

Dog Control Act Hearings Panel DETERMINATIONS

Date: Friday 20 September 2024
Time: 12pm
Venue: Committee Room 2, Level 2, Civic Offices,
53 Hereford Street, Christchurch

Present

Chairperson	Community Board Member Emma Norrish
Members	Councillor Mark Peters
	Community Board Member Tim Baker

Simone Gordon
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Election of a Chair Te Whakatū Poumua

It was resolved on the motion of Councillor Mark Peters, seconded by Community Board Member Tim Baker, 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 20 September 2024 to hear objections as follows under the Dog Control Act 1996, which were dealt with in this order:

1. First Hearing at 12.00pm - regarding dog named 'Storm'

Hearing of an objection by **RONALD AND NOELINE BOET** of Christchurch, pursuant to s 33B of the Act, to classifications of their dog, 'Storm', 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 12.30pm adjourned the hearing to deliberate its decision in this matter making a determination at 12.37pm, which is attached hereto and was confirmed as noted at its base.

Refer page 3 below for the determination relating to Storm.

2. Second Hearing at 1.00pm - regarding dog named 'Reginald'

Hearing of an objection by **MEGAN LATTA** of Christchurch, pursuant to s 33B of the Act, to classifications of her dog, 'Reginald', 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 1.20pm adjourned the hearing to deliberate its decision in this matter making a determination at 1.27pm, which is attached hereto and was confirmed as noted at its base.

Refer page 11 below for the determination relating to Reginald.

**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 **RONALD AND NOELINE BOET** of Christchurch to the classification by the Christchurch City Council Animal Management Team under Section 33A(1)(b)(i) of their two-year-old, male, brindle and white, Boxer dog named '**STORM**' as a menacing dog

Hearing: Committee Room 2, Civic Offices,
53 Hereford Street
20 September 2024 at 12.00pm

Panel: Emma Norrish - Chairperson
Councillor Mark Peters
Community Board Member Tim Baker

Appearances
for the Objector: Ronald Boet (Objector)

for the Animal Management Team: Lionel Bridger (Manager Animal Services)

Determination: 20 September 2024

Hearings Advisor: Simone Gordon

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

The classification of Storm as menacing is upheld.

REASONS OF THE HEARINGS PANEL

INTRODUCTION

[1] The hearing was held to consider an objection received from dog owner, Ronald Boet ('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:

- 2-year-old, male, brindle and white, Boxer dog named Storm;

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 Storm 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 Storm had on 30th June 2024, attacked a dog, the Manager of Animal Management under his delegated authority from the territorial authority in which the Objector and his dogs reside did so classify Storm 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 Storm 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 20 September 2024 heard the Objector's evidence and submissions, and also heard from Animal Management in relation to the incident leading to the classification of Storm, having previously received a report from Lionel Bridger, 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, (Enter name of dog), as 'menacing' is **upheld**;

and the reasons for its determination in accordance with section 33B(3) of the Act. The determination that the classification of Storm is 'upheld' signifies that he remain and will continue to be classified 'menacing' and the relevant special obligations thus imposed by the Act in relation to 'menacing' dogs must be adhered to or the consequences for non-adherence set out in s 33EC of the Act will apply.

BACKGROUND

[7] On 30 June 2024, Storm and his sister, Thandi, absconded from their enclosure. They went to Waimairi Beach and attacked a person and the dog (Roxy) they were walking. Storm was the instigator of the attack. Roxy required urgent vet care due to their injuries.

[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 Storm 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, Storm, 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 Storm 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 Bridger 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] Mr Bridger initially provided the following case summary of the incident leading to the classification:

"On the 30th of June 2024 at approximately 10.00am, the person-in-charge of Roxy (owners away on holiday) was walking Roxy on leash in the public area of Eastwood Reserve towards dunes of Waimairi beach when approached by two uncontrolled brindle and white Boxers.

Immediately the male dog (identified by photo provided by complainant) latched onto Roxy and began a frenzied attack, the second dog approached and became involved but mainly the aggressor was male dog Storm.

The complainant kicked and ended up falling over during all of this and noticed the more subordinate dog had ran off, the male dog eventually did as well. Both dogs ran in a Westerly direction towards Eastwood Rise.

Roxy required vet treatment which dog owner has already paid the costs involved and has been in contact ever since they were notified on the day of this incident.

Mitigating Circumstances: *No previous history on either dog. Owner very apologetic and has paid vet costs. Has a muzzle for Storm and he is muzzle trained. Property is secure and holds permit for multiple dogs, RDO status of owner. As per statement, husband of owner admitted fault in not latching door properly.*

Aggravating Circumstances: *Injuries to Roxy requiring vet costs.*

Officer Recommendation: *MED class for Storm. WL for Thandi.*

Principal Advisor Recommendation: *This is the first incident involving these dogs. I believe the attack resulted in an unfortunate series of events that are unlikely to reoccur. The owners are responsible owners and I believe they should keep this status. They immediately took responsibility and have apologised to the victim, paid all the vet accounts and co-operated with the investigation fully. However, this is a substantial attack leaving another dog with several injuries requiring urgent vet assistance. As such, the Dog called Storm, who everyone agrees was the instigator of this incident should be classified MED Section 33A(1)(b)(i) of the Act and a warning under Section 57 in the case of the second dog called Thandi.*

Evidence of the Owner of the Complainant

[13] The Complainant had provided the following affidavit to the Investigating Officer:

At approximately 10:00am on 30 June 2024, I was walking my friends dog Roxy on leash in the public area between Eastwood Reserve and the Waimairi Beach sand dunes.

