



NAPIER
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HEARINGS COMMITTEE (DOG HEARING)

Open Minutes Attachments

Meeting Date: Thursday 26 May 2022

Time: 9.30am (Dog Classification Hearing)

Venue: Ikatere Room
Level 2, Capeview Building
265 Marine Parade
Napier

TABLE OF CONTENTS

| | | |
|---------------|--|---|
| Item 1 | Objection to Dangerous Classification - Wikitoria Mitai | |
| Attachment A | W Mitai - Additional Disclosures..... | 2 |
| Attachment B | NCC - Hearing Submissions Speaking Notes..... | 8 |

Thursday 3rd June 2021

Oma's injury

This afternoon, both Ken and I are with Oma are in the visiting pen.
Its like every other visit with the same routine every week.
Ken gives her all the attention she knows and loves, and I write in my journal.
Oma as always is so excited when we come to visit.
The atmosphere is a warm and calm Autumn afternoon.

4:20pm. Luke comes into the pen, which signals the end of our visit.
He has a rope, and hands it to me.
Both Ken and I look at each other quite surprised.
We have never had to use a rope on Oma at the Pound, or at home.

I asked Luke, what's the rope for?
Luke said, it's for Oma and it's to ensure that we and Oma are safe.
He also said that Oma did not like a particular dog.
I said to Luke we have never used a rope on Oma at the pound or at home.
Luke asked me if we would use the rope.
Luke mentioned David is on-site.
I turned to Ken and asked Ken if he felt okay with the rope.
Ken gave me that 'look' but nodded his head in agreeance.
I then looked at Luke and he smiled and gave me the rope, which I passed to Ken.
Ken tends to Oma.

There was no issue with either Ken or me about the 'rope', only that we were confused about the change. We did what we were asked.

Luke did not interact with Ken at all.

The only time Ken spoke was during the attack, when he was yelling at Luke to let Oma go, and when we were exiting the caged area.

What Ken said to Luke when we were leaving this area was: Why were you in the way?

Luke apologises to both of us as he is escorting us out of the building.

Ken replied, this should never have happened, then we both left the Pound deeply distressed.

This affected both Ken and I, which prompted me to ring you to let you know what had happened to Oma.

#We had been visiting Oma for a while at this stage and a safe routine had developed between both us and the staff at the Pound. Part of this routine was timing.

- 1. The DCO enters caged area first to go and open Oma's cage. The DCO then remains behind the open cage door.*
- 2. 10-20 sec later, I enter and go and stand by the DCO behind the open cage door.*
- 3. 10-20 sec later, Ken brings Oma in, holding her by the rope given to us.
(Before this Ken had always held Oma by her collar)*
- 4. Ken places Oma into her cage, gives her a cuddle and leaves Oma with her 2 biscuits.*
- 5. Ken exits Oma's cage, and we leave this area.*

After the Attack.

When Oma was free from the dog, Luke moved away from Ken and Oma, rushing past me.
I turned around to see where Luke was going.
I wondered why Luke walked away from Ken and Oma and did not assist.

Luke rushed past me, and I turned to see where he was going.
David had come into this area.
Luke was wearing earmuffs and David speaks loud enough for Luke to hear him.
I heard David say to Luke. "Did they see this"
Luke answered "yes"
David told Luke "Get them out of here".

At this stage Ken has put Oma back in her cage and is kneeling to find the area where the blood is coming from. Ken cannot find the source. There is so much blood in the aisle and on the floor of Oma's cage.

Meanwhile, Luke had returned to where I am standing by Oma's open cage door.
He held the cage door open for Ken to exit.
Ken came out and Luke locked Oma's cage.
Ken notices a handbasin, so he washes the blood from his hands, arms, and face before we exit the caged area.

David is still behind us, and he grabs the water hose hanging on a wall not far from where he was standing.
As we walk past David to leave this area, he began to hose away the blood that was in the aisle and Oma's cage.
For a few seconds, I pause and watch David cleaning away the blood.
I saw that while David was trying to hose Oma's cage area, the blood was still dripping profusely onto the floor of the cage from Oma. It was like a tap had been turned on. I was devastated.
Watching this, I really hoped that David would get Oma the help she needed, as we had already experienced that David was not a willing participant in supporting both us or Oma. David did not say a word to either Ken or me as we walked out, and he looked very unhappy about with what had happened.

