

## **Dog Control Act Hearing Panel DETERMINATIONS**

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**Date:** Wednesday 18 April 2018  
**Time:** 3pm  
**Venue:** Committee Room 1, Level 2, Civic Offices,  
53 Hereford Street, Christchurch

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**Present**

Chairperson	Councillor David East
Members	Community Board Member Tim Lindley Community Board Member Alexandra Davids

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**18 April 2018**

Mark Saunders  
Committee and Hearings Advisor  
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## Election of a Chair

It was resolved on the motion of Community Board Member Davids, seconded by Community Board Member Lindley that Councillor East be appointed Chairman of the Hearings Panel for the hearing scheduled for this date.

The objections were dealt with in the following order.

### 1. First Hearing – 3pm

Hearing of an objection to the classification pursuant to section 33A(1)(b)(i) of the Dog Control Act 1996 of two-and-a-half-year-old, black and tan, male Rottweiler dog named “Axel” as a menacing dog.

Refer page 3 below for determination.

### 2. Second Hearing – 4pm

Hearing of an objection to the classification pursuant to section 33A(1)(b)(i) of the Dog Control Act 1996 of two-year-old, black, male Staffordshire Bull Terrier dog named “Rogue” as a menacing dog.

Refer page 12 below for determination.

#### Resolution to Exclude the Public

The Hearings Panel resolved that at 4:01pm the resolution to exclude the public available at the hearings be adopted and the public were accordingly excluded from the second hearing, with the Objector, her support person and the Victim resolved to remain after the public had been excluded to assist the Hearings Panel by giving their evidence and making their submissions.

Reason for passing this resolution: good reason to withhold exists under section 7.  
Specific grounds under section 48(1) for the passing of this resolution: Section 48(1)(a)

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public are as follows:

SECTION	SUBCLAUSE AND REASON UNDER THE ACT	PLAIN ENGLISH REASON	WHEN REPORTS CAN BE RELEASED
S6(b), S7(2)(a), S7(2)(d)	Personal safety, Protection of privacy of natural persons, Protection of health or safety of individuals	To protect the safety and privacy of persons giving evidence who are vulnerable to being improperly targeted or otherwise unfairly dissuaded from participating in a quasi-judicial process.	Upon the Chief Executive being satisfied that there are no longer grounds for withholding the information.

Community Board Member Davids/Community Board Member Lindley

**Carried**

The public were re-admitted to the hearings at 4:45pm at which time the hearings concluded, with the decisions reserved.

BEFORE THE HEARINGS PANEL  
OF THE CHRISTCHURCH CITY COUNCIL

18/447518

IN THE MATTER

of the Dog Control Act 1996

A N D

IN THE MATTER

of an objection of ZANE ROGER HAYES of  
Christchurch to the classification by the  
Christchurch City Council Animal Management  
Team under Section 33A(1)(b)(i) of his two-and-a-  
half year old, male, black and tan coloured,  
Rottweiler dog named 'Axel' as a 'menacing' dog

Hearing: Committee Room 2, Level 2, Civic Offices  
53 Hereford Street, Christchurch  
18 April 2018 at 3pm

Panel: Councillor David East (Chairman)  
Community Board Member Tim Lindley  
Community Board Member Alexandra Davids

Appearances  
for the Objector: Zane Hayes (Objector)  
for the Animal Management Team: (Complainant)  
Mark Vincent (Team Leader Animal Management)  
Jim Stokes (Investigating Animal Management Officer)

Determination: 4 May 2018

Hearings Advisor: Mark Saunders

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**DETERMINATION OF THE HEARINGS PANEL  
OF THE CHRISTCHURCH CITY COUNCIL**  
*(Dog Control Act 1996, section 33B)*

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**The classification is upheld**

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**REASONS OF THE HEARINGS PANEL**

## INTRODUCTION

[1] The hearing was held to consider an objection received from dog owner, Zane Hayes ('the Objector'), to the classification by the Christchurch City Council Animal Management Team under Section 33A(1)(b)(i) of the Dog Control Act 1996 ('the Act') of his two-and-a-half year old, male, black and tan coloured, Rottweiler dog named 'Axel' as a 'menacing' dog – which classification creates special obligations imposed on the dog owner by, and described within, Sections 33E-33F of the Act.

[2] Section 33A(1)(b)(i) of the Act, under which Axel was classified, relates to a dog that a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of an observed or reported behaviour of the dog. Under section 33A(2) of the Act a territorial authority may classify such a dog as 'menacing', and following a report that Axel had, on 29 December 2017, escaped its property by breaking through the neighbour's fence and has acted aggressively (rushed) towards a person ('the Complainant'), the Team Leader Animal Management under his delegated authority did so classify Axel as a 'menacing' dog by causing to be given to Mr Hayes notice of the classification and other prescribed matters, including his right to object to the classification under section 33B of the Act.

[3] Mr Hayes exercised his right to object to the classification of Axel as 'menacing' and in accordance with his right to be heard in support of his objection it was referred to the Hearings Panel of the Christchurch City Council as the body with the delegated authority to hear and determine the objection. The Hearings Panel on 18 April 2018 heard Mr Hayes's evidence and submissions, and also heard from other witnesses to the reported attack and from the Animal Management Team, having previously received a report from Mark Vincent, Team Leader Animal Management, together with the evidence collected by the Investigating Animal Management Officer, Jim Stokes, relating to the incident and classification.

[4] This report notifies the determination of the Hearings Panel that the classification of the Objector's dog, Axel, as 'menacing' is **upheld**, and the reasons for its determination in accordance with section 33B(3) of the Act.

## BACKGROUND

[5] On 29 December 2017 between approximately 7am and 8am, the Council received a complaint from the Complainant alleging that at approximately 7am that day, the Objector's Rottweiler dog had gotten onto his property and rushed at him aggressively.

[6] The Council's Animal Management Team investigated the complaint and on the evidence it gathered determined that the alleged rushing did occur; further, the Investigating Officer arrived at the property at approximately 8am that same morning and upon his arrival observed a Rottweiler dog at large rushing at and startling a pedestrian, endangering that person. The Rottweiler demonstrated more aggressive behaviour towards the Officer. The Officer determined that the Rottweiler that rushed the Complainant, the pedestrian and himself was the black and tan coloured, Rottweiler dog named 'Axel' owned by the Objector, Mr Hayes.

