

Dog Control Act Hearings Panel
DETERMINATIONS

Date: Thursday 2 May 2024
Time: 10.01am
Venue: Committee Room 2, Level 2, Civic Offices,
53 Hereford Street, Christchurch

Present

Chairperson	Councillor Kelly Barber
Members	Community Board Member Tim Lindley Community Board Member Tim Baker

Luke Smeele
Democratic Services Advisor
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Election of a Chair Te Whakatū Poumua

It was resolved on the motion of Tim Baker, seconded by Tim Lindley, that Kelly Barber be appointed Chairperson of the Hearings Panel for the hearings scheduled for this date.

The Christchurch City Council Hearings Panel convened on 2 May 2024 to hear objections as follows under the Dog Control Act 1996, which were dealt with in this order:

1. First Hearing at 10am - regarding dog named 'Max'

Hearing of an objection by **STEPHEN JAMES TARGUS** of Christchurch, pursuant to s 33B of the Act, to classifications of his dog, 'Max', as dangerous under s 31(1)(b) of the Act by Christchurch City Council Animal Management.

The Hearings Panel heard on this date the evidence and submissions (summarised in its decision) of the Objector, Animal Management Team, and the Complainant in regard the incident leading to the classifications objected to, and at 10.36am adjourned the hearing to deliberate its decision in this matter making a determination at 10.50am, which is attached hereto and was confirmed as noted at its base.

2. Second Hearing at 11am - regarding dog named 'Ceasar'

Hearing of an objection by **KHAN MARTIN ROGERS** of Christchurch, pursuant to s 33B of the Act, to classification of his dog, 'Ceasar', as dangerous under s 31(1)(b)(i) of the Act by Christchurch City Council Animal Management.

The Hearings Panel heard on this date the evidence and submissions (summarised in its decision) of the Objector, Animal Management Team, and the Complainant in regard the incident leading to the classification objected to, and at 11.40am adjourned the hearing to deliberate its decision in this matter, making a determination at 11:57am which is attached hereto and was confirmed as noted at its base.

**BEFORE THE HEARINGS PANEL
OF THE CHRISTCHURCH CITY COUNCIL**

IN THE MATTER of the Dog Control Act 1996

A N D

IN THE MATTER of an objection of **STEPHEN JAMES TARGUS** of Christchurch to the classification by the Christchurch City Council Animal Management Team under Section 33A(1)(b)(i) of his four-year-old, male, tri-coloured, Staffordshire bull terrier dog named '**Max**' as a dangerous dog

Hearing: Committee Room 2 Level 2, Civic Offices 53 Hereford Street, Christchurch
2 May 2023 at 1m

Panel: Councillor Kelly Barber (Chairperson)
Community Board Member Tim Lindley
Community Board Member Tim Baker

for the Animal Management Team: Bill Kohi (Manager Animal Services)

Determination: 2 May 2024

Hearings Advisors: Luke Smeele

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

The classification of Max as dangerous is upheld

REASONS OF THE HEARINGS PANEL

INTRODUCTION

[1] The hearing was held to consider an objection received from dog owner, Steven James Targus ('the Objector'), to the classification by the Christchurch City Council Animal Management Team ('Animal Management') under section 33A(1)(b)(i) of the Dog Control Act 1996 ('the Act') of his:

- four-year-old, male, tri-coloured, Staffordshire Bull Terrier dog named 'Max';

as a 'dangerous' dog – which classification creates special obligations imposed on the dog owner by, and described within, sections 31-33 of the Act.

[2] Section 31(1)(b) of the Act, under which Max 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.

[3] Under section 31(1)(b) of the Act a territorial authority may classify such a dog as 'dangerous', and following a report that Max had, on 18 December 2023, attacked a person, the Manager of Animal Management under his delegated authority from the territorial authority in which the Objector and his dogs reside did so classify Max as a 'dangerous' dog by causing to be given to the Objector notice of the classifications and other prescribed matters, including his right to object to the classifications under section 31(3) of the Act.

[4] The Objector exercised his right to object to the classifications of Max as 'dangerous' and in accordance with his right to be heard in support of his objection they were referred to the Hearings Panel of the Christchurch City Council as the body with the delegated authority to hear and determine the objection.

[5] The Hearings Panel on 2 May 2024 heard the Objector's evidence and submissions, and also heard from Animal Management in relation to the incident leading to the classification of Max, having previously received a report from Bill Kohi, Manager Animal Services, together with the evidence collected by the Investigating Animal Management Officer relating to the incident and classifications.