Meanwhile, Luke had returned to where I am standing by Oma's open cage door.
He held the cage door open for Ken to exit.
Ken came out and Luke locked Oma's cage,
Luke escorted both of us towards the exit doors.
Ken notices a handbasin, so he washes his hands before we exit the building.

Luke takes my attention away from watching David by apologising to Ken and I for what has just taken place.
Ken replied, "this should never have happened".
I did not comment to Luke.
Both Ken and I were escorted out of the gates by Luke, and we left the facility.
Ken and I did not get any response from the Council about the incident in the week that followed.

When we arrived to visit Oma next, Luke was the officer that took us to the visiting pen. As usual, I wait 10-20 sec for Ken to acquaint himself with Oma before I enter the pen. While waiting to go in, Luke asked me if anyone had contacted me from the Council?
I answered, "no"
He then said, "that the Vet administered antibiotics for infection and decided not to stitch Oma's lip".
I thanked Luke for the information and I entered the pen.
I was so upset when I saw Oma's lip. I took photos of the injury and sent them to you.

Mr and Mrs Paul and Beverly McKie,
19 Savage Crescent,
Marewa,
Napier.
4110

2nd March 2021

To whom it may concern,

RE: SUPPORT LETTER REGARDING SEIZURE and ALLEGATION AGAINST the DOG "Oma"

I Bev M'Kie, of 19 Savage Cres Marewa, Napier 4110, am submitting this letter in support of Wikitoria Mitai, whom we call Victoria, and her dog known as Oma.

My husband Paul and I support Victoria's quest to challenge the Napier City Council's allegations and impoundment of her dog known as "Oma".

1. On the early evening of Friday 5th February 2021, at approximately 7pm, my husband Paul and I were at home. I was in the dining room and Paul was in the bedroom. Our open dining/living area and bedrooms faces south, therefore our view is Victoria's backyard.
2. Simultaneously, Paul and I, were startled by a horrific cry of a dog. The dogs howling was so loud, that it was frightening. This caused our two dogs (2) to become panic stricken. It was obviously clear that the howling indicated that a dog was in trouble and it was terrified.
3. Our dogs reacted by sprinting outside to the fence that separates our backyard from Victoria's. Our two (2) dogs barked aggressively at the commotion that was happening next door. I believe that our dogs were barking out of concern for Oma as the dogs know each other from being neighbors.
4. Meanwhile, Paul was in the bedroom. He opened the window, and in full view of Victoria's backyard, we saw a man next door. Paul called out to the man asking him, "What the bloody hell are you doing?", he also asked the man if he had been in contact with Victoria. Paul asked this man several times if he had contacted Victoria. The man did not answer. It appeared that this man did not want to answer my husband, therefore ignoring his questions.
5. Paul could see that Oma was trying to evade this man. He watched this man chasing Oma around the enclosure. He also saw that Oma did not attempt to bite or attack her aggressor.

6. I rushed outside, following my dogs to the fence that separates our properties. I looked over the fence and was surprised to see a man in Victoria's backyard. This area belongs to Oma.
7. I witnessed this man chasing, bailing, and cornering Oma. I watched in disbelief as this man was violently attacking Oma, by using his pole/stick and poking Oma in her sides (abdomen). I yelled at him in protest and demanded that he stop immediately. I also told him to cease from frightening and terrorizing the dog. I told him to leave the bloody dog alone. The man yelled at us both by stating, "I am a Dog Control Officer and I'm doing my job. I am seizing the dog as it is alleged that this dog had bitten someone. It is better I do this, otherwise I will shoot it".
8. At this point, Paul and I realise this man was a Dog Control Officer. I said to the Dog Ranger, "Okay I will leave you to do your job". Paul and I did not want the Dog Ranger to hurt Oma beyond reasonable force. We did not interfere after that.
9. I remained where I was and continued to watch the Ranger. Without any issues from Oma, the Ranger immediately slipped the noose over her head and led Oma from the backyard, through the back gate into the carport area and through the big gates out to the driveway. I noticed that Oma went quietly. She did not pull or try to run.
10. I walked around my house onto Savage Crescent towards the corner of Williams Street. I saw the Ranger's vehicle facing eastwards, parked on the road in front of Victoria's driveway. I returned to my home. Paul and I were both disgusted and appalled by the Dog Control Officer's abusive behavior. He was rude and disrespectful to both of us.
11. We had also seen dogs roaming around Nuffield Avenue, Savage Crescent and Williams Street and saw a dog of similar size and color to Oma that day.

