

**Dog Control Act Hearings Panel**  
**DETERMINATIONS**

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**Date:** Friday 5 July 2024  
**Time:** 10:00 am  
**Venue:** Committee Room 2, Level 2, Civic Offices,  
53 Hereford Street, Christchurch

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**Present**

Chairperson	Community Board Member Emma Norrish
Members	Community Board Member Jason Middlemiss Councillor Tyla Harrison-Hunt

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### **Election of a Chair Te Whakatū Poumua**

It was resolved on the motion of Councillor Tyla Harrison-Hunt, seconded by Community Board Member Jason Middlemiss, that Community Board Member Emma Norrish be appointed Chairperson of the Hearings Panel for the hearings scheduled for this date.

The Christchurch City Council Hearings Panel convened on 5 July 2024 to hear the objection as follows under the Dog Control Act 1996, which were dealt with in this order:

#### **1. First Hearing at 10.00am - regarding dog named 'Stomper'**

Hearing of an objection by **NICHOLAS SEAN CARTER** of Christchurch, pursuant to s 33B of the Act, to classifications of his dog, 'Stomper', as menacing under s 33A(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 classifications objected to, and at 10.25am adjourned the hearing to deliberate its decision in this matter making a determination at 10.40am, which is attached hereto and was confirmed as noted at its base.

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

**IN THE MATTER** of the Dog Control Act 1996

**AND**

**IN THE MATTER** of an objection of **NICHOLAS SEAN CARTER** of Christchurch to the classification by the Christchurch City Council Animal Management Team under Section 33A(1)(b)(i) of his three-year-old, male, brindle coloured, Rottweiler/Bull Mastiff/Great Dane cross-breed dog named '**Stomper**' as a menacing dog

Hearing: Committee Room 2, Level 2, Civic Offices, 53 Hereford Street  
5 July 2024, 10.00am

Panel: Community Board Member Emma Norrish (Chairperson)  
Community Board Member Jason Middlemiss  
Councillor Tyla Harrison-Hunt

Appearances  
for the Objector: Nicholas Sean Carter (Objector)

for the Animal Management Team: Bill Kohi (Principal Advisor Animal Management)

Determination: 5 July 2024

Hearings Advisor: Simone Gordon

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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 of Stomper as menacing is rescinded.**

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**REASONS OF THE HEARINGS PANEL**

**INTRODUCTION**

[1] The hearing was held to consider an objection received from dog owner, Nicholas Sean Carter ('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:

- Three-year-old, male, brindle, Rottweiler/Bull Mastiff/Great Dane cross-breed dog named Stomper;

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 Stomper 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 33A(2) of the Act a territorial authority may classify such a dog as 'menacing', and following a report that Stomper had, on 29 April 2024, attacked a cat who was subsequently euthanised, the Manager of Animal Management under his delegated authority from the territorial authority in which the Objector and his dogs reside did so classify Stomper as a 'menacing' 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 33B of the Act.

[4] The Objector exercised his right to object to the classifications of Stomper as 'menacing' 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 5 July 2024 heard the Objector's evidence and submissions, and also heard from Animal Management in relation to the incident leading to the classification of Stomper, 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, Stomper, as 'menacing' is **rescinded**;

and the reasons for its determination in accordance with section 33B(3) of the Act. The determination that the classification of Stomper is 'rescinded' signifies that he will not be classified as 'menacing' and that the relevant special obligations thus imposed by the Act in relation to 'menacing' dogs will not need to be adhered to. However, the Panel strongly recommends in their determination to rescind the classification, that Stomper is neutered.

**BACKGROUND**

[7] On 29 April 2024 the Council received a complaint from the Complainant that Stomper had escaped from inside the property in which he was secured. Stomper was then at large in the area, moving between

different properties on the street and neighbouring streets. The Complainant attempted to get Stomper's attention by getting one of his toys. This did not work and Stomper proceeded to chase a cat. Stomper caught the cat, picked the cat up with his mouth and shook her. Stomper let go of the cat but due to the injuries, the cat was euthanised later that day.

[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 Stomper may pose a threat and would be classified 'menacing' under section 33A(1)(b)(i) 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, Stomper, 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.

[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 Stomper 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 33 that stipulates a territorial authority may classify a dog as menacing.