[6] This report notifies the determination of the Hearings Panel that:

- the classification of the Objector's dog, Max, as 'dangerous' is **upheld**;

and the reasons for its determination in accordance with section 31(1)(b) of the Act. The determination that the classification of Max is 'upheld' signifies that he remain and will continue to be classified 'dangerous' and the relevant special obligations thus imposed by the Act in relation to 'dangerous' dogs must be adhered to or the consequences for non-adherence set out in s 33EC of the Act will apply.

BACKGROUND

[7] On 22 April 2022 the Council received a complaint from the Complainant alleging that day she had made arrangements with the property owner to collect a garment and pay for the completed work. As the Complainant entered the property and walked to the front door, before she could knock the door was opened by Mrs Targus, who stated that they could not go inside the house as Max was eating dinner. Both parties walked away from the house towards the gate, at which point the Complainant heard a dog bark

and turned to see a dog running toward her. The dog ran around behind her and bit her on the back of the leg. The bite caused significant injury to the Complainant with the wound becoming infected.

[9] When the Investigating Officer's statements and evidence collected were assessed by the Manager with the delegated authority to make the decision, Animal Management determined that Max may pose a threat and would be classified 'dangerous' under section 31(1)(b) of the Dog Control Act (which 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 (i) any observed or reported behaviour of the dog).

[10] The Council subsequently received from the Objector a formal objection to the classification of his dog, Max, as 'dangerous'. 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 or to present a transcript, but rather to summarise and identify what were considered to be the salient points.

THE HEARING

Submissions of the Animal Management Team

[12] The Manager Animal Services appeared at the hearing to speak to the decision to classify Max as menacing, which was subject to the objection to be determined by the Hearings Panel. In his report he outlined the circumstances leading to the dog attack and the relevant section of the Dog Control Act, i.e. section 31 that stipulates a territorial authority may classify a dog as dangerous.

[13] Mr Kohi summarised for the Hearings Panel the facts on which the decision to classify the Objector's dog as 'dangerous' was based referring to the report. Animal Management escalated the compliance, i.e. a warning was not appropriate in this instance. He noted the dog owner had covered all the medical bills. Classifying the dogs as dangerous was the most appropriate action Mr Kohi submitted. He listed considerations for this as: (a) this was the third incident of this dog attacking; and (b) the dog attacked a person causing significant injury; and (c) the classification of dangerous would require the owner to have a dog proof area within the property that was necessary to enter to gain access to the house, which would protect anyone coming onto the property.

[14] Mr Kohi responded to questions of clarification from the Hearings Panel, regarding the injuries sustained by the person who was attacked. Additionally Mr Kohi responded to questions regarding the effect of a dangerous classification as opposed to a menacing classification. Mr Kohi clarified that a dangerous classification would insure that the property would be required to be adequately contain the dog which would keep members of the public safe in the future.

[15] The Investigating Officer had initially provided the following case summary of the incident leading to the classification:

On Monday 18 December 2023, the complainant had made an appointment to visit the dog owners address where the dog owner works from home doing clothing alterations.

The Complainant sent text messages before going around, arrived at the address and entered the front gate.

The dog owner saw the complainant enter the gate and walked out the front door to greet them, the dog was left inside. The gate into the back yard had been left unlocked and Max ran out the open back door then pushed the gate open.

Max ran out to the front yard straight up to the Complainant biting them on the left calf once.

The dog owner restrained Max and he was secured again in the house and then offered medical assistance to the Complainant and apologised for the incident.

The Complainant then went to seek medical treatment which required the wounds to be stitched.

Mitigating Circumstances:

Max is neutered, registered and microchipped.

Dog owner assumed dog was secure inside the house and was unaware the back gate had not been locked.

Aggravating Circumstances:

Third such incident, each time the victim was a client and had scheduled and appointment with the dog owner.

Officer Recommendation:

There have been three separate incidents reported and investigated involving Max, all with very similar circumstances.

Max is neutered and the dog owner has purchased a muzzle since this incident.

Infringement s53 DCL and consider classification as menacing however, all three incidents have occurred inside the dog owners property and coming out of the house (where the dog would not be require to be muzzled).

Principal Advisor Recommendation

I am concerned that this is the third such attack, same circumstance, same dog and the same owner/person in charge. I would consider classifying this dog as dangerous. This would require the owner to have a dog proof area within the property that wasn't necessary to enter to gain access to the house. This would ultimately protect anyone coming onto this property. I feel it is especially necessary considering a commercial business is operating from the property and the clients are expected to call at the property to undertake their business.