Both Paul and I acknowledge that the contents of this letter are both true and correct.

Yours sincerely,



Mr and Mrs Paul and Bev McKie
02041761482



To Whom it may Concern

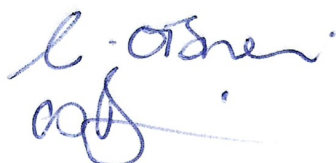
We are neighbours of Ken Newton 36 Rutherford rd. We have been at this address for 43yrs . Ken also been our neighbour for many years .Oma his dog was always well behaved and never been a nuisance dog, we admired Ken always getting up early in the mornings and taking Oma for a run, Weather rainin or not. Oma has never come across as been aggressive dog and very obedient to Kens comands.

There was last year a complaint regards to a nuiance dog by a Neighbour over the back of us saying it may be Kens dog. This was followed up by a dog ranger visit, Also with letters posted neighbours with their concerns. When dog ranger called to Ken I approached him and pointed out to where this nuisace dogs barking was coming from, which was not Kens dog Oma but th Neighbours on the other side was their dog. I myself was going Complain about its constant barking. Oma has never been a Nuisance dog,I hope this may help with your Judgement with Oma as she is a very loyal and abedient dog also Ken as a Own Cares very well with his dog.

Kind regards

Chris & Colleen O'Brien

Ph 0276983077



12/05/21

Thursday 4th March 2021

Re: Oma the dog

To Whom It May Concern,

I am writing this letter in support of Oma – the dog and Wikitoria Mitai – my mum. I have known Oma for a few years. Firstly, while she was at her previous place of residence, when she would walk around with her owner, and then got to know her even better over the year that she has been living at Williams St with my mum.

Oma is an obedient dog, and despite her size has always been gentle. I've visited Williams St numerous times with friends and children and have never once felt threatened by her nor felt unsafe. Oma tolerates children whacking her, pulling at her ears and tails, sitting on her and all other things that children do while exploring their environment. I have never seen Oma aggressive and all she does when this gets too much for her is move somewhere else to relax. Oma is a very slow dog, that loves lounging around. I trust Oma and have left children in my care around her unsupervised, without worry.

Oma is a well trained dog, that listens without needing to raise your voice, knows her boundaries and understands Māori. I have only heard Oma bark as people walk towards the main gate to the property or linger at the end of the driveway – much like every other dog. She stops barking once the person has moved on, or she is told "turituri".

Oma is not a nuisance, not aggressive, not dangerous! She is the complete opposite and deserves to spend the rest of her natural life being treated like the beautiful dog she is in the comfort of her home with her family.

Having previously lived at the same address for nearly 20 years, I am fully aware of how "rough" the neighbourhood has become over the past few years. I often worry about my mum's safety, especially living alone and felt at peace knowing that Oma has been there, not just for security but also as a companion. I have seen the toll this whole ordeal has taken on my mum and hope that it is resolved as swiftly as possible. It has been a very unsettling experience for her.

I am extremely sorry to hear that a jogger was attacked but I don't believe it was Oma – because it's so out of character for her. I know there are many stray, roaming and menacing dogs within this neighbourhood. While living at Williams St, I've been cornered in the driveway by 3 different dogs on separate occasions. At almost any given time, you will see stray dogs around the Williams, Savage, Nash, Ward St and sometimes Nuffield Ave areas. If by unlikely chance it was Oma that did do such a thing, I know my mum would take full responsibility otherwise there is a dog that has attacked someone that is still roaming the streets. My mum is a responsible dog carer and it's disturbing that on this particular day the gate was open, as we've always been so cautious to secure it – if not locked then definitely closed and latched.