[12] Mr Kohi summarised for the Hearings Panel the facts on which the decision to classify the Objector's dog as 'menacing' was based referring to the report. Animal Management escalated the compliance, i.e. a warning was not appropriate in this instance.

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

*The dog owner Nick had employed a gardener to come to his property on Monday 29th April to trim back the hedge at his property, Nick left his dog Stomper inside the house to keep him secure while the hedge was being trimmed. The gardener has had the gate open from the back yard to the driveway so they could remove to garden waste to the trailer parked in the driveway. When the gardener and his workman was having a lunch break the gate was still open and Stomper has opened a low window in the lounge and gotten out, and then ran to the neighbour's yard at 125 Denise Cres where the neighbours saw him and started to chase him to catch him. The Gardener has text but not called Nick to say his dog was out, Nick did not see this text straight away.*

*While the neighbours were trying to catch Stomper, he has been seen by the complainant to chase a cat and catch it picking the cat up in his mouth and shake it, when the complainant has screamed Stomper has dropped the cat, and wandered off in the neighbourhood.*

*I have found Stomper at large walking down the street, he was happy to come to me and jump in the car.*

*The cat was in the front yard of the complainant, she did not witness Stomper attack the cat she only assisted to find the cat owner and take the cat to the vets.*

*The cat had a broken pelvis, and other injuries and the vet's recommendation was the euthanize the cat. The dog owner has been to the cat owners' home and apologized in person and is willing to pay full reparation of the vet's cost and has shown genuine remorse for what has happened. (section 63 letters have been sent)*

**Mitigating Circumstances:** *The dog was secure inside the house, the dog has never escaped the house before when he has been left inside, the proper is well fence, and the gate was only open due to the gardener being at the property.*

**Aggravating Circumstances:** *The dog was witnessed attacking the cat and the neighbour can ID the dog as she lives next door and was chasing him.*

**Officer Recommendation:** *I have to say classification menacing section 33A(1)(b)(i) but I do feel that the dog owner has a good defence as exceptional circumstances.*

**Principal Advisor Recommendation:** *Classify as Menancing Section 33A(1)(b)(i) of the Dog Control Act. The dog has killed a cat. There are mitigating circumstances in that the dog has escaped partly because the contractor had the gate open. However, the owner was aware the contractor was working on the property and ultimately it is the owners responsibility to ensure the dog is securely contained.*

### **Evidence of the Complainant that witnessed the attack**

[14] The Complainant has provided the following statement to the Investigating Officer:

*At approximately 1.30pm on the 29 April 2024, I saw my neighbour's dog Stomper run through our yard, he has done this once before and we were able to chase him around the block and back home when the dog owner Nick was home.*

*My mother and I chased him from Main South Road around to Skerton Avenue and back into Denise Crescent. I have gone into Nick's property to find something to try and get Stomper to come to me I have grabbed one of his toys.*

*There were 2 gardeners still at Nicks property at this time. My mother has already asked the workmen to contact the dog owner on our behalf to say Stomper was out and running around the street. When I have grabbed the toy and gone back out to try and catch Stomper, I could see my mother and Stomper as now on Skerton Ave. Stomper was on someone's front lawn. Stomper was going in and out of properties. I have then see a black cat with green eyes being chased by Stomper and I have seen him catch the cat and pick it up in his mouth and shake the cat.*

*I was screaming and Stomper let go of the cat my mother and I then changed our focus on finding the cat that had been attacked and Stomper ran off somewhere else. The cat was eventually found as well as the owner and the cat was taken to the vets and unfortunately had to be put to sleep due to its injuries.*

## **The Objector**

### **Evidence and Submissions of the Objector**

[15] The Objector provided the following statement to the Investigating Officer:

*I was working, had a text message from the person doing my hedges they think my dog had jumped out the window. They had left the gate open as going in and out, this is all I am aware of. When I left for work this morning my dog was locked inside with the gate shut.*

The Objector provided the following statement in their reason for Objection:

*"On the day of April the 29<sup>th</sup>, my house got changed from private to going through an agency. One thing I had to do was get my hedges done. My dog is usually locked inside, on this day it was the first time people has been working on my property without me at home. I believe in my dogs distress he opened a window. At the time of this the people doing my hedges had the gate open as they were transporting the cut hedge to their vehicle. While I was at work they txted me once saying they think my dog had escaped and that was it, they didn't try ring me or anything so I couldn't help solve the issue within seconds as I work 2 minutes from home. I know my dog as being the most loving and placid dog and never thought he would hurt a thing. My neighbours chased my dog around the streets and I believe this to have stressed him out and attributing to what happened. I believe this to be a series of outrageous events that lead to this happening"*