My recommendation is to have the complainant give a sworn statement so that the fog can be classified as Dangerous Section 31(1(b) of the Dog Control Act 1996. Issue an infringement Section 53 for failing to have the dog under effective control.

Evidence of the Complainant

[16] The complainant had provided the following affidavit to the Investigating Officer:

I was calling to persons home to pick up a garment and to pay them for some sewing that they had done for me. I had texted them before I arrived to say I was coming. I entered by the lefthand side front gate, as I had done numerous times before and went to the front door. As I arrived, I think they must have seen me as they came out without me knocking. They quickly closed the front door behind them saying not to come in as the dog is having his food. I just said grand, and we started walking towards the gate, away from the house.

As we were chatting she was telling me about the alteration she had done for me and I remember commenting on the trailer, as it looked new it was all very calm and we were saying goodbye and getting the garment from where it was hanging on the fence when I heard barking and spotted the dog running towards us from the right hand side of the house. The dog was travelling at high speed with teeth bared and could hear loud aggressive barking. I had little warning as it bounded towards me, came around the back of my legs and bit me hard on the left calf. As a result I was left with bite wounds to the calf. As a result I was left with three puncture wounds resulting in four stitches and steri-strips.

The Objector

Evidence and Submissions of the Objector

[17] Subsequent to raising her objection in writing, the Objector had provided the following statement to the investigating officer:

I was inside my house and Max was eating his dinner. I had left some garments out on my front fence for a client and I noticed her come through the front gate and into our front yard. I left Max inside and

went out the front door to meet the client, as far as I was aware our gates into the back yard were all closed and Max was secure inside the house.

I had been speaking with the client for a few minutes in the front yard I heard Max bark from inside the house then he suddenly came running out from the back yard barking. Max was barking continuously from when he came through the gate and ran straight past me to the client, and while barking Max bit her on the back of the calf. I called out "Max no!" and he immediately came over to me and I took hold of him. His head was down and he was very quiet. I took Max straight inside the house and put him straight to bed securing him inside.

[18] At the hearing, the Objector took responsibility for the incident and accepted the facts as they had been presented by Animal Management. The objector stated that that many efforts have been taken to addresses Max's behaviour including undergoing six hours for training and noted that a statement from the trainer stating that the issue is due to human mistakes.

[19] The objector also directed the Panels attention to the work that had been done to the property to ensure Max would not be able to escape including getting a self-locking mechanism for the gate and entirely sectioning the back portion of the yard. The Objector also noted the many positive statements the Panel had received from friends and family regarding Max's behaviour as well as the fact that there had been no incidents in public of aggressive behaviour.

[20] Additionally the Objector also argued that the classification is at odds with requirements imposed by the Act, as the incident did not occur in a public place and therefore the requirement to keep Max muzzled while in public places would have not prevented the incident from occurring.

Final Remarks from the Objector

[20] Finally the objector noted that they had taken responsibility for the incident, paid the medical bills of the complainant and made remediations to the property to ensure the safety of future visitors and requested that the Panel not classify Max as dangerous.

[21] The Panel thanked the Objector for their appearances at the hearing.

Reply by Animal Management

[22] The Panel sought further clarification from the Animal Management regarding when a muzzle would be required to be worn. Animal management stated that what is required is a secure dog enclosure within the property, that is not necessary to enter to access the dwelling. When the dog is in this area, or a cage, or a car then it doesn't have to be muzzled. If the dog is outside of the enclosure, then it is required to be muzzled. When it is in a public place the dog must be muzzled and leashed at all times, unless it is contained within a cage or a vehicle. A classification of dangerous would also require that the property was updated to provide this secure area for the dog, which would provide further protection to the wider community.

Close of Hearing

[23] 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.

[24] The Hearings Panel adjourned the hearing and deliberated its decision.

PANEL DELIBERATIONS

The evidence which formed the basis for the classification

[25] The evidence which formed the basis for the classifications was not in the Panel's view in any real doubt with regard to it supporting the assessment that Max had injured the Complainant.

[26] Classification as dangerous is not intended to be punitive, and the statutory requirement for it is not high; only that it is assessed that the dogs may pose a threat, based on observed or reported behaviour, which in this case was not in contention.

[27] In fairness, the Panel notes that any dog that can bite does pose some risk of biting, so classification is not intended to stigmatize or pass moral judgement on Max. Rather there is an issue with society wrongly stigmatizing a dog wearing a muzzle, and the Dog Control Act unhelpfully employing the label 'dangerous' to cover the plethora of often accidental incidents that lead territorial authorities to impose the muzzling requirement, when the reality is that muzzling should be a more widespread voluntary device to manage the common and innate risk of dog bites.