I do hope the jogger has healed both physically and mentally – I've been bitten by a dog as a child – climbing over my friends fence, and I can empathise with what the woman may be experiencing following such an incident. I also hope this case is settled soon, it's not fair (for everyone involved) that it's been dragged out for a month! It's a little disappointing to hear how this has been handled and when Oma returns home, I know that she will need a lot of rehabilitation to feel safe and secure again. I trust that this will be resolved soon.

Sincerely,

Thu Tran
0277582994

Thu Tran

Hearings Committee (Dog Hearing)**Submissions on behalf of Napier City Council in support of dangerous classification (Speaking Notes)****Introduction**

1. Ms Mitai has objected to her dog being classified as dangerous and has requested a hearing to determine her objection.
2. Ms Mitai is the owner of a female American Staffordshire cross aged 5 years.
3. Following a report of a dog attacking a jogger outside of Ms Mitai's property, an animal control officer, Kerry Reid, attended the property and was rushed by Oma on arrival, with Oma subsequently being impounded.
4. Ms Mitai was not convicted for the attack on the jogger, as the judge was highly suspicious but not certain that Oma was responsible for the attack on the jogger.
5. We are not here today to re-litigate the prosecution for the attack, it is the classification of Oma as a dangerous dog. They are two entirely separate matters considering completely different questions. They both involve the same dog but that is where the similarities end.
6. The dangerous classification under s 31 of the Dog Control Act is based on Mr Reid's sworn evidence from when he attended the property and was rushed by Oma. There is no dispute that Oma was the dog responsible for rushing as Mr Reid impounded her immediately afterwards.
7. As Ms Mitai has objected to the dangerous classification and today's hearing is to consider her objection.

Background

8. The hearing report provides the background to the dangerous classification.
9. Mr Reid's affidavit sets out that on 5 February 2021 at approximately 6:15pm, he attended 32 Williams Street. Mr Reid was rushed by Oma but managed to fend her off and get back to his vehicle. He subsequently impounded Oma.

10. Mr Reid's affidavit refers to other occasions when Oma has shown aggression to other Animal Control Officers and vets, and gives the opinion that Oma is a dangerous dog that poses a risk to members of the public and other dogs.
11. In addition to Mr Reid's affidavit, there is the sworn evidence from the prosecution where Mr Reid gave evidence about how aggressive Oma was. While the prosecution was unsuccessful because the judge was not certain, he was only highly suspicious, the evidence relating Mr Reid impounding Oma is relevant to the dangerous classification.
12. On 1 March 2022, Oma was classified as a dangerous dog by Council. Ms Mitai has subsequently objected to the classification. Mr Carter has attempted to make an issue out of Oma not being classified dangerous earlier, or further charges not being laid. Council has a responsibility to follow prosecution guidelines, and it isn't appropriate to lay 10 charges for every dog it picks up. Similarly, classifying a dog before a prosecution is finalised is pointless and prejudicial to any result in the case. They are cute arguments from Mr Carter for arguments sake, but without any foundation.

Legal framework

13. Section 31 of the Act provides Council with the basis for classifying a dog as dangerous.
14. Council classified Oma as dangerous under s 31(1)(b) of the Act on the basis that it had sworn evidence attesting to the aggressive behaviour of the dog, and that it had reasonable grounds to believe that she constitutes a threat to the safety of any person or domestic animal.
15. Section 31 is worded in mandatory terms, Council must classify a dog as dangerous if it has sworn evidence attesting to the aggressive behaviour of the dog, and that it had reasonable grounds to believe that it constitutes a threat to the safety of any person or domestic animal.
16. Section 31(3) of the Act provides the basis for an owner to object to the dangerous classification. Ms Mitai has objected, as she is entitled to do so, under s 31(3).
17. For the purposes of this hearing, section 31(4) is the crucial aspect as it sets out the factors that the committee shall have regard to when considering an objection and making its determination.