[7] The Council's Team Leader Animal Management, considered the evidence collated by the Investigating Animal Management Officer, and considered that he had sufficient evidence to prove that the dog has not been under effective control and has rushed at and posed a threat to a person and so with delegated authority, classified the Objector's dog, Axel, as 'menacing' in accordance with section

33A(1)(b)(i) of the Dog Control Act (which relates to a dog that a territorial authority considers may pose a threat because of an observed or reported behaviour of the dog).

[8] The Council received from the Objector, Mr Hayes, a formal objection to the classification of his dog, Axel, as 'menacing'. The objection triggered the appointment of a Hearings Panel to hear the objection with delegated authority to uphold or rescind the classification after having regard, pursuant to Section 33B(2) of the Act, to: (a) the evidence which formed the basis for the classification; (b) the steps taken by the owner to prevent any threat to the safety of persons or animals; (c) the matters relied on in support of the objection; and (d) any other relevant matters. The Hearings Panel had regard to these matters in reaching its determination as summarised in this report.

[9] The following report and assessment summarises a considerable volume of oral and written evidence and submissions presented to the Hearings Panel. It is not intended to be exhaustive in its scope, but rather to identify what were considered to be the salient comments.

## THE HEARING

### Submissions of the Animal Management Team

[10] Mark Vincent, Team Leader Animal Management, referred to his written report circulated prior to the hearing. In the report relevant extracts from the Dog Control Act 1996 were provided for the Hearings Panel's information and consideration.

[11] Mr Vincent summarised for the Hearings Panel the facts on which the decision to classify the Objector's dog as 'menacing' were based referring to his report and the attachments thereto. Mr Vincent referred to the formal statement provided by the Complainant.

[12] Mr Vincent summarised the facts of the central incident of 29 December 2017 and relevant background and his submissions as follows:

*My name is Mark Vincent, I'm the Team Leader of the Council animal management team for the Christchurch City Council and have been employed in this role for 42 years.*

*The investigating officer in this case was Jim Stokes, Jim has 15 years' experience in animal management for the city.*

*The officer's investigation report provides detailed information which was gathered and collated into a chronological order, this information formed the evidence leading up to the Council's decision to classify this dog.*

- The dog owner and objector to this menacing dog classification is Mr Zane Roger HAYES, who owns a 2.5 year old, Male, black and tan, Rottweiler dog called "Axel" and lives at [...].*
- On the 29<sup>th</sup> December 2017, at approximately 7.00 am, it's alleged that Mr Hayes Rottweiler dog escaped from its property at 4 Shaftesbury Street, broke through the neighbour's fence and acted aggressively towards the complainant in [alleged] breach of s57A of the Dog Control Act 1996.*

*There are 2 bundles of documents as follows:*

*First bundle of documents – refers to information relating to the dogs behaviour leading up to the menacing dog classification.*

- *Council received a complaint on 29th December 2017, from [the Complainant] stating that a Rottweiler dog rushed at him acting aggressively while the dog was on his property at [...], which was in [alleged] breach of s57A of the Dog Control Act 1996.*
- *The officer's investigation report shows that on the 29<sup>th</sup> December 2017, at approximately 8.00 am the officer arrived at [the property] to investigate the complaint above and upon his arrival observed a (Rottweiler) dog at large on [the street] rushing at and startling a pedestrian, endangering that person which was a [alleged] breach of s57A of the Dog Control Act 1996.*
  - *The officer made several attempts to capture and contain the dog to prevent serious harm from happening to other people, however, the dog demonstrated more aggressive behaviour towards the officer, who then contacted the owner to attend the scene to control and contain the dog, who arrived within 5 minutes and controlled the dog.*
- *As a result of this aggressive behaviour the Council [staff] considered this dog to posed a threat to any person, stock, poultry, domestic animal, or protected wildlife because of this observed behaviour classified the dog as menacing in accordance with s33A (1) (b) (i) of the Dog control Act 1996. This notice was served on 22 January 2018.*
- *The information dated 26 January 2018, refers to the dog owners formal objection to the menacing dog classification, which was received within the statutory timeframe of 14 days as provided by s33D (1) of the Act.*
- *The documents are letters dated 27 February 2018 and 20 March 2018 sent by [the Complainant] of his experience regarding this dogs aggressive behaviour.*

*Second bundle of documents refer to information relating to previous offending from this dog. This information was considered by the Team leader when determining the menacing dog classification.*

- *Complaint, received 18 March 2017, relating to alleged (uncontrolled dog rushing a person) on his property on [...] Hei Hei, in [alleged] breach of s57A of the Dog Control Act 1996.*
- *Complaint, received 15 March 2017, relating to an alleged wandering dog (uncontrolled dog in [Hei Hei]) in [alleged] breach of s52A of the Dog Control Act 1996.*
- *Complaint, received 9 March 2017, relating to an alleged wandering (uncontrolled dog came through fence) in [alleged] breach of s52A of the Dog Control Act 1996.*
- *Complaint, received 31 January 2017, relating to an alleged dog rushing (uncontrolled dog rushing at a people) in [Hei Hei], in [alleged] breach of s57A of the Dog Control Act 1996.*
- *Complaint, received 1 June 2016, relating to an alleged dog wandering (uncontrolled around [Hei Hei]) in [alleged] breach of s52A of the Dog Control Act 1996.*

- *Complaint, received 22 April 2016, relating to an alleged dog wandering (uncontrolled dog in [Hei Hei]) in [alleged] breach of s52A of the Dog Control Act 1996.*
- *Complaint, received 4 August 2015, relating to an alleged dog attack (uncontrolled dog outside Racecourse hotel) in [alleged] breach of s57A of the Dog Control Act 1996.*

**Council [staff] submission**

- *Council [staff] submit this dog's aggressive behaviour displayed to [the Complainant] was in the **middle to low range** of offending, in that dog demonstrated aggression towards a person requiring that person to seek refuge inside his own house to avoid being attacked.*
- *Council [staff] submit this dog's aggressive behaviour displayed to a pedestrian was in the **middle to low range** of offending, in that dog demonstrated aggression towards a person requiring that person to back off and seek owners intervention.*
- *Council [staff] **did consider a dangerous dog classification** as an option, however, it was accepted that a menacing dog classification was more appropriate, given the co-operation by the dog owner.*
- *Council [staff] submit that the dog must wear a muzzle in accordance with section 33E of the Dog Control Act 1996 to prevent any chance of injury to any person or domestic animal and that the dog must be controlled.*
- *Council [staff] submit that the dog owner **did not take all reasonable** steps to ensure that the dog did not injure, endanger, or cause distress to any **person**, stock, poultry, domestic animal or protected wildlife, and this is a [alleged] breach of section 57A of the Dog Control Act 1996.*
- *Council [staff] submit that the hearings panel should **CONFIRM** the notice classifying this dog as menacing.*

[13] At the hearing, Mr Vincent indicated in respect of the previous complaints, and in particular in relation to a similar one relating to Axel being uncontrolled and rushing a person, that Axel had not been classified as a result of that incident because the Objector had negotiated to repair the rotten fence at that different property that had allowed Axel to escape, which was judged satisfactory in all the circumstances to avoid classification at that time.