[28] The Panel considered that the incident resulted from a lapse on the Objector's part in regard to maintain effective control of Max, which may be accepted as a mistake, not to be punished, but neither allowing the Panel to neglect the object of the Dog Control Act and obligation to consider the wider community. The Panel can only look at the preventative tool of classification the Act puts in front of it, imperfect as it may be.

[29] The Panel principally takes a forward-looking approach of judging whether the evidence supports upholding classification to advance the objects of the Act and prevent risk. The Panel may be substantially reassured that the Objector is a responsible dog owner, who lapsed, but admirably did their best to make this right and positively engage in the process, so does not mean to doubt the Objector, but only to recognise that dogs are unpredictable and risk will not reasonably be eliminated in this case. So classification requiring muzzling and remediation to the property to ensure a secure area for the dog in the circumstances the Act prescribes, should remain in place in light of the evidence of the incident.

[30] Thus the Hearings Panel, having regard to the evidence which formed the basis for the classification of Max as 'dangerous', considered that it was sufficient to form the basis for the Animal Management Team's classification of the dog, recognising that it would proceed to consider the Objector's evidence and their submissions in support of the objection to the classification.

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

[31] The Hearings Panel thus considered the Objector's evidence and submissions in regard to the steps they had taken to prevent any further threat. The Panel considered that the property had been properly remediated to provide a secure area for the dog. Additionally the Panel considered that Max had undergone training to address his aggressive behaviour and did not have history of aggressive behaviour in public and was considered by friends and family to be a well socialized dog.

[32] Having considered the steps taken by the Objector, the Panel still felt Max may pose a threat. It is a substantial concern that Max had two previous incidents of almost identical attacks at the property. The Panel had regard to the objects and provisions of the Act, the nature of the attack and the resulting injury to the Complainant, and the need to address the threat.

[33] In light of these various considerations speaking to the fact that Max is a potential threat, the Hearings Panel considered that the steps taken by the Objector, though responsible, were not sufficient in all the circumstances of this case to persuade it to rescind the classifications of Max.

Matters relied on in support of the objection

[34] The Panel were also encouraged by the Objector being apologetic at the outset of the event, and highly encouraged by the Objector's positive proactivity in making matters right and engaging in the process.

[35] Classifications are not intended to remedy or punish, but are to prevent risk. The Panel still perceiving some risk in this case. It is unfortunate to add a label of 'dangerous' where Max was potentially reacting in a territorial way, but the intent is not to stigmatize, and it is simply the arbitrary manner of reference the Act adopted to signal the employment of the preventative tool that is classification.

[36] The Hearings Panel had regard to all the matters relied on in support of the objection. The Panel appreciated the Objector's level of commitment to their dog, and their constructive approach to the hearing process. The Panel could detect that Max is loved and generally gentle and friendly dog.

[37] However, the Hearings Panel was mindful of the potential relevance of these determinations to the safety of the wider public, and was not persuaded Max is no longer had the propensity to attack another person in similar circumstances. The Hearings Panel regarded that the nature and result of the attack justified upholding the 'dangerous' classifications of Max.

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 dangerous 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 classifications of Max would be justified by the evidence and submissions and would align with the objects of the Act.

RESULT

[39] Having considered the objection of the Objector to the classifications of their dog, Max, as a 'dangerous' dog, together with the evidence and submissions collated by the Animal Management Team and from those who 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 four-year-old, male, tri-coloured, Staffordshire Bull Terrier dog named '**Max**' as a 'dangerous' dog be **upheld** for the reasons indicated herein and for the reason that the Hearings Panel considers because of the reported incident that Max may pose a threat to one or other of the types of sentient being the Act has designs to ensure are not injured, endangered or caused distress.

**BEFORE THE HEARINGS PANEL
OF THE CHRISTCHURCH CITY COUNCIL**

IN THE MATTER of the Dog Control Act 1996

A N D

IN THE MATTER of an objection of **KHAN MARTIN ROGERS** of Christchurch to the classification by the Christchurch City Council Animal Management Team under Section 33A(1)(b)(i) of his four-year-old, male, tri-coloured, Staffordshire Bull Terrier/Mastiff Cross breed, named '**Caesar**' as a dangerous dog

Hearing: Committee Room 2 Level 2, Civic Offices 53 Hereford Street, Christchurch
29 June 2022 at 2pm

Panel: Councillor Kelly Barber (Chairperson)
Community Board Member Tim Lindley
Community Board Member Tim Baker