18. When considering the objection, the committee may uphold or rescind the classification.
19. The effect of classification as dangerous is similar to menacing in that it requires the owner to muzzle the dog when it is at large or in a public place, but goes a step further and requires that the dog is kept within a securely fenced portion of the owner's property that it is not necessary to enter to obtain access to at least 1 door of any dwelling on the property. In this situation, the issue is that Oma has shown she is aggressive when she escapes, so keeping her confined is the important part.
20. Section 31(4) of the Act sets out the factors that the Committee must have regard to when making its determination. These are:
 - (a) The evidence which formed the basis for the original classification; and
 - (b) Any steps taken by the owner to prevent any threat to the safety of persons and animals; and
 - (c) The matters advanced in support of the objection; and
 - (d) Any other relevant matters
21. As the name suggests, the objects of Dog Control Act are to make better provision for the care and control of dog, and includes imposing obligations on the owners of dogs to ensure they do not endanger any person or animal. By placing obligations on owners, it ensures that the wider community is kept safe.

Evidence forming basis for the classification

22. The first factor is the basis for the dangerous classification.
23. As previously set out, the basis for the dangerous classification was Mr Reid's affidavit which refers to the initial rushing and other aggressive behaviour while impounded.
24. In addition to Mr Reid's affidavit, there is also his sworn evidence from the prosecution relation to when he impounded Oma. He describes having to fend off Oma and retreating to his vehicle, and that Oma is the most aggressive dog he has encountered. Mr Reid's evidence is that Oma was not confined to the property, that as the gate was open, and no dog was registered as living at the property, he felt obliged to impound her.

25. Mr Reid is an experienced and levelheaded ACO, and has set out in detail what has occurred.

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

26. Turning now to the steps taken by the owner to prevent any threat to the safety of any person or animals.
27. At page 20 we have the objection which doesn't mention any steps taken to prevent any threat to the safety of persons or animals.
28. Similarly, the dog owner's submissions focus on what they perceive to be issues with the photo montage process, and as previously discussed, we are not here today to re-litigate the identification process or the prosecution.
29. The submissions talk about the dog being walked, and kept behind a high gates. While a judge was only highly suspicious rather than certain that Oma was responsible for the attack on the jogger, there is no question that Oma was not confined when Mr Reid attended the property. That is consistent with the comments made from neighbours to Mr Reid about the dog biting people. There at least 3 occasions that Council is aware of where Oma has got out.
30. There are no steps put forward by Ms Mitai to prevent any threat, simply denials of responsibility and denials that there is an issue. It is difficult for the issue to be addressed if Ms Mitai is not prepared to take responsibility.
31. Mr Carter at paragraph 27 submits that the property already complies with the requirements for a dangerous dog. If that is the case, there is no harm in the dog being classified as dangerous.

The matters advanced in support of the objection;

32. Turning now to the matters advanced in support of the objection.
33. Mr Carter has made extensive references to Ms Mitai being acquitted. While the focus of this hearing is completely different to the prosecution, the committee is reminded that the criminal standard is beyond reasonable doubt, a very high standard, whereas under s 31, the threshold is reasonable grounds to believe the dog constitutes a threat to the safety of any person, domestic animal etc. The judge, due to the victim being

attacked from behind and not seeing where the dog came from, was only high suspicious rather than certain it was Oma. In any event, we are considering completely different events and factors today.

34. It is unclear why Mr Carter has questioned the validity of Mr Reid's investigation or his credibility. Mr Reid is an experienced and respected Animal Control Officer. The relevant events for this hearing are Mr Reid's rushing, the attack in the pound, and the aggressive behaviour witnessed in the pound over 391 days. It is delusional to suggest his evidence should be disregarded.
35. I will address later on the misleading and plainly incorrect submissions that Mr Carter has made in his submission. Mr Whyte also wishes to cover off the false claims in the submissions as well. It is ironic that Mr Carter relies on incorrect and misleading statements to allege Mr Reid is not credible. For example, he refers to the photos at pages 43-45 as photos from the day of the impounding when Oma was obese. Mr Whyte will address it later on, however, those photos are from 23 and 24 February 2021 when she had a severe uterus infection. While she is obese, and was the whole time she was impounded, the photos were taken from that angle to show the medical issue to a vet. Blood and excrement can be seen, she is very bloated as she was extremely unwell. The cage door was open because Oma required urgent medical treatment as she was so sick.
36. It is unfortunate, however, the photos provided by Mr Carter have been altered from the original. Whether it was intentional or not, the photos have been overexposed and the colouring of the dog (and the rest of the photo) is not correct.
37. The reason Oma is sitting down looking even more obese with the cage door open is because she was close to death and needed the Council to intervene to keep her alive. Ms Mitai refused treatment for her and Council needed the SPCA to treat her under the Animal Welfare Act.
38. All the comments about the dog being obese or not obese, Mr Whyte can explain, however, the heaviest Oma was in the pound was 51kgs, and the lightest was 45kgs. She was obese the whole time, the only thing that changed was whether her uterus was infected or the angle of the photo.
39. The suggestion that Animal Control Officers should film everything in the pound is short-sighted. The impounding records correspond with the statements of the Animal Control officers.