[14] However, on the occasion of this incident, the Team Leader Animal Management confirmed classification of Axel as 'menacing' as appropriate and proportionate, though the Hearings Panel undertook to be open-minded and to form its own view having regard to the matters set out in Section 33B(2) of the Act as described further below.

**Evidence of the Complainant**

[15] Prior to the hearing, the Complainant had provided written statements dated 29 December 2017, 27 February 2018, and 20 March 2018 relating to the incident of 29 December 2017, which had assisted the Animal Management Team in their investigation and in summarising the facts as above, and which the Panel had opportunity to consider.

[16] At the hearing, the Complainant in describing the incident on the morning of 29 December 2017, confirmed in response to the Panel's queries that though the Objector has three dogs, he is absolutely, one hundred percent, sure that the dog that rushed him was the dog that has been classified, Axel.

[17] The Complainant described how as soon as he opened the door to go outside his house, the dog came at him aggressively and he shut the door just in time before picking up a broom to chase the dog away. The Complainant indicated concern that the dog was going to break his window, and so went out to chase the dog and the Objector's other dogs off his property with the broom, and then retreated inside concerned at the risk to himself and called 111, who put him through to the Animal Management Team at the Council. While an Officer was on route, the Complainant indicated he went outside again to block up a new hole the fence the Objector's dogs had made and were getting through and again tried to chase them off with the broom as they continued to bark at the door and window. The Complainant then felt forced to retreat back inside his house again. From then the Investigating Animal Management Officer arrived who contacted the Objector, who then also arrived.

[18] The Complainant indicated that he is very afraid of the dog causing harm to his grandchildren particularly.

#### **Evidence of the Investigating Animal Management Officer**

[19] The Investigating Officer indicated that when he attended the scene he saw two dogs at large, and observed the black and tan Rottweiler subsequently classified (Axel) chasing a person down the street, and as he pulled up, Axel came charging at his vehicle door and so he couldn't get out of his vehicle initially. The Investigating Officer indicated that he eventually managed to get out of his vehicle but had to keep fighting with Axel and rang the Objector to assist with restraining Axel. The Objector arrived within five minutes and put Axel away. The Officer indicated observing another smaller Rottweiler hanging around, but indicated that the smaller Rottweiler was just young and silly and not doing anything when observed by the Officer.

#### **The Objector**

##### **Evidence and Submissions of Zane Hayes**

[20] At the hearing the Objector gave evidence that he has three dogs, two male, and one female, and at the time of the incident the female was in heat affecting Axel's behaviour at the time, but he had since been neutered. The Objector further alleged that the Complainant had at times aggravated his dogs by throwing gold balls over the fence, and when he (the Objector) first moved into the property he had approached the Complainant about addressing the rotten fence between their properties but the Complainant had indicated a lack of funds to contribute.

[21] The Objector indicated that Axel is a good, gentle dog when people leave him alone, and he is good with children and the Objector's grandchildren ride him like a horse. The Objector indicated that Axel can be naughty but is a big softy. The Objector further indicated that he has long experience owning Rottweilers and Axel has quieted right down since being neutered and is a completely different dog now.

[22] The Objector indicated that Axel only got through the fence because it is rotten, and he has taken steps to prevent Axel getting through the fence again effectively creating a secure dog run that no dog could burst out of. The Objector indicated that when he is home his dogs are contained in his workshop, and they can't get through the fence where they did previously, and when he (or another person in charge) is not home, his dogs are caged in, unless it is raining, in which case they are inside the house.

**Reply from the Animal Management Team and from the Complainant**

[23] The Investigating Officer confirmed that the Objector has appropriate cages in his backyard, but the problem at the time of the incident was that Axel was not caged.

[24] Having heard from the Objector, the Complainant suggested that the Objector's dogs get out to the front of his property and bark at people, and the fence has only been patch fixed in the relevant place.

**Close of Hearing**

[25] The Hearings Panel considered that it had all the information it needed to have regard to under section 33B(2) of the Act after considering the evidence, information and submissions available to it.

[26] The Hearings Panel closed the hearing and reserved its decision.

**PANEL DELIBERATIONS**

**The evidence which formed the basis for the classification**

[27] The evidence which formed the basis for the classification was not in the Panel's view in any doubt with regard to it supporting the assessment that Axel aggressively rushed the Complainant, a pedestrian and the Investigating Officer on the day of the incident and thus may pose a threat to persons.

[28] The evidence suggested to the Hearings Panel that the incident resulted from Axel not being kept under control and that Axel could endanger persons again if again not kept under control. The evidence suggested that Axel had an apparent propensity to such rushing behaviour in some circumstances as demonstrated by the incident that led to the classification and by the previous incidents.

[29] The Hearings Panel, having regard to the evidence which formed the basis for the classification of Axel as 'menacing', considered that it was sufficient to form the basis for the Animal Management Team's classification, recognising that it would proceed to consider Mr Hayes's evidence and his submissions in support of his objection to the classification.

**Steps taken to prevent any threat to the safety of persons or animals**

[30] It was not doubted that the Objector, Mr Hayes, had the cages and thus capacity to contain Axel, and recognised some intent in the Objector to take more care in containing Axel, but the Panel having weighed the evidence lacked confidence in Axel being always contained and though they considered the neutering of Axel and the testimony as to the change it had caused in his behaviour as being factors in favour of the Objector's objection, they nonetheless regarded that the steps taken to prevent further threat were underwhelming and insufficient in all the circumstances to persuade them to rescind the classification judging that a threat remained.

[31] The Hearings Panel considered that the incident demonstrated that Mr Hayes did not have Axel under effective control at the time of the incident to prevent it, and considered that reasonable steps to prevent any threat were not taken. The Panel acknowledged that it may be that Mr Hayes will from now on contain Axel, but it had to have regard to the objects and provisions of the Act, the nature of the incident and the potential endangerment to the complainant, the pedestrian and the Officer, and the need to

address the threat. It recognised the difficulty in constantly controlling a dog that displays such a tendency to act threateningly, and the menace it presents when un-muzzled.