Appearances for the Objector: Jordan Tracy-Mines, Morgan Tracy-Mines

for the Animal Management Team: Bill Kohi (Manager Animal Services)

Determination: 2 May 2024

Hearings Advisors: Luke Smeele

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

The classification of Caesar as dangerous is upheld

REASONS OF THE HEARINGS PANEL

[1] The hearing was held to consider an objection received from dog owner, Khan Martin Rogers ('the Objector'), to the classification by the Christchurch City Council Animal Management Team ('Animal Management') under section 33A(1)(b)(i) of the Dog Control Act 1996 ('the Act') of his:

- four-year-old, male, tri-coloured, Staffordshire Bull Terrier/Mastiff Cross breed dog named 'Caesar';

as a 'dangerous' dog – which classification creates special obligations imposed on the dog owner by, and described within, sections 31-33 of the Act.

[2] Section 31(1)(b) of the Act, under which Caesar 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.

[3] Under section 31(1)(b) of the Act a territorial authority may classify such a dog as 'dangerous', and following a report that Caesar had, on 24 February 2024, attacked a person, the Manager of Animal Management under his delegated authority from the territorial authority in which the Objector and his dogs reside did so classify Caesar as a 'dangerous' dog by causing to be given to the Objector notice of the classifications and other prescribed matters, including his right to object to the classifications under section 31(3) of the Act.

[4] The Objector exercised his right to object to the classifications of Caesar as 'dangerous' and in accordance with his right to be heard in support of his objection they were referred to the Hearings Panel of the Christchurch City Council as the body with the delegated authority to hear and determine the objection.

[5] The Hearings Panel on 2 May 2024 heard the Objector's evidence and submissions, and also heard from Animal Management in relation to the incident leading to the classification of Caesar, having previously received a report from Bill Kohi, Manager Animal Services, together with the evidence collected by the Investigating Animal Management Officer relating to the incident and classifications.

[6] This report notifies the determination of the Hearings Panel that:

- the classification of the Objector's dog, Caesar, as 'dangerous' is **upheld**;

and the reasons for its determination in accordance with section 31(1)(b) of the Act. The determination that the classification of Caesar is 'upheld' signifies that he remain and will continue to be classified 'dangerous' and the relevant special obligations thus imposed by the Act in relation to 'dangerous' dogs must be adhered to or the consequences for non-adherence set out in s 33EC of the Act will apply.

BACKGROUND

[7] On 24 February 2024 the Council received a complaint from the Complainant alleging that day they were delivering golf balls to the letterbox of the Objectors house and as the were not able to fit the golf

balls in the front of the letterbox there was nowhere to safely leave the package. The Complainant decided to enter the front gate so they could place the package in the back of the letterbox. As they entered the gate two dogs, that were running free on the section approached him. The dog called Caesar then bit the Complainant on the forearm. The Complainant then left the property and sought medical attention.

[8] When the Investigating Officer's statements and evidence collected were assessed by the Manager with the delegated authority to make the decision, Animal Management determined that Max may pose a threat and would be classified 'dangerous' under section 31(1)(b) of the Dog Control Act (which 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 (i) any observed or reported behaviour of the dog).

[9] The Council subsequently received from the Objector a formal objection to the classification of his dog, Caesar, as 'dangerous'. 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.

[10] 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 or to present a transcript, but rather to summarise and identify what were considered to be the salient points.

THE HEARING

Submissions of the Animal Management Team

[11] The Manager Animal Services appeared at the hearing to speak to the decision to classify Caesar as menacing, which was subject to the objection to be determined by the Hearings Panel. In his report he outlined the circumstances leading to the dog attack and the relevant section of the Dog Control Act, i.e. section 31 that stipulates a territorial authority may classify a dog as dangerous.

[12] Mr Kohi summarised for the Hearings Panel the facts on which the decision to classify the Objector's dog as 'dangerous' was based referring to the report. Animal Management escalated the compliance, i.e. a warning was not appropriate in this instance. He noted the dog owner had covered all the medical bills. Classifying the dogs as dangerous was the most appropriate action Mr Kohi submitted. He listed considerations for this as: (a) the dog attacked a person causing significant injuries; and (b) the person in charge of the dog had ceased communication with the officer, which meant they had been unable to discuss the need for proper containment of the dog within the property; and (c) the classification of dangerous would require the person in charge of the dog to provide a dog secure containment area within

the property. Securing the dog away from the access gate will ensure this type of attack cannot happen again.

