



NAPIER
CITY COUNCIL
Te Kaunihera o Ahuriri

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HEARINGS COMMITTEE (DOG HEARING)

Open Agenda

Meeting Date: Friday 22 August 2025

Time: 9.30am (Objection to Menacing Dog Classification)

Venue: Large Exhibition Hall
War Memorial Centre
Marine Parade
Napier

Committee Members **Chair:** Deputy Mayor Brosnan

Members rostered for this Hearing:
Councillors Chrystal and Taylor

Other Hearing Committee Members (*not rostered for this Hearing*)
Councillors Browne (Deputy Chair), Simpson and Tareha

Officer Responsible Executive Director City Strategy (Rachael Bailey)
Manager Regulatory Solutions (Luke Johnson)

Administration Governance Advisor (Carolyn Hunt)

2022-2025 TERMS OF REFERENCE – HEARINGS COMMITTEE

<i>Chairperson</i>	<i>Deputy Mayor Annette Brosnan</i>
<i>Deputy Chairperson</i>	<i>Councillor Hayley Browne</i>
<i>Membership</i>	<i>6 Councillors</i>
<i>Quorum</i>	<i>3</i>
<i>Meeting frequency</i>	<i>As required</i>
<i>Officer Responsible</i>	<i>Executive Director City Strategy</i>

Role

To conduct fair and effective Hearings and make determinations on a range of the Council's quasi-judicial functions under legislation (and other matters as referred to the Committee), and to make decisions on the appointment of Commissioners (both elected members and Independent Commissioners) to hear and determine Applications under the Resource Management Act 1991.

Delegations

The Hearings Committee is granted responsibility and full delegated authority of the Council to make final decisions of Council in line with its mandate and in accordance with legislative requirements. The Committee may decide to refer a matter to Council accompanied by recommendations where it deems the significance of the decision or its implications warrant it.

The Hearings Committee will hear and make determination on statutory and or regulatory matters under relevant legislation unless otherwise delegated by statute or Council, including (but without limitation):

1. District Plan:

- Hear and make determination on submissions and objections to the Napier City District Plan Review and any changes or variations proposed to that Plan.
 - The Committee may decide to refer the matter to Council accompanied by recommendations, in a situation where:
 - the District Plan will be significantly altered as a result of submissions,
 - any decision on the District Plan will have a significant impact outside the District Plan on other Council policies, particularly rating levels or fees and charges, and
 - the Council will need to consider making a variation or change to the District Plan.
2. Hear and make decisions on challenges to decisions made under delegated authority where legislation allows.
 3. Hear and decide Objections under the Dog Control Act.
 4. Hear and decide matters regarding drainage and works on private land under the Local Government Act 2002.
 5. Hear and decide matters under the Resource Management Act, specifically:
 - Hear and determine notified resource consent applications where a hearing is required;
 - Hear and decide any objections against certain decisions under s357 of the Act;
 - Make decisions on the appointment of Commissioners (both Elected Members and Independent Commissioners) to hear and determine applications for Resource Consent in accordance with the guidance criteria in these terms of reference;

- Make recommendations as to where commissioner costs may fall at the time of appointment, having considered s36 of the Act.

GUIDANCE CRITERIA FOR DELEGATIONS TO AND APPOINTMENT OF COMMISSIONERS

Each member of the Hearings Committee that is responsible for Resource Management Act 1991 matters shall, if that member is accredited under this Act, be deemed for the purposes of this delegation to be a Hearings Commissioner.

Guidance for appointment of Commissioners

1. The Hearing Committee may appoint one or more Hearings Commissioners, or elected members, to a hearings panel, and may delegate in accordance with section 34A of this Act the functions, powers and duties of the Council, in determining any matter, to that individual or panel.
2. The assignment shall be made having considered the relevant legislative guidance in section 34A of The Act.
3. The assignment shall be made having considered the General Criteria for Appointment of independent Hearings Commissioner(s) below.
4. The assignment shall be made having considered the recommendation by the Chairperson and the Director City Strategy or her/his nominee, in particular the skillset required to hear and decide the specific hearing issue(s).
5. The Hearings Committee shall meet to hear the appointment recommendations, decide and appoint commissioners. The committee will formalise the delegation of powers and functions under the Act in a formal decision of the committee at this time.
6. When appointing consideration should be given to any elected members experience and competency in relation to the hearing matter and may choose to pair an elected member with an independent commissioner to build skills and experience.