### **Final Remarks from the Objector**

[16] The Objector addressed the Panel and noted that he works near his work and Stomper has come with him numerous times, so knows where his owner is. When the tradespeople were at his home,



they just sent a txt to let him know that Stomper had gotten out, if they had called instead he would have been their within minutes. The nature of Stomper is that he generally sits outside and watches birds. The Objector felt that the entire situation was avoidable. The property is usually well secured and locked. Stomper had never previously done anything like this.

[17] The Panel thanked the Objector for their appearance at the hearing.

### **Reply by Animal Management**

[18] Mr Kohi advised that the only restrictions for this offence is to be muzzled. He advised that this is an ideal case where a substantial infringement would have been better over a classification. But at this time, this is the consequence we have in place as bound by the Act. He acknowledged that the Objector had been engaged in the process and good to deal with.

### **Close of Hearing**

[19] 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.

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

### **PANEL DELIBERATIONS**

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

[21] The evidence which formed the basis for the classification was in the Panel's view not in any doubt with regard to it supporting the assessment that Stomper had attacked and injured a cat, who was subsequently euthanised due to their injuries.

[22] Classification as menacing 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. However, the Panel can give weight to the mitigating and unique circumstances of the case.

[23] The Panel considered that the incident resulted from a one-off event 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.

[24] 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 were encouraged by the Objectors' responsibility, reparations, and apology. The Panel appreciated the Objector's level of commitment to their animal, and was thankful for the Objectors' sincerity and constructive approach to the hearing process, appreciating that the Objector is evidently a good and responsible dog owner who had no previous incidences.

[25] Thus the Hearings Panel, having regard to the evidence which formed the basis for the classification of Stomper as 'menacing', 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 in support of his objection to the classification.

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

[26] The Hearings Panel thus considered the Objector's evidence in regard to the steps he had taken to prevent any further threat. The Panel were encouraged that the Objector is taking steps to prevent another incident by putting robust control practices in place for keeping Stomper contained within his property.

[27] Having considered the steps taken by the Objector, the Panel felt that Stomper did not pose a threat to the wider community. Though the nature of the attack were serious the Panel felt that a 'menacing' classification was not necessary to prevent further incidents in public given the effective control practices outlined by the Objector. Furthermore, the Panel noted that Objector had learned a lot from the event and taken the appropriate steps necessary to prevent any further incidents and make amends to the Complainant.

[28] In light of these various considerations speaking to the fact that Stomper is not a potential threat, the Hearings Panel considered that the steps taken by the Objector, were sufficient in all the circumstances of this case to persuade it to rescind the classifications of Stomper as a 'menacing' dog.

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

[29] 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.

[30] Classifications are not intended to remedy or punish but are to prevent risk. The Panel does not still perceive risk in this case, which would be adequately remedied by a 'menacing' classification. The Panel felt Stomper's history of being in public without incident supports the conclusion that this was a unique situation which would not have been prevented by a 'menacing' classification.

[31] The Hearings Panel was mindful of the potential relevance of these determinations to the safety of the wider public, and was persuaded Stomper does not have the propensity to attack in unpredictable circumstances and is unlikely to escape his home again. The Hearings Panel regarded that the nature and result of the attack did not justify upholding the 'menacing' classifications of Stomper so as to require muzzling as a preventative measure.

### **Other relevant matters**

[32] 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, and not upholding the classification of Stomper would be justified by the evidence and

submissions and would align with the objects of the Act. The Panel strongly recommends that the Objector has Stomper neutered, as this action can help calm aggressive behaviour in dogs.

## **RESULT**

[33] Having considered the objection of the Objector to the classifications of his dog, Stomper, as a 'menacing' 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 three-year-old, male, brindle coloured, Rottweiler/Bull Mastiff/Great Dane, Stomper as a 'menacing' dog be **rescinded** for the reasons indicated herein and for the reason that the Hearings Panel considers because of the reported incident that Stomper may not 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.

**Meeting concluded at 10.42am.**

**CONFIRMED THIS 23<sup>RD</sup> DAY OF JULY 2024.**