[13] Mr Kohi responded to questions of clarification from the Hearings Panel, regarding the injuries sustained by the person who was attacked. Additionally Mr Kohi responded to questions regarding the effect of a dangerous classification as opposed to a menacing classification and why the lower classification of menacing was not sought. Mr Kohi clarified that a dangerous classification would insure that the property would be required to be adequately contain the dog which would keep members of the public safe in the future. The Panel also inquired whether there was any indication that incident was escalated by the presence of a second dog at the property. Mr Kohi noted that there was no indication of this nor was there any signage on the property making people aware that there were dogs on the property.

[14] The Investigating Officer had initially provided the following case summary of the incident leading to the classification:

On 24 February 2024, the complainant was delivering golf balls to the letterbox of the Objectors house and as they were not able to fit the golf balls in the front of the letterbox there was nowhere to safely leave the package.

The Complainant decided to enter the front gate so they could place the package in the back of the letterbox. As they entered the gate two dogs, that were running free on the section approached him. The dog called Ceasar then bit the Complainant on the forearm twice.

The Complainant then left the property and sought medical attention at the Afterhours medical centre.

Mitigating Circumstances:

No previous history of attacks for both dogs.

Aggravating Circumstances:

No dog free access or signage stating dogs running free on the whole on the property hence why Atlas has been included.

The attack was unprovoked.

The Incident happened on the dogs own property.

The property is not sectioned so allow dog free access.

Officer Recommendation:

Classify Caesar as dangerous due to the injuries to the victim. Classifying Caesar as Menacing is ineffectual as the incident occurred on the dogs property as the dogs have full run of the property as it is not sectioned and therefore not allowing dog free access.

Principal Advisor Recommendation

I recommend that this dog be classified as Dangerous. The injuries sustained were serious enough to consider dangerous. Also the person in charge has stopped communication with the officer, and we

have not been able to discuss the need for proper containment within the property. A dangerous classification will require the owner to provide a dog secure containment area within the property, he dog being secured away from the access gate will ensure this type of attack cannot happen again.

Evidence of the Complainant

[15] The complainant had provided the following affidavit to the Investigating Officer:

I was deliver golf balls which were in a golf ball box to the letterbox as pre-arranged.

The box of golf balls wouldn't fit through the slot in the front of the letterbox so I then went through the gate put the golf balls into the parcel part of the letterbox.

By the time I had put the golf balls into the letterbox and turned around, 2 dogs, a large back dog and a smaller dog were right there barking at me.

The big black dog was going back through the gate, the same black dog jumped up and grabbed my right forearm and I pulled my arm out of the dog's mouth ending up with another gash.

I returned to my car after closing the gate and then drove to the After Hours where I received 6 stitches for each of the injuries.

The Objector

Evidence and Submissions of the Objector

[16] The Objector provided the following comprehensive statement at the hearing:

My full name is Dr Morgan Lee Tracy-Mines.

I hold a PhD in Biological Sciences from the University of Canterbury. I am a registered member of Canine Friends Pet Therapy.

I have over ten years of experience working in animal welfare, including at the New Milford Animal Welfare Society (NMAWS) in New Milford, Connecticut, USA and at the Royal New Zealand Society for the Prevention of Cruelty to Animals Incorporated (SPCA) in Christchurch, New Zealand.

In my roles at the NMAWS and SPCA, I worked with a variety of dogs, including those with previous trauma, behavioural issues, and training difficulties. I have personally worked with many animals that required rigorous training for socialization, including aggression.

I have trained my personal dog extensively as a therapy dog, who conducts weekly visits to rest homes for the elderly, many of whom struggle with disabilities and degenerative illness.

The purpose of this statement is to provide evidence against the claim that 'Caesar' should be classified as a dangerous dog.

This statement examines the circumstances of the incident, as reported by the Complainant, a review of relevant policies within the Dog Control Act (1996)¹ (the Act), the nature of the dog, 'Caesar', and mitigations that have since been established.

BACKGROUND

Below I outline the events of the incident, as I understand them, and as they were reported to me by The Animal Management Officer following receipt of the Complainant's report.

The Complainant was due to deliver a set of six golf balls to the property. He was instructed by Khan Martin Rogers to put them in the mailbox, or on top of the mailbox, both of which can be achieved without entering the property.

The Complainant was instructed to not enter the property, as there were dogs in the fully fenced private property.

The front of the property next to the mailbox has a metal gate, which allows access to the yard and house. The metal gate is not solid, and the entirety of the yard is easily visible through the gate.

Instead of delivering the golf balls into or on top of the mailbox, the Complainant walked up to the metal gate, and looked inside. He reportedly observed Caesar within the yard. He then proceeded to aggressively rattle the metal gate at Caesar. From there, the Complainant opened the gate, and ran through the yard to put the golf balls in the mailbox from the inside of the yard.