[32] In light of these various considerations speaking to the fact that Axel is a potential threat, the Hearing Panel considered that the steps taken by the Objector were not sufficient in all the circumstances of this case to persuade it to rescind the classification.

#### **Matters relied on in support of the objection**

[33] The Hearings Panel had regard to the matters relied on in support of the objection, giving consideration to the Objector's assertion that Axel is a good, gentle dog and good with children, though had some concern about Axel's stated interactions with the Objector's grandchildren, ready to believe that they have been positive to date, but perceiving that Axel as much as any dog could endanger children, and would suggest that young children should always be supervised around any dog, especially around a dog as large as Axel, even putting aside that Axel clearly had potential to frighten and endanger.

[34] The Objector lacked appropriate appreciation in the Panel's perception of the seriousness of the matter, and the right of the Complainant to not be aggressively confronted by his dog. The Objector seemed to fail to foresee the harm of a dog that presents as frightening in that it may at least cause a person to fall backward in retreat and suffer injury or to retreat into traffic and suffer injury. The Panel regarded that the threat Axel may pose potentially goes beyond merely frightening people, but were altogether disappointed and unimpressed that the Objector failed to demonstrate a more responsible safety consciousness and greater consideration that people should be entitled to not be frightened (reasonably) and endangered by his dog.

[35] The Hearings Panel appreciated the Objector's submissions, but for reasons already canvassed above considered that they should not rescind the classification on the basis of those submissions all things considered. The Hearings Panel perceived that Axel had demonstrated a capacity for endangering people unprovoked. The Hearings Panel considered that in light of the central incident, and the circumstances and history, the classification should be in place, noting that it is a preventative measure, and is not intended to be punitive, as the Hearings Panel was encouraged by the Objector's efforts to contain Axel, but regarded that it should nonetheless uphold the classification having regard to the object of the Act to impose on dog owners obligations designed to ensure that dogs do not injure, endanger, or cause distress to any person, stock, poultry, domestic animal or protected wildlife.


#### **Other relevant matters**

[36] The Hearings Panel had regard to the evidence as a whole and considered that it had all the information it needed to have regard to under section 33B(2) of the Act. The Hearings Panel noted that every objection to a menacing dog classification is considered on its own merits and having regard to the circumstances particular to the case. The Hearings Panel, having regard to all relevant matters, considered that upholding, and not rescinding, the classification would be justified by the evidence and submissions and would align with the objects of the Act.

**RESULT**

[37] Having considered the objection of Mr Hayes to the classification of his dog, Axel, as a 'menacing' dog, together with the evidence and submissions of those who have written to the Council and/or appeared before the Hearings Panel, and having regard to the matters contained within the Dog Control Act 1996 and referred to in section 33B(2) of the Act, it is determined that the classification of Mr Hayes's two-and-a-half year old, male, black and tan coloured, Rottweiler dog named 'Axel' as a 'menacing' dog be **upheld** for the reasons indicated herein and for the reason that the Hearings Panel considers that the dog may pose a threat because of the reported behaviour of the dog.

**CONFIRMED THIS 4<sup>TH</sup> DAY OF MAY 2018**



**COUNCILLOR DAVID EAST  
CHAIRMAN**

BEFORE THE HEARINGS PANEL  
OF THE CHRISTCHURCH CITY COUNCIL

18/429817

IN THE MATTER

of the Dog Control Act 1996

A N D

IN THE MATTER

of an objection of X of Christchurch to the classification by the Christchurch City Council Animal Management Team under Section 33A(1)(b)(i) of her two year old, male, black coloured, Staffordshire Bull Terrier dog named 'Rogue' as a 'menacing' dog

Hearing: Committee Room 1, Level 2, Civic Offices  
53 Hereford Street, Christchurch  
18 April 2018 at 4pm

Panel: Councillor David East (Chairman)  
Community Board Member Tim Lindley  
Community Board Member Alexandra Davids

Appearances

for the Objector: (Objector)  
(Objector's Support Person)

for the Animal Management Team: (Victim)  
Bill Kohi (Senior Animal Management Officer)  
Sean Quinn (Investigating Animal Management Officer)

Determination: 30 April 2018

Hearings Advisor: Mark Saunders

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**DETERMINATION OF THE HEARINGS PANEL  
OF THE CHRISTCHURCH CITY COUNCIL**  
*(Dog Control Act 1996, section 33B)*

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**The classification is rescinded**

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**REASONS OF THE HEARINGS PANEL**

## INTRODUCTION

[1] The hearing was held to consider an objection received from the dog owner ('the Objector'), to the classification by the Christchurch City Council Animal Management Team under Section 33A(1)(b)(i) of the Dog Control Act 1996 ('the Act') of her two year old, male, black coloured, Staffordshire Bull Terrier dog named 'Rogue' as a 'menacing' dog – which classification creates special obligations imposed on the dog owner by, and described within, Sections 33E-33F of the Act.

[2] Section 33A(1)(b)(i) of the Act, under which Rogue was classified, relates to a dog that a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of an observed or reported behaviour of the dog. Under section 33A(2) of the Act a territorial authority may classify such a dog as 'menacing', and following a report that Rogue had, on 12 February 2018, attacked another dog (belonging to 'the Victim', and also bitten a further dog drawn into the incident as being walked by the Victim at the same time), the Senior Animal Management Officer under his delegated authority did so classify Rogue as a 'menacing' dog by causing to be given to the Objector notice of the classification and other prescribed matters, including her right to object to the classification under section 33B of the Act.

[3] The Objector exercised her right to object to the classification of Rogue as 'menacing' and in accordance with her right to be heard in support of her objection it was referred to the Hearings Panel of the Christchurch City Council as the body with the delegated authority to hear and determine the objection.

[4] The Hearings Panel on 18 April 2018 heard the Objector's evidence and submissions, and also heard from the Victim as the other key witness to the reported attack, and from the Animal Management Team, having previously received a report from Bill Kohi, Senior Animal Management Officer, together with the evidence collected by the Investigating Animal Management Officers, relating to the incident and classification.

[5] This report notifies the determination of the Hearings Panel that the classification of the Objector's dog, Rogue, as 'menacing' is **rescinded**, and the reasons for its determination in accordance with section 33B(3) of the Act.

## BACKGROUND

[6] On 15 February 2018 at approximately 12pm, the Council received a complaint from the Victim alleging that at approximately 10:30am on 12 February 2018 a dog had attacked her dog and another dog she was also walking at the time.