General Criteria for Appointment of independent Hearings Commissioner(s)

One or more independent Hearings Commissioners shall be recommended to consider any matter or to exercise the functions, powers and duties of the Council under the Resource Management Act 1991 in accordance with section 34A of this Act, when one or more of the following applies:

1. The Council is the applicant.
2. The organisation (applicant) is one in which the Council has a significant and/or pecuniary interest.
3. The project (application) is one in which the Council has a significant and/or pecuniary interest.
4. A valid request has been made under the Resource Management Act 1991 for a Commissioner to hear and determine the matter.
5. In the view of either the Council or the Chairperson or Deputy Chairperson of the Hearings Committee the subject of the hearing is highly political and elected members' objectivity in hearing or determining the matter would be compromised due to previous political and community debate.
6. In the view of either the Council or the Chairperson or Deputy Chairperson of the Hearings Committee, the highly complex and technical nature of the issues to be addressed in the hearing requires specific expertise. (Care is needed in this regard, as technical issues should always be discussed at the hearing in a manner that is understandable to the layperson.)
7. In the view of either the Council or the Chairperson or Deputy Chairperson of the Hearings Committee, the Hearings Committee has insufficient resources and/or time to hear the matter in a timely manner.

ORDER OF BUSINESS

Apologies

Nil

Conflicts of interest

Agenda items

- 1 Objection to Notice of a Menacing Classification 5

Public excluded – Disclosure Documents

AGENDA ITEMS

1. OBJECTION TO NOTICE OF A MENACING CLASSIFICATION

Type of Report:	Legal
Legal Reference:	Dog Control Act 1996
Document ID:	1868451
Reporting Officer/s & Unit:	Luke Johnson, Manager Regulatory Solutions

1.1 Purpose of Report

The purpose of this report is to provide information on the menacing dog classification under **s33(a) of the Dog Control Act 1996 (the Act)**.

Officer's Recommendation

The Hearings Committee (Dog Hearing):

- a. Resolve to uphold the menacing dog classification for Zeus owned by Amanda Moylan on the basis of the evidence provided in this report.

1.2 Background Summary

Owner: Amanda Moylan, owner number 332757
Dog: Zeus, male, Tan/Black Huntaway/Cross aged 9 years, ID 243678
Classification: Classified as menacing under s33(a) of the Act

Section 33a of the Dog Control Act allows a territorial authority to classify a dog as menacing if it considers the dog may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife due to observed or reported behaviour.

Council records show multiple reports of behaviour by Zeus whereby it is regarded reasonable to classify him as menacing. Three warnings have been issued to Mrs Moylan in relation to Zeus rushing postal workers in 2020 and twice in 2021. Two infringement notices have also been issued to Mrs Moylan in response to Zeus rushing an elderly lady and, in another incident, rushing two postal workers in 2022.

It is considered that this most recent incident could have been avoided, given Mrs Moylan's knowledge of Zeus's history with chasing and rushing, Zeus should have been appropriately secured on a lead rather than being given free access to a public area.

1.3 Legal Framework

Section 33 of the Act sets out the basis for classifying a dog as dangerous.

33 Territorial authority may classify dog as menacing

(1) This section applies to a dog that—

(a) has not been classified as a dangerous dog under [section 31](#); but

(b) a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of—

(i) any observed or reported behaviour of the dog; or

(ii) any characteristics typically associated with the dog's breed or type.

Mrs Moylan was served with a menacing dog notice of classification on or about 20 May 2025. (**Attachments 1 and 2: Attack Evaluation and Attack File**)

In accordance with s 33(B) of the Dog Control Act 1996, Mrs Moylan objected to the classification of Zeus in writing. Accordingly, Mrs Moylan is entitled to be heard in support of her objection.

S33B provides the legal framework for considering the objection. This report will cover each aspect.

33B Objection to classification of dog under section 33A

....

