



# HEARINGS COMMITTEE (DOG HEARING)

## Open Minutes

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Meeting Date: Friday 17 May 2019

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Time: 1.53pm – 2.07pm

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Venue Council Chamber  
Hawkes Bay Regional Council  
159 Dalton Street  
Napier

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

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In Attendance Manager Regulatory Solutions, Team Leader Animal Control,  
Animal Control Officer

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Administration Governance Team

## **Apologies**

Nil

## **Conflicts of interest**

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

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<i>Type of Report:</i>	Legal
<i>Legal Reference:</i>	Dog Control Act 1996
<i>Document ID:</i>	727472
<i>Reporting Officer/s &amp; Unit:</i>	Rachael Horton, Manager Business Excellence & Transformation

### 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 Darren Melling in response to two dogs being classified as menacing dogs under section 33A of the Act; a Hearing is therefore required.

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#### At the Meeting

The Chair took the papers as read, and requested Mr Burton to speak to the incidents leading to the classification directly.

#### Council Officer's Report – Warranted Animal Control Officer, Mr Luke Burton

Mr Burton spoke first to his credentials as a warranted Animal Control Officer.

He then advised that just after 8pm on 3 January 2019, Council received a complaint in relation to two dogs who were roaming earlier that day and had rushed a young man on his bicycle and bailed up a neighbour in his driveway.

Mr Burton, on further investigation, identified a third gentleman who had also been rushed by the two dogs while walking another dog down the street.

The dogs were identified as 'Boss' and 'Maia', both registered to Mr Darren Melling. While the witnesses identified both dogs as being aggressive, it was noted that the white dog (that is, 'Boss') was particularly so.

Mr Burton interviewed Mr Melling and his partner in relation to the incidents; Mr Melling advised during the interview that the dogs were intended as guard dogs as there had been several instances of burglary on the street. He advised during the interview that he usually locked the gate at the front of his property but was aware that he had not done this on the day in question. This was in conflict with a statement made at a separate time whereby he suggested that his neighbour must be letting the dogs out of the fencing. Mr Burton noted that the fencing was quite secure as long as the gate was latched at the front; he had not had the opportunity to fully assess the fencing towards

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the back of the property. Mr Whyte, Team Leader Animal Control, advised that the fencing was not fully secure further round the property.

Mr Burton advised that when observing 'Boss' and 'Maia' in their home environment they appeared friendly. However he had assessed them as territorially aggressive based on the several independent reports of incidents.

An attack rating evaluation was completed for each dog, with a score of 28 being allocated to both animals. In assessing the incidents Mr Burton took into account the busy dairy and school entrance in the vicinity of the property. Following the investigation and evaluation both dogs were classified as menacing under s33A of the Dog Control Act. Further to the classification Mr Melling was infringed for failure to confine the dogs under s52a of the Dog Control Act 1996.

It was noted that there is a neighbourly dispute between Mr Melling and one of the gentlemen who made a statement in relation to being bailed up by the dogs. It is this neighbour who Mr Melling suggested was unlatching his gate and letting the dogs roam.

### **Appellant – Mr Darren Melling**

In the absence of the appellant Mr Melling's statements were taken as read by the Panel.

*The Hearing moved into Deliberations at 2.02pm*

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### **Committee's Decision**

Councillors Wise/ Wright

**THAT** the classification of 'Boss' and 'Maia' as menacing dogs 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. The evidence which forms the basis for the original classification**

The Panel noted the extensive incident file notes in relation to both dogs, including several prior instances of roaming.

Although there was some concern expressed at the natural difficulties inherent to neighbourly disputes, it was noted that the three separate incidents of 3 January were corroborated by independent witnesses.

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

No specific steps by the owner to prevent any threat to the safety of persons or animals have been identified by Animal Control Officers.

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

It was noted that a duty of care on behalf of the public is incumbent on Council; a proactive preventative stance was considered appropriate in this instance to ensure protection from the actions of animals identified as actively aggressive and not fully secured.

**d. Any other relevant matters.**

Noting the extensive history of complaints in relation to the animals, this classification provides a scaffold for any further enforcement work required should the dogs come to Council's attention again.

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The meeting closed at 2.07pm

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

Chairperson .....

Date of approval .....