After he placed the golf balls, Caesar reportedly put his mouth on the Complainant's arm. The Complainant shouted at Caesar while pulling his arm away quickly, resulting in minor damage to his arm. Caesar did not engage further with the Complainant, and he was able to exit out of the gate he entered through.

This incident was then reported to the Christchurch City Council Animal Management team, where he initially admitted fault for the encounter. The Complainant sought medical attention for his arm, which he was reimbursed for.

Caesar is a 5-year-old neutered brindle Mastiff cross. He was adopted from the SPCA on 17 September 2021. Prior to being adopted out by the SPCA, Caesar would have been thoroughly vetted and evaluated to ensure he was not a risk to people or animals, and that he had no significant behavioural concerns. The property would have been thoroughly considered by the staff at the SPCA to ensure he would provide a safe and appropriate home for Caesar.

The SPCA must disclose any medical or behavioural concerns to prospective owners as part of the contract new owners must sign during the adoption process. This is standard practice at the SPCA prior to any dog adoption. Caesar was noted to have arrived at the SPCA with red eyes likely due to allergies. No other medical concerns were disclosed. No behavioural concerns were disclosed.

I first met Caesar shortly after his adoption.

At this time, he was timid, but never aggressive. During my first interaction with him, I noticed he was shy, but incredibly friendly. He enjoyed being pat and had no negative reactions to any part of his body being touched, including sensitive areas such as his mouth, ears, tail, and belly.

Over time, the Objector has worked extensively with Caesar to build his confidence, and he is currently a happy, friendly, calm, and confident dog.

Caesar has excellent recall, and often enjoys running off-leash at beaches and parks.

Caesar has never had a negative interaction with members of the public, or other animals in the time I have known him. I have over the past two and a half years never observed aggressive or concerning behaviour from him.

I came to be the primary caretaker for Caesar (along with my husband Jordan James Tracy- Mines) in December 2023, when Khan travelled for London, United Kingdom to work for approximately a year. This would have been a time period of high stress for Caesar, as we moved into the house with our own dog (a 3-year-old neutered male border collie, 'Atlas'), two adult cats (one neutered male, and one spayed female) and five unneutered 8-week-old male foster kittens.

Caesar had not been previously exposed to cats in his home, and he was never aggressive or fearful of them. He happily responded to their claws and small teeth with "play bows" and submission, where he would roll onto his back, exposing his belly. He never chased them, barked at them, or showed any other signs of discomfort, fear, or aggression towards them. He has always been gentle towards the animals. Caesar was familiar with Atlas from numerous occasions, where we brought Atlas over for them to play together. They have never had a negative interaction.

We have, on numerous occasions, taken Caesar to the Groynes Dog Park, the beach, and Bottle Lake Forest, where he has been able to explore both on and off leash. At no point has he ever shown aggression or fear towards other people or animals during these outings. We frequently have visitors to our home, including friends, family, and delivery drivers. On numerous occasions, delivery drivers have entered the property unannounced, and Caesar has never shown aggression towards them. He typically walks up to them, with relaxed features, and greets them calmly.

When our friends and family visit, they too often arrive unannounced. They walk through the front gate, and Caesar greets them calmly. He has never shown aggression towards anyone who has visited the property prior to or following this incident. I have no reason to believe Caesar is a dangerous dog or requires such classification. He has never shown signs of aggression or fear towards any person or animal.

[17] At the hearing, the Objector stated that Caesar had no history of negative or aggressive behaviour in public places and noted that they had since installed a sign on the gate and installed a lock on the front gate as well as a doorbell. The Objector also brought to the attention of the panel the many character references Caesar had received in the evidence they had provided. Additionally the Objector also argued that person visiting the property had acted aggressively by shacking and rattling the gate

Final Remarks from the Objector

[18] Finally the objector noted that this was an isolated and unique incident; the Complainant was specifically directed not to enter the property and he did so and asked the Panel to rescind the classification of Caesar as dangerous.

[19] The Panel thanked the Objectors for their appearance at the hearing.

Close of Hearing

[20] 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.

[21] The Hearings Panel adjourned the hearing and deliberated its decision.

PANEL DELIBERATIONS

The evidence which formed the basis for the classification

[22] The evidence which formed the basis for the classifications was not in the Panel's view in any real doubt with regard to it supporting the assessment that Caesar had injured the Complainant.