40. Mr Carter questions Mr Kale's evidence. Mr Kale has experience at the SPCA prior to becoming an ACO, it is an unsubstantiated and unhelpful submission without any basis.
41. Mr Carter accepts Mr Whyte's evidence, as previously stated, she was always obese, it was just the level of infection that made it look worse and photos taken for the vet.
42. The video evidence shows how aggressive Oma is. Ken was advised not to take her back but refused. You can see Oma being walked back to her Kennel by her owner, a big man she was familiar with, but he could not control her and she attacks a dog in a cage. You can imagine what would have occurred in the street in public. There is no physical or verbal control. That illustrates why the dog presents a risk to the public.
43. While Mr Carter submits that the property is secure, Mr Reid being rushed, and two separate neighbours informing Mr Reid that Oma has escaped before and bitten people contradicts that claim.
44. It is blatantly incorrect and ignores reality for Mr Carter to say that the only evidence is the behaviour in the pound, and frankly insulting to the hardworking animal control team to suggest there is no other evidence.
45. All of Mr Carter's submission illustrate that Ms Mitai refuses to take her obligations as a dog owner seriously. Oma was not registered to the address, the gate was inadequate, Oma had been out before attacked people, Oma had been aggressive in the pound, and yet Ms Mitai still can't acknowledge that steps need to be taken to protect the public.

Any other relevant matters—

46. Turning now to the last factor, any other relevant matters.
47. In addition to Mr Reid's affidavit, and the sworn evidence from the prosecution, there are statements from 3 other animal control officers. All of them are here and more than happy to any questions from the committee, and all of them saw Oma most days she was in the pound for 391 days.
48. David Whyte, the Team Leader of the Animal Control Team. Mr Whyte's statement is at page 21, and his qualifications and experience speak for themselves. He was a police officer for 26 years, and spent 19 of those years as a Police Dog Handler. That role included Eastern District dog development officer with the responsibility of training

new puppies and handlers. He has received training NZ and international experts on K9 behaviour, including the types of aggression in dogs and the various drives. He regularly needed to assess the temperament of dogs. Quite clearly he is an expert in K9 behaviour and is able to give his opinion. Having observed Oma in the pound for an extended period, Mr Whyte agrees with Mr Reid's assessment of Oma as a dangerous dog. I will allow Mr Whyte to explain how he assessed Oma's temperament, however, in his expert opinion, after 391 days impounded and handling her most of those days, he concludes that Oma is a dangerous dog as she constitutes a threat to the community. While the team members were eventually able to handle her, he gives examples how Oma's reaction to any stranger is aggression attempting to attack them and drive them off.