[7] The Council's Animal Management Team investigated the Victim's complaint and on the evidence it gathered determined that the alleged dog attack did occur. They further determined that the dog that attacked the Victim's dog (and the other dog she was charge of at the time) was the black coloured, Staffordshire Bull Terrier dog named 'Rogue' owned by the Objector.

[8] Photographs on file depict the injuries to the Victim's dog (and the other dog she was in charge of at the time) as a result of the dog attack.

[9] The Council's Senior Animal Management Officer considered the evidence collated by the Investigating Animal Management Officer and concluded that he had reason to classify Rogue as 'menacing' in accordance with section 33A(1)(b)(i) of the Dog Control Act, and so, with delegated authority, he did so classify the Objector's dog, Rogue, as 'menacing' in accordance with that section of the Act (which relates to a dog that a territorial authority considers may pose a threat because of an observed or reported behaviour of the dog).

[10] On 14 March 2018, the Council received from the Objector a formal objection to the classification of her dog, Rogue, as 'menacing'. The objection triggered the appointment of a Hearings Panel to hear the objection with delegated authority to uphold or rescind the classification after having regard, pursuant to Section 33B(2) of the Act, to: (a) the evidence which formed the basis for the classification; (b) the steps taken by the owner to prevent any threat to the safety of persons or animals; (c) the matters relied on in support of the objection; and (d) any other relevant matters. The Hearings Panel had regard to these matters in reaching its determination as summarised in this report.

[11] The following report and assessment summarises a considerable volume of oral and written evidence and submissions presented to the Hearings Panel. It is not intended to be exhaustive in its scope, but rather to identify what were considered to be the salient comments.

## **THE HEARING**

### **Submissions of the Animal Management Team**

[12] Bill Kohi, Senior Animal Management Officer, referred to his written report circulated prior to the hearing. In the report relevant extracts from the Dog Control Act 1996 were provided for the Hearings Panel's information and consideration.

- Objects of the Act (Section 4)
- Obligations of Dog Owners (Section 5)
- Functions, duties and powers of territorial authorities (Section 6)
- Territorial authority may classify dog as menacing (Section 33A)
- Objection to classification of dog under section 33A (Section 33B)
- Effect of classification as menacing dog (Section 33E)
- Offence to fail to comply with section 33E(1) or Section 33EB (Section 33EC)

[13] Mr Kohi summarised for the Hearings Panel the facts on which the decision to classify the Objector's dog as 'menacing' were based referring to his report and the attachments thereto. Mr Kohi referred to the formal statements provided by the Victim and the Objector and to the photographs provided of the injuries to the Victim's dogs and the corresponding veterinary records.

[14] Mr Kohi summarised the facts of the central incident of 12 February 2018 as follows:

*The Christchurch City Council received a complaint from [the Victim] on Thursday 15<sup>th</sup> February 2018 reporting an incident that had occurred three days previously, on the 12<sup>th</sup> February 2018.*

*[The Victim] has reported that while she was exercising her dog at the Riccarton Park race course another dog has attacked and injured her dogs.*

*[The Victim] gave a formal statement to the investigating officers on Friday 16<sup>th</sup> February 2018.*

*[The Victim] was walking her 7 year old Shih Tzu dog called "Bella" and her daughters 6 year old Jack Russell called "Millie" around the inside ambulance track on the Riccarton Park race course. Both her dogs were on short leads.*

*She could see a lady about 100 metres ahead of her, coming towards her with three dogs. She has described the dogs as being Pit Bull, two being brindle or tan, one had white on its chest and the third was black.*

*The lady has appeared to leash her dogs when she has realised [the Victim] was ahead of her. Two of the dogs were successfully leashed but the black dog has run away from the owner towards [the Victim].*

*[The Victim] has seen the black dog running towards her and heard the lady owner yelling at the dog to come back. She was scared for her dogs and tried to pick them up off the ground but the black dog has been able to grab hold of her dog Bella by its shoulder. In the confusion the second dog, Millie has slipped her collar and has become involved in the commotion.*

*Both Bella and Millie have been injured in the attack.*

*The owner of the black dog has eventually secured her two leashed dogs by tethering them. She has then attempted to secure the black dog.*

*A man has appeared and assisted. He managed to separate the dogs but the black dog has circled around and attacked Millie again. The owner has then managed to get a lead on the dog and pulled it away.*

*The owner of the black dog has attempted to give [the Victim] her name and contact number but she admits that in the confusion she could only remember her [first] name. But the lady did come to the Hornby Vets and gave her details and credit card details to the vet.*

*[The Victim] has, with assistance from ground staff, taken her dogs to her car and transported her dogs to the Hornby Vets.*

*[The Victim] has acknowledged that all her vet charges had been met by [the Objector].*

*The owner of the dog [the Objector] agreed to give a formal statement to animal management officer Jim Stokes on the 22<sup>nd</sup> February 2018, she admitted to the incident and that her dogs were off leash. She has also agreed that the complainant's [Victim's] dogs were both leashed.*

*[The Objector] has seen her black dog Rogue circle the lady and her dogs, she has seen one of the small dogs slip its collar and that's when the fight began.*

*A man has run over to help and separated the dogs which has allowed her to get a leash on to Rogue.*

*She has given her details to the lady and asked if she could meet her at her vets.*

*[The Objector] has arranged for all the charges associated with the vet treatment to be charged to her credit card.*

[15] At the hearing, Mr Kohi read the above summary of the incident and his conclusion in his report to the Hearings Panel that:

*The investigating officer has completed a report which in my opinion supports the decision that the 2 year old, neutered male, Black, Staffordshire Bull Terrier called "Rogue", be classified as menacing in accordance with section 33A (1) (b)(i) of the Act.*

*There is no doubt that the dog has been at large in a public place, not under effective control and has attacked two other dogs causing moderate to serious injuries.*

*Accordingly, with the delegated authority given to me by the Christchurch City Council, the dog referred to above has been classified as menacing in accordance with section 33A (1) (b) (i) of the Dog Control Act 1996.*

[16] The Hearings Panel undertook to be open-minded and to form its own view of whether the menacing dog classification was and is still appropriate having regard to the matters set out in Section 33B(2) of the Act as described further below.

### **The Complainant**

#### **Evidence of the Victim**

[17] On 16 February 2018, the Victim provided a statement to the Investigating Animal Management Officer outlining the details of the attack, noted to have occurred on 12 February 2018 at approximately 10:30am at Riccarton Race Course, Ambulance Track.

