurred costs of close to \$2,000. The household has considered approaching Ms Baxter to request that the amount be redressed but were concerned about a backlash. They may consider using the Small Claims Tribunal as a mediated approach.

Pedro has not demonstrated aggressive behaviour in the past, and no aggressive behaviour was reported on the day of the attack.

The owner had no concerns with regards to the vet care provided. It is believed that the tissue necrosis occurred due to Pedro being shaken by Wolf during the attack, and not due to inadequate care. Although the vet asked about shaking during the first visit neither party advised the vet at that time that it had taken place, which is why it was not included in the original notes. It was noted that the dog owner was very shocked during the first visit and almost collapsed, and may not have been able to provide as much detail as would otherwise have been the case.

*The Hearing moved into Deliberations at 2.45pm*

*The Deliberations were adjourned at 3.00pm on 17 August 2018 and reconvened at 3.35pm on 21 August 2018.*

Committee's recommendation

Councillors Taylor / Wright

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**THAT** the classification of 'Wolf' as a dangerous dog under s31 of the Dog Control Act 1996 be upheld.

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Carried

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**Deliberation Notes**

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

**a. The evidence which forms the basis for the original classification**

The Panel noted that under s31(1)(b) of the Dog Control Act, in the presence of sworn evidence attesting to aggressive behaviour by the dog on one or more occasions Council must classify a dog as dangerous.

The Courts assume that one attack will lead to others.

There was no impartial evidence of exceptional circumstances.

**b. Any steps taken by the owner to prevent any threat to the safety of persons and animals**

The Panel noted that Council is not aware of any steps taken by the owner following the attack to prevent any threat to the safety of person or animals.

It was noted that the dog is domiciled outside of Napier.

**c. The matters advanced in support of the objection; and**

The Panel noted that although possible provocation by Pedro had been advised by Ms Baxter, that this was no defence for the attack that took place.

That the attack took place is not disputed by either party; neither is the identity of the dog that attacked.

**d. Any other relevant matters.**

The Panel noted the contradictory statements of the dog's owner, Ms Baxter.

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The Hearing closed at 3.50pm, 21 August 2018

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

Chairperson .....

Date of approval .....