[23] Classification as dangerous is not intended to be punitive, and the statutory requirement for it is not high; only that it is assessed that the dogs may pose a threat, based on observed or reported behaviour, which in this case was not in contention.

[24] In fairness, the Panel notes that any dog that can bite does pose some risk of biting, so classification is not intended to stigmatize or pass moral judgement on Caesar. Rather there is an issue with society wrongly stigmatizing a dog wearing a muzzle, and the Dog Control Act unhelpfully employing the label 'dangerous' to cover the plethora of often accidental incidents that lead territorial authorities to impose the muzzling requirement, when the reality is that muzzling should be a more widespread voluntary device to manage the common and innate risk of dog bites.

[25] The Panel considered that the incident resulted from a lapse on the Objector's part in regard to maintain effective control of Caesar, which may be accepted as a mistake, not to be punished, but neither allowing the Panel to neglect the object of the Dog Control Act and obligation to consider the wider community. The Panel can only look at the preventative tool of classification the Act puts in front of it, imperfect as it may be.

[26] The Panel principally takes a forward-looking approach of judging whether the evidence supports upholding classification to advance the objects of the Act and prevent risk. The Panel may be substantially reassured that the Objector is a responsible dog owner, who lapsed, but admirably did their best to make this right and positively engage in the process, so does not mean to doubt the Objector, but only to recognise that dogs are unpredictable and risk will not reasonably be eliminated in this case. So classification requiring muzzling and remediation to the property to ensure a secure area for the dog in the circumstances the Act prescribes, should remain in place in light of the evidence of the incident.

[27] Thus the Hearings Panel, having regard to the evidence which formed the basis for the classification of Caesar as 'dangerous', considered that it was sufficient to form the basis for the Animal Management Team's classification of the dog, recognising that it would proceed to consider the Objector's evidence and their submissions in support of the objection to the classification.

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

[28] The Hearings Panel thus considered the Objector's evidence and submissions in regard to the steps they had taken to prevent any further threat. The Panel considered that the property had been updated so to make those entering aware that there is a dog on the property and installed a doorbell at the front gate. Additionally the Panel considered that Caesar did not have history of aggressive behaviour in public and was considered by friends and family to be a well socialized dog.

[29] Having considered the steps taken by the Objector, the Panel still felt Caesar may pose a threat. It is a substantial concern that there is no dog secure containment area within the property. The Panel had regard to the objects and provisions of the Act, the nature of the attack and the resulting injury to the Complainant, and the need to address the threat.

[30] In light of these various considerations speaking to the fact that Caesar is a potential threat, the Hearings Panel considered that the steps taken by the Objector, though responsible, were not sufficient in all the circumstances of this case to persuade it to rescind the classifications of Caesar.

Matters relied on in support of the objection

[31] The Panel were also encouraged by the Objector's positive proactivity in making matters right and engaging in the process, as well as the remediations to the property made to ensure those entering are aware of the dog.

[32] Classifications are not intended to remedy or punish, but are to prevent risk. The Panel still perceiving some risk in this case. It is unfortunate to add a label of 'dangerous' where Caesar was potentially reacting in a territorial way, but the intent is not to stigmatize, and it is simply the arbitrary manner of reference the Act adopted to signal the employment of the preventative tool that is classification.

[33] The Hearings Panel had regard to all the matters relied on in support of the objection. The Panel appreciated the Objector's level of commitment to their dog, and their constructive approach to the hearing process. The Panel could detect that Caesar is loved and generally gentle and friendly dog.

[34] However, the Hearings Panel was mindful of the potential relevance of these determinations to the safety of the wider public, and was not persuaded Caesar is no longer had the propensity to attack another person in similar circumstances. The Hearings Panel regarded that the nature and result of the attack justified upholding the 'dangerous' classifications of Caesar.

Other relevant matters

[35] 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 dangerous 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 classifications of Caesar would be justified by the evidence and submissions and would align with the objects of the Act.

RESULT

[36] Having considered the objection of the Objector to the classifications of their dog, Caesar, as a 'dangerous' dog, together with the evidence and submissions collated by the Animal Management Team and from those who 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 four-year-old, male, tri-coloured, Staffordshire Bull Terrier/Mastiff Cross breed dog named '**Caesar**' as a 'dangerous' dog be **upheld** for the reasons indicated herein and for the reason that the Hearings Panel considers because of the reported incident that Caesar may pose a threat to one or other of the types of sentient being the Act has designs to ensure are not injured, endangered or caused distress.

CONFIRMED THIS 17TH DAY OF MAY 2024

COUNCILLOR KELLY BARBER
CHAIRPERSON