[18] The Victim's statement describes the injuries to her dog, Bella, as a "puncture wound to left shoulder and left chest wall. Single staple. Meds", and the injuries to her daughter's dog, Millie, as "severe bite wounds – soft tissue trauma". The photographs provided of Bella's and Millie's injuries supported the description along with the veterinary records, which provide further validated corroboration.

[19] At the hearing, the Victim confirmed the accuracy of Mr Kohi's summary of the facts (copied in the previous section above), but added in respect of the man that came to her rescue at the time of the incident that he was yelling at the Objector that this was the second time this had happened with her dog.

[20] In the Victim's statement taken by the Investigating Officer, she noted in this respect that:

*...an unknown man appeared from behind me. I remember as he went down to take hold of the dog him saying I told you mate you've got to do something about your dog, this is the second time. The man has managed to get this dog off but it has circled round us again latched back on to Millie in the same place. He has quickly got it again and the owner put it on a lead...*

[21] The Victim further noted at the hearing that she was terrified, and suggested that if the man hadn't come along her dog could have been killed. The Victim indicated that she is now quite scared to walk her dogs and looks out to avoid the Objector and carries a stick now. The Victim thought Rogue would be safer muzzled, indicating that he was single-minded when he came at her dog. Though the Victim indicated that she knows the Objector was genuinely upset by the incident.

## The Objector

### Evidence and Submissions of the Objector

[22] The Objector's initial written objection to the classification of Rogue as a 'menacing' dog had advised that:

*I am objecting to the classification of a "menacing dog" pursuant to section 33B of the Dog Control Act 1996. I argue that the menacing dog classification of Rogue be rescinded. In making this objection, the territorial authority must consider: 33B2(a-d)*

- \* The evidence which formed the basis for the classification; and*
- \* Any steps taken by the owner to prevent any threat to the safety of persons or animals;*
- \* The matters relied on in support of the objection; and*
- \* Any other relevant matters.*

*First, I wish to show the evidence which formed the basis for Rogue's classification of a menacing dog. Pursuant to section 33ED(2) of the Dog Control Act, a territorial authority has the discretion not to classify a dog as menacing, pursuant to section 33A, if the territorial authority are satisfied that the circumstances of the attack were both:*

*Exceptional; and*

*Do not, in the territorial authority's opinion, justify classifying the dog as menacing.*

*I believe that the evidence that was before the dog control officer showed that the attack was both exceptional and did not justify classifying Rogue as menacing. The evidence before the dog control officer was:*

*I am 50 years old, and in my time I have owned two German Shepherds, two Boxers, a Fox Terrier and (currently) three English Staffordshire Bull Terriers. My three Staffy's are Psych (who is a 13 year old spayed girl), Harry (a 3-year-old neutered male), and Rogue (a 21-month old neutered Male). In all this time with the Christchurch City Council, the Waiamakiri District Council, and the Selwyn District Council, I have never had a complaint, my dogs have never been in a fight, and I've never had a visit from the Council; until now, of course; and in the next 50 years I can guarantee that the Council will not be visiting me again. I held the classification of Responsible Dog Owner, free access to the front door for visitors, back gate padlocked, have a license to have 3 dogs and all dogs are registered and microchipped.*

*On the day in question, the 12<sup>th</sup> Feb, I was out walking my three dogs at the Riccarton Racecourse. There are no leash restrictions or signs, so when no one is around, and there are no horses being worked, I usually let my dogs off the leash for a play. This is what happened on the 12<sup>th</sup> Feb. On this day, I saw a woman in a white shirt walking towards me, on the other side of a horse bush jump. I called my dogs, and while I was leashing two of my dogs, Rogue ran towards the woman. It was at this moment I realised that the woman had two small dogs on the lead. Rogue circled the woman and her dogs, and as he did, the Jack Russel slipped its collar, in a rare and one-off event, there was a fight. Rogue, being three-times the size, injured the poor Jack Russell. I was completely upfront and honest about who I was, and was wanting to help the woman and her dog. I gave her my name, phone number, and offered to meet her at the vet. While at the vet, in good faith, I offered my credit card*

*details to the vet. I never had any malicious intent, I never tried to run, and I certainly wasn't trying to buy my way out of the situation; I was doing what was right.*

*I blame myself for what has happened. I am a firm believer that dangerous/menacing dogs are born from bad owners. My long-standing record of being a responsible dog owner shows that I am not a bad dog owner, however, I will admit that on that day I had a lapse of judgment. I failed my dog. I had three dogs off the lead, and I was unable to properly control all three dogs.*

*My oldest dog, Psych, is a rescue dog. I got her at 18-months old, and at that age, she had already come with her own set of problems. With this in mind, I was conscious that any dog I got after Psych would be well bred, and NZKC registered. I specifically chose Rogue because of his recognised and accredited breeders; I was satisfied that the health and temperament were primary concerns of the breeder. Since a young puppy, he has had a lot of socialisation. He has been to two conformation ribbon parades; winning open dog twice. He was neutered at 6-months old; I did not want the behaviours associated with an entire dog. I did not wish to breed for love nor financial gain. He has also regularly attended dog obedience at the [Club].*

*Given that the territorial authority had this information in front of them when making their determination, I believe that Rogue has been unfairly labelled as menacing. This was blatantly an error on my part.*

*I did not see what caused the fight. However, it is also speculation to say that Rogue attacked first. It was only once the Russell slipped its collar that an incident happened. Again I stress having my pack off-lead caused this - a one-off event. An exceptional circumstance with no chance of it happening again. This behaviour is totally out of character for Rogue.*

*The Territorial Authority must also consider any steps taken by the owner to prevent any threat to the safety of persons or animals. Since the fight, I have learnt a valuable lesson. No longer are any of my dogs off-lead at the Racecourse - also when out with all 3 they remain totally on the lead. I have also started to regularly walk Rogue with my daughter's dog; in an attempt to socialise him further. Now I often keep the old dog at home and do small walks with her Only which leaves more control on-lead with the younger boys. I have also changed my dog obedience training techniques; because I recognise the great shortfall in his recall that happened on 12 Feb.*

*Rogue has been regularly trained five times a week, plus he attends obedience on Sunday's. I am now more realistic with my dogs, and the training has become harder on them. I am bringing in more distractions, incorporating distance and duration, and am slowly gaining firmer and more consistent control over my dogs.*