49. Even when Oma was at the vets, she had to be sedated for treatment, and animal control staff were required to exercise her as the veterinarian staff were unable to handle her due to her attacking staff.
50. Mr Whyte provides some comments around the pound attack video. He explains that Mr Newton didn't follow staff instructions, and in order to prevent an escalation, staff allowed Mr Newton to walk her back to her kennel. Despite Luke Barton trying to act as a shield outside a particular dog's cage, as Mr Newton was walking Oma back, she attacked another dog through the wire. Mr Whyte explains that Ms Mitai and Mr Newton were unable to physically control Oma, and that Oma simply ignored Mr Newton's verbal commands.
51. As can be seen in the recent documents received from Ms Mitai, she seems incapable of acknowledging that she or Oma are to blame. She is very quick to point the finger at everyone else without accepting responsibility. This appears to be a common theme.
52. In addition to his affidavit, Mr Reid provided another statement providing more details in relation to the initial attack, rushing, and what the neighbours told him when he visited the property.
53. Luke Barton has also provided a statement. Again, he is an animal control officer that handled Oma most days she was impounded. He again says that she is the most dangerous dog he has ever handled. He gives examples of when she tried to attack him through the cage, and these incidents can be seen in the impounding records. Mr Barton is the Health and Safety Officer, responsible for educating and training staff in

how to read a dog's body language, how to interact and handle dogs. He says that special training had to be given to handle Oma, and her cage was padlocked to prevent new staff accidentally going into her cage. Mr Barton concludes by says that he believes Oma poses a very real risk to the safety of members of the public and other dogs in the community.

54. Finally, Simon Kale has provided a statement. Mr Kale worked for the SPCA for several years as an inspector prior to becoming an animal control officer. He sets out the aggression they faced with Oma, and what steps they had to take to handle Oma safely. He concludes that he believes it is in the interests of public safety for Oma to be classified as dangerous.

55. Video

Kerry/procedure

56. Mr Whyte is now going to explain his background, his assessment of Oma, and finally is going to clarify a few false statements that Ms Mitai has made in her objection.
57. There seems to be a few reoccurring themes in Ms Mitai's objection. It isn't at all relevant to the dangerous classification, however, Mr Carter has said numerous times that the photos of when Oma was very sick and bloated were taken when she was impounded. She was impounded weeks before the photos were taken, the photos were taken for a vet to show how bloated she was. The cage was open because was very sick and was bleeding everywhere due to her infection. The photos were taken from that angle for the vet to see.
58. Mr Carter attempts to criticise the photo montage process. Mr Carter attempts to say that the sick vet photos should be used. Clearly they are inappropriate, Oma was very sick, and it is very prejudicial to include photos that have a neutral background rather than a photo of a dog in a cage.
59. In terms of Mr Carter's submission about being obese, Oma was always obese, she just got slightly less obese during her stay, dropping from 51kgs to 45kgs under vet and MPI supervision.
60. Ms Mitai initially complained to the SPCA, howoever, did not make much progress as they were already involved as Ms Mitai refused to allow Oma to be treated by a vet so the Council needed to get her treatment under the Animal Welfare Act.

61. When Ms Mitai didn't have any luck with the SPCA she attempted to complain to MPI. MPI were invited down by Council. MPI's only comment was to have a vet oversee Oma's diet, and when that occurred, the vet agreed with the diet that Oma was already on.

Conclusion

62. In conclusion, Council has sworn evidence attesting to aggressive behaviour, with reasonable grounds to believe that Oma may constitute a threat to the safety of any person or domestic animal, being when Mr Reid was rushed and Oma was not properly confined to the property.
63. At that point, under s 31, Council must classify Oma as dangerous.
64. While Ms Mitai has filed an objection, as she is entitled to do, she has attempted to rely on irrelevant, and quite frankly, incorrect submissions. Ms Mitai seems incapable of accepting that Oma may pose a threat, and accordingly, hasn't taken any steps to prevent any threat. Accepting that Oma may pose a threat has to be the first step in ensuring there aren't further incidents.
65. Mr Carter has made a lot of noise, but again, hasn't addressed the factors in 31. There is no evidence presented to suggest, let alone prove, that Ms Mitai has taken any steps to prevent Oma being a threat.
66. The evidence from the ACOs, trained professionals, from impounding Oma through to handling her for 391 days overwhelming supports Mr Reid's initial assessment that Oma is a threat to the community, and must be classified as dangerous.
67. Taking a step back, the practical consequences of a dangerous classification are relatively minor, Ms Mitai simply needs to put a better latch on the gate, and if she ever takes Oma out, ensure that she is on a lead and muzzled. When that is weighed against the potential consequences of not classifying Oma, it overwhelming favours classifying Oma as dangerous.