



HEARINGS COMMITTEE (DOG HEARING) Open Minutes

Meeting Date: Thursday 26 May 2022

Time: 9.35am – 11.10am

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

Present Deputy Mayor Brosnan (In the Chair), Councillor Simpson,
Councillor Taylor

In Attendance Manager Regulatory Solutions (Rachael Bailey)
Team Leader Animal Control (David Whyte)
Animal Control Officer (Kerry Reid)
Animal Control Officer (Luke Burton)
Animal Control Officer (Simon Kale)

Also in Attendance Advocate for Napier City Council (Justin Cameron – Willis Legal)
Advocate for Wikitoria Mitai (James Carter –
James Carter Law) *[via Teams link]*
Wikitoria Mitai (Applicant)
Ken Newton (Joint owner of the dog)
Sally
Lilac
Fred

Administration Governance Advisor (Anna Eady)

Karakia

The meeting was opened with a karakia

Apologies

Nil

Conflicts of interest

Nil

AGENDA ITEMS

1. OBJECTION TO DANGEROUS CLASSIFICATION - WIKITORIA MITAI

Type of Report: Legal

Legal Reference: Dog Control Act 1996

Document ID: 1459972

Reporting Officer/s & Unit: Rachael Bailey, Manager Regulatory Solutions

1.1 Purpose of Report

The purpose of this report is to provide information on the dangerous dog classification under **s31(1)(b) of the Dog Control Act 1996 (the Act)**.

Prior to the meeting Mr Carter, the appellant's advocate, submitted documentation to support his submission (Doc ID: 1468668).

At the meeting

Council Officer's Report - Mr Justin Cameron, Associate, Willis Legal (Napier City Council Advocate), Rachael Horton (Manager Regulatory Solutions), and Mr David Whyte (Team Leader Animal Control)

Mr Cameron spoke to the incidents leading to the classification of Oma as a dangerous dog directly, noting that Council is obliged to follow the Solicitor General's guidelines not to overcharge. In this case Council brought a prosecution against Ms Mitai and Mr Newton as the owners of a dog that attacked a person first, and completed that process before formally classifying Oma as a Dangerous Dog, setting the Council Hearing process in motion.

It was also noted that Oma had shown aggression away from her owner's property which is why the Dangerous Classification has been imposed.

During the course of the Hearing Mr Carter raised an objection to the Hearing continuing as he was not aware Council's advocate was going to be physically present at the Hearing. He had attended the Hearing virtually which meant it was difficult to confer with his client. He requested an adjournment to allow him to travel to Napier which the Chair denied. The Committee provided Ms Matai the means to talk to Mr Carter in private as required.

In response to questions from the Committee it was clarified

- Mr Whyte, Team Leader Animal Control, has been accepted as a dog behavioural expert witness in past prosecutions of this nature by the Court, and he is also accepted as an expert by Mr Carter. He has worked at Napier City Council (NCC) in his current position for five years and prior to that he worked as a sworn Police Officer for 19 years, working as a Police Dog Handler. He was also the Eastern District Dog/Puppy Development Officer and is trained in canine behaviour, including types of aggression and drives in dogs.
 - Luke Burton, Animal Control Officer, has worked at NCC in his position for four and a half to five years. He has owned and handled dogs for 35 years. He is also a Health and Safety Officer and is in charge of Dog Safety education for the Hawke's Bay
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region, educating groups such as public servants, postal workers and schools, on dog safety.

- Simon Kale, Animal Control Officer, has worked at NCC in his position for four and a half years. He previously worked for the SPCA, beginning in 2012 and doing an SPCA Inspectors course in 2013, after which he worked as an Inspector. He then worked at Hastings District Council for two years as an Animal Control Officer, managing the kennels, which meant handling dogs in the kennels and looking after adoptions.

Meeting adjourned at 10.34am

Meeting reconvened at 11.05am

Through Mr Carter, Ms Mitai requested to withdraw her objection to the Dangerous Dog Classification, and in doing so accepted the Classification and its legal requirements. It was also accepted that the statements of NCC's Animal Control Officers were enough evidence to classify Oma as a Dangerous Dog under s31(1)(b) of the Dog Control Act 1996.

It was noted by Mr Carter that Oma had been in the NCC pound for a considerable amount of time, and Ms Mitai and Mr Newton had shown their dedication to her by visiting regularly. They would now like to move forward as responsible dog owners. The property where Oma will live is compliant for a dog classed as Dangerous with one exception, that being the lock on the gate. Oma has been neutered and microchipped. The only other requirement will be for her to be muzzled when she leaves the property.

The Chair acknowledged the withdrawal of the objection. It was acknowledged that this was a difficult situation, but the love for Oma from her owners was very evident through this process.

It was not necessary for the Officer's recommendation to be put to the vote.

ACTION: Governance to send Teams recording of Hearing to Mr Carter.

Officer's Recommendation

The Hearings Committee (Dog Hearing):

- a. Resolve to uphold the dangerous dog classification for Oma owned by Wikitoria Mitai on the basis of the evidence provided in this report.

Attachments

- 1 W Mitai - Additional Disclosures
- 2 NCC - Hearing Submissions Speaking Notes

The meeting closed with a karakia at 11.10am

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

Chairperson

Date of approval