*Other matters supplied in support of this objection largely relate to the work I've put into obedience at the [Club]. A label of "menacing dog" would mean that I am unable to train and compete with Rogue. Obedience is something I pride myself on. Prior to starting, my dogs had basic training, In June 2017 I joined [the Club] I wanted to develop some more skills. Not long after, both Harry and Rogue passed the Domestic Obedience at the top of their class. At this point, I was hooked on training and wanted to further my knowledge and their abilities. I became a financial member and committed myself to the more advanced training sessions with a qualified instructor. This in itself is not an easy*

*task; I am a shift-worker [...], I am rostered on shifts so the [organisation] is covered 24/7. This means I often have to apply for annual leave to be able to attend not only the training sessions, but any subsequent competitions. This is something I am very passionate about and have Never missed a training session.*

*I am devastated and embarrassed that this situation has happened. I know mistakes happen, but it should never have happened to me. I am an experienced handler. My total outlook with dogs has always been exercise, training, exercise; rinse and repeat. My dogs are exercised at least six days a week. My two young boys often walk around the Halswell Quarry, on a leash. The path is narrow, and I always pull to one side when there are people passing. This is a habit, whether these people have dogs or not; I understand that not all people like dogs, just as I understand that not all dogs will get along. I try to minimise risk at every opportunity, and although I am not trying to devalue the situation at hand, I am trying to show that this is truly a one-off event.*

*I think it is relevant to also note the impact that this attack has had on myself. Although I went, in good faith, to the vet and gave them my credit card details, once I found out that the total bill was \$2,000 I quickly arranged an appointment with my bank to get a loan. I am by myself, with one income. I have two adult children and have a mortgage over my property. Although, I disregarded all of this, and quickly went with the woman to help her dog.*

*Championship Obedience shows and Ribbon Trials are what keep me motivated. They are a huge part of my life, and keep me busy after my adult-children have moved on with their lives. Rogue has tremendous potential in the obedience field, and the categorisation of a menacing dog means I am unable to pursue this any further. In these settings, where there are many more dogs, Rogue has never broken a command, nor has he growled or lunged at another dog. It is commonplace in the obedience ring for other dogs to break their commands and run around the other contestants during a stay routine. Rogue is not one of these dogs nor has he been reactive.*

*I compete in obedience championship shows. Rogue has won out of Elementary which puts both dogs into Beginners - I expect it will take me a year in this, needing 2 wins to move up to Novice and then Test A. These shows are nzkc point & penalty scored they consist of a number of phases.*

*1) Done Individually a heel pattern on a loose lead with a combination of right turns, left turns, about turns, sit. The same heel pattern repeated off lead. A recall (12 steps away from the dog) dog coming and sitting in front and then on command returning to heel position.*

*2) All dogs entered line up in number order for a sit stay and then a down stay which is leaving the dogs at 12 paces, turning and facing the dog at the level they are at this is for 2 minutes.*

*Championship shows are held everywhere and acknowledged with NZKC.*

*Dogs are competing in a flat collar only, no choker chain, no harness, no halti and no muzzles allowed the rules are very strict.*

*Rogue competed last weekend [...] show in a group of 14 dogs to gain 3rd placing. We are new to competition, Harry has had a 3rd in Elementary, ran second two days in a row at [...] show and 4th last weekend in beginners at a [...] show. Rogue has had a win in Elementary, 2nd and 3rd in Beginners - again at championship shows. I only ever take one dog to a show - therefore having full control. To date they have been consistently placed. My aim is to train and compete and at the end of day have the best dogs I can to the highest level they can obtain. Rogue has tremendous potential in the*

*obedience field who is probably the youngest out there at the moment and doing well against working breeds and much older dogs, getting wonderful comments from judges. This is a long term life choice. Never has he broken a command, never has he growled or lunged at another dog. Training is around all sorts of dogs, out of the comfort zone, recalling amongst a group. Having a dog sit, focused while others walk around. Rogue is a young dog that I can and will improve with constant training.*

*Please do not let my stupid mistake ruin this opportunity for Rogue and myself. I became complacent at the race-track and often overlooked some of the risks of walking a pack off-leash. This incident occurred because of my own mistake. Rogue is not dangerous. He is not menacing. His proven track record is evidence of this. His ability to socialise with other dogs is evidence of this. I believe the punishment of categorising Rogue as a menacing dog is detrimentally harsh in consideration of his crime. I came forward. I gave my details. I supported the woman and her dog. In the aftermath, I did everything right. And yet we are being punished. My dogs, and dog obedience mean everything to me. I go above and beyond the normal "pet owner" and certainly could not be described as a "menacing dog" owner.*

*In the alternative, it is submitted that conditions be placed on the categorisation of menacing dog. Pursuant to 33E (5), a dog does not need to be muzzled where the territorial authority considers the dog need not be muzzled in any specified circumstances (for example, at a dog show).*

*It is argued that if the menacing dog classification is not rescinded, that at least make it possible for me to be able to take Rogue to dog obedience classes and competition. Make it possible that I can continue taking Rogue to championship shows. Not being able to better my dog through training and competitions is counter-productive. I strive to better my dogs. \*I\* Made the mistake. If I lose this - I lose everything.*

*Thank you for your consideration. Please find enclosed a picture of the dog in question and ribbons my dogs have won.*

[23] At the hearing, the Objector make similar lengthy and contrite submissions accepting Mr Kohi's summary of the facts, acknowledging her responsibility for the incident and noting how terrible she felt about it and how sorry she was. The Objector acknowledged it was her mistake that led to the incident as a result of her complacency, noting it to be out of character for Rogue, but with the pack present Rogue went into a fight or flight mode, and she had learnt a lesson and been left in financial debt by the incident relating to her payment of the substantial vet bill.

[24] The Panel questioned the Objector in respect of the evidence regarding the unknown man who assisted at the time of the incident and suggested that this was the 'second time', and the Objector responded that she has been going down to the Race Course since Rogue was a puppy, and three weeks before the incident her dogs had circled his dog (though not attacked). The Objector admitted that nonetheless that should have been enough to compel her to be less complacent, but noted that there was no attack. And Mr Kohi confirmed that there are no other reported incidents with the Objector's dogs.

**Reply from the Animal Management Team and from the Victim**

[25] Neither the Animal Management Team nor the Victim sought to rebut the Objector's evidence and submissions. Mr Kohi noted, responding to the Panel's query regarding whether Rogue may still pose a threat, that in his opinion Rogue still had the potential to endanger other dogs, though he regarded that the Objector may not give Rogue any opportunity to be a danger again.

**Close of Hearing**

[26] The Hearings Panel considered that it had all the information it needed to have regard to under section 33B(2) of the Act after considering the evidence, information and submissions available to it.