(2) The territorial authority considering an objection under subsection (1) may uphold or rescind the classification, and in making its determination must have regard to—

(a) the evidence which formed the basis for the classification; and

(b) any steps taken by the owner to prevent any threat to the safety of persons or animals; and

(c) the matters relied on in support of the objection; and

(d) any other relevant matters.

(a) Evidence forming the basis for the classification

The complainant has provided signed correspondence setting out an attack on her dog (Quip) by Zeus that occurred on 20 May 2025 at approximately 5:00pm outside a Greenmeadows property (known to be 152 York Street). The complainant struck Zeus with her foot a number of times to his torso and then attempted to pull Zeus away from Quip by the collar without success, indicating that Zeus was too strong and her efforts had no effect.

(Attachment 3: Correspondence from Victim).

The complainant's account of the incident indicates that two members of the public had also rendered assistance, stating one man had exited his vehicle and lifted Quip up into the air using his body to shield Quip from Zeus. The complainant's account of events suggests that Zeus continued to attempt to attack Quip however the man managed to successfully shield Quip using his body.

The complainant has detailed injuries sustained by Quip as being a cut above one of her eyes.

In addition to the correspondence provided by the complainant, Mrs Amanda Moylan, owner of Zeus has provided a written account of events stating that her dog Zeus had '*darted around her vehicle and jumped on a dog*' and that she '*quickly came over and pulled my dog off hers and put it behind my gate*'.

(Attachment 4: Correspondence Mrs Amanda Moylan).**(b) Any steps taken by the owner to prevent any threat to the safety of persons and animals;**

Mrs Moylan has not advised Council of any steps taken to prevent any threat to the safety of persons or animals. Mrs Moylan has indicated that previous incidents had involved Zeus 'chasing wheels' and she had subsequently contained Zeus and their other dog in another fenced area within their property away from the front gate. Mrs Moylan also outlines the efforts made to address Council's concerns with past incidents whereby she had also erected a solid gate so that Zeus could not see anyone walking past their property. Mrs Moylan has indicated that a usual practice would be for the dogs to be on a leash when exiting the property, however in this circumstance, she had failed to put Zeus on a leash given how close the car was to the front gate.

(Attachment 5: Objection to Menacing Dog Classification - Zeus).**(c) The matters advanced in support of the objection;**

Mrs Moylan's submission sets out one matter in support of the objection, being that Zeus had not bitten the complainant or her dog.

(d) Any other relevant matters—

Mike Clarke ACO has provided a statement with his assessment of the threat that Zeus poses. Mr Clarke's statement sets out In this case, there is sufficient reported behaviour to support classifying Zeus as menacing. The attack on the complainant's dog Quip, was entirely avoidable had Amanda Moylan secured Zeus on a lead before taking him to the driveway, where he had free access out to a public area. Given Amanda's awareness of Zeus's prior aggressive history, securing him on a lead would have been a prudent measure. Therefore, I recommend that Zeus be classified as menacing and that Amanda Moylan receive an infringement under Section 20(5) of the Dog Control Act 1996 for failure to comply with any bylaw authorized by this section.

David Whyte, Team Leader Animal Control supports the recommendation to classify Zeus as menacing as outlined within Mr Clarke's Attack Evaluation.

1.4 Attachments - Confidential Disclosure Documents – Under Separate Cover

- 1 Objector's Relevant Matter (Doc Id 1869898) [⇒](#)
- 2 Redacted - Attack Rating Evaluation (Doc Id 1869807)
- 3 Redacted - Attack File (Doc Id 1869258) [⇒](#)
- 4 Redacted - Correspondence from Complainant (Doc Id 1869255) [⇒](#)
- 5 Redacted - Correspondence Amanda Moylan (Doc Id 1869315)
- 6 Redacted - Objection to Dog Classification - Amanda Moylan (Doc Id 1869815)
- 7 Redacted - Health Records (Doc Id 1869171) [⇒](#)
- 8 Photos of Zeus (Doc Id 1869170)

Please note that some information has been redacted under Section 7(2)(a) of the Local Government Official Information and Meetings Act 1987 – that the privacy of natural persons should be protected