[27] The Hearings Panel closed the hearing and reserved its decision.

**PANEL DELIBERATIONS**

**The evidence which formed the basis for the classification**

[28] The evidence which formed the basis for the classification was not in the Panel's view in any doubt with regard to it supporting the assessment that Rogue attacked the Victim's dog, Bella, resulting in Bella suffering the wounds described above. Millie, the other dog in the Victim's charge at the time, may have confronted Rogue with barking and growling, but this does not justify that Rogue then attacked Millie, resulting in Millie suffering the wounds also described above; Rogue was not under effective control and ran over to the Victim who had her dogs under control but for the entirely unacceptable situation created by the Objector failing to prevent Rogue running over to the Victim and circling her and the dogs in her charge. The Objector, to her credit, did not at the hearing deny the Victim's account of the incident as reflected in Mr Kohi's summary recognising her responsibility in the matter.

[29] The evidence suggested to the Hearings Panel that the attack resulted from Rogue not being kept under control and in the absence of compelling steps being taken to prevent any further threat, or other compelling matters offered in support of the objection, the evidence which formed the basis for the classification was certainly sufficient to support the classification and the Animal Management Team had acted correctly and with integrity in classifying Rogue.

[30] The Hearings Panel, having regard to the evidence which formed the basis for the classification of Rogue as 'menacing', considered that it was sufficient to form the basis for the Animal Management Team's classification, but regarded that it had received further evidence and understanding in the course of the hearing giving it reason to rescind the classification in light of the exceptional and compelling commitment the Objector demonstrated to training and controlling Rogue to prevent further incident, along with the Objector's demonstrated contriteness and assumption of responsibility for the substantial cost of the incident.

**Steps taken to prevent any threat to the safety of persons or animals**

[31] It was not doubted that the Objector was sincere that she would from now on control Rogue, and that she was committed to training Rogue. The Hearings Panel recognised that the Objector had

undertaken extensive training for Rogue, that it is ongoing; it also recognised she would be vigilant from now on in controlling Rogue so as to avoid incident.

[32] The Hearings Panel considered the Objector's commitment to training Rogue, considering that her submissions in regard to the steps to be taken to prevent any further threat were the most compelling that could be recalled being presented to the Panel. The Objector clearly regarded the incident with the appropriate seriousness and contrition, which gave the Panel confidence that the Objector would be proactive in controlling Rogue to avoid any chance of further incident.

[33] The Panel perceived that the Objector would need to remain vigilant in her steps to prevent any threat to the safety of other dogs, but were sufficiently persuaded of the Objector's capacity for vigilance to rescind the classification, regarding that the steps she is taking made for compelling and exceptional submissions that were persuasive of the case for rescinding the classification. The Panel though would emphasise to the Objector that Rogue needs to be always and vigilantly leashed or otherwise controlled to eliminate any possibility of another incident, and the Objector should not take any chance whatsoever as failing to take the most vigilant steps to prevent threat would be seen as a most egregious abuse of the trust the Panel is seeing as fair to place in the Objector's ability and determination to prevent any further incident.

#### **Matters relied on in support of the objection**

[34] The Objector admitted fault and responsibility to her credit; it also being to the credit of the Objector that she apologised to the Victims for the incident and paid the substantial vet bill.

[35] The Panel had regard to all the matters relied on in support of the objection as summarised further above, and was most persuaded by those relating to the steps the Objector is and will be taking to prevent any further threat. The Objector should never again be complacent as to what Rogue is capable of, as the Panel's confidence lay in the Objector's commitment to training and vigilance in controlling Rogue; the Panel has no sense that complacency will ever be safe and emphasises to the Objector that it regards that it has an agreement with the Objector that she will never be complacent again, and never again allow an opportunity for another incident, and the Panel would support immediate enforcement action should the Objector be found to have not controlled Rogue in any actionable sense.

[36] The Panel was however persuaded that the Objector will be vigilant to ensure Rogue will not pose a threat to any person, stock, poultry, domestic animal or protected wildlife, regarding that there has not been a previous attack and never been a perceived threat to persons (but urging the Objector to recognise how quickly and easily such threat can present on unfortunate occasion in dogs not perceived to be a threat, such that care should always be exercised in exposing children to dogs). The Panel regarded that the Objector had failed in her legal obligation to "take all reasonable steps to ensure that [their] dog does not injure, endanger, or cause distress to any stock, poultry, domestic animal, or protected wildlife" (section 5(1)(g) of the Act), and not that them being persuaded that the classification should be rescinded does not undo that failure, which should be taken as reprimand to remind of the seriousness of the incident and the complete unacceptableness of it.

[37] The Act does not require that unnatural aggression is detected; any threat is problematic. It is only the Panel's persuasion that the Objector will be vigilant to eliminate the threat that implies an appropriate

rescinding of the classification; a classification is not intended to be a punitive, so the Panel will not uphold it to punish the Objector's failing, assessing that there is not a threat now that justifies classification as a preventative measure.

#### **Other relevant matters**

[38] The Hearings Panel had regard to the evidence as a whole and considered that it had all the information it needed to have regard to under section 33B(2) of the Act. The Hearings Panel noted that every objection to a menacing dog classification is considered on its own merits and having regard to the circumstances particular to the case. The Hearings Panel, having regard to all relevant matters, considered that rescinding the classification was justified by the evidence and submissions and would align with fairness and the objects of the Act. The Panel considered the Objector will now be vigilant to ensure Rogue will not be a threat and that the Objector presented an exceptionally compelling and contrite case that would not be easily replicated and such demonstrated seriousness from an Objector should in fairness result in an extension of trust that an Objector will be vigilant, recognising that any breach of that trust would be most grievous and disappointing.

#### **RESULT**

[39] Having considered the objection of the Objector to the classification of her dog, Rogue, as a 'menacing' dog, together with the evidence and submissions of those who have written to the Council and/or appeared before the Hearings Panel, and having regard to the matters contained within the Dog Control Act 1996 and referred to in section 33B(2) of the Act, it is determined that the classification of the Objector's two-year old, male, black coloured, Staffordshire Bull Terrier dog named 'Rogue' as a 'menacing' dog be **rescinded** for the reasons indicated herein and for the reason that the Hearings Panel considers that the dog does not pose a sufficient threat to warrant the continued classification in spite of the reported behaviour of the dog.

**CONFIRMED THIS 30<sup>TH</sup> DAY OF APRIL 2018**



**COUNCILLOR DAVID EAST**  
**CHAIRMAN**