I noticed 2 dogs descried approach us from behind. I look around for an owner and didn't see one.

One of these dogs immediately began to attack Roxy, I was stunned initially and began to kick the dog, at this point both of the dogs were then involved with either attacking or trying to attack Roxy. I fell over in all of this action whilst still holding on to Roxy. She looked like a stuffed toy in one of their mouths.

A female heard my shouts and asked if I was OK, one of the dogs then ran away from this direction back in a westerly direction, the remaining dog let go of Roxy, it then went also in a westerly direction but turned back almost if eyeballing us. I got my phone out and recorded it. My gut feeling was the dog that remained was the main offender. This dog then also left in the same direction as the first dog.

Other people approached and asked what happened, I told them Roxy had been attacked. I phoned police and they advised to contact Animal Control.

I continued towards home. A neighbour, Darryl, asked what's occurred, I explained to him the attack and described the dogs and he mentioned they had also rushed in the area as well.

His partner Linda approached and said Roxy needs vet treatment and contacted after hours vets and then took us there for treatment.

I sent Darryl a picture of the dog on the way to the vet and he approached the owner and described what the dogs had done, Darryl provided my contact details to him. He phoned me and was apologetic. He sent a few text throughout the day. Roxy received the treatment and I paid all the costs, the dog owner then paid these to me, he followed up with payment on the 1 July 2024.

The Objector

Evidence and Submissions of the Objector

[14] Subsequent to raising his objection in writing, the Objector had provided the following statement to the Investigating Officer:

The day in question we had returned from overseas with the dogs having spent four weeks at the kennel in Ohoka where they are near numerous pointers all the time. I had walked Storm but got my sneakers completely soaked and went inside to change to gumboots to walk Thandi. I had closed the front door and went to the front room to get my boots and change socks. When I called Thandi to go for a walk, I noted the front door ajar! Mom Lulu was standing in the doorway looking outside and I immediately know the little ones had escaped. I ran outside I saw them in the middle of the road, shouted them down and they came back running past a gentleman walking a dog. I had NO idea that before that, Storm had apparently bitten a small dog which clearly is unacceptable. I proceeded to walk Thandi unknowing the drama before.

When I returned a gentleman called Daryll was at our front door discussing then incidence with my wife Noeline. I immediately contacted the dog walker Martin whom was understandably shaken, angry and worried. I immediately offered to help where needed. We have been in contact since getting updates and sorting the vet bills.

This is clearly an unacceptable situation that was caused by me presuming the front door was closed but not double checking it. Our entire property is fenced and has a separated high fenced dog pound. We never let our dogs range free in open space outside these areas.

This incident has certainly given us a wakeup call in terms of the behavioral aspects of the dogs, mainly to other dogs. We have had them in classes with Kuri dog handlers and training, but we clearly have a long way to go to modify behavior. We are working on this and are stepping up safe guards in the meantime.

Final Remarks from the Objector

[15] Finally, the Objector noted that they had taken responsibility for the incident, paid the vet bills for Roxy and made remediations to the fencing at his property to ensure the dogs remain enclosed. He requested that the Panel does not classify Storm as menacing.

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

Reply by Animal Management

[17] The Panel sought further clarification from the Animal Management regarding when a muzzle would be required to be worn. 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.

Close of Hearing

[18] 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.

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

PANEL DELIBERATIONS

The evidence which formed the basis for the classification

[20] The evidence which formed the basis for the classification was not in the Panel's view in any real doubt with regard to it supporting the assessment that Storm had injured Roxy.

[21] 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 – not specifically that a bite had occurred. The muzzling requirement arising from classification may suggest that the threat should be from biting, but the Panel having carefully looked at the evidence did consider it more likely than not that Storm does pose some risk of biting based on the evidence around the reported behaviour.

[22] 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 Storm. Rather there is an issue with society wrongly stigmatizing a dog wearing a muzzle, and the Dog Control Act unhelpfully employing the label 'menacing' 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.

[23] The Panel considered that the incident resulted from a lapse on Objector's part in regard to maintain effective control of Storm, 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.

[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 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 the dog in the circumstances the Act prescribes, should remain in place in light of the evidence of the incident.

[25] Thus the Hearings Panel, having regard to the evidence which formed the basis for the classification of Storm 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 and his submissions 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 and submissions in regard to the steps he 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 Storm had undergone training to address his aggressive behaviour.

[27] Having considered the steps taken by the Objector, The Panel had regard to the objects and provisions of the Act, the nature of the attack and the resulting injury to Roxy, and the need to address the threat.

[28] In light of these various considerations speaking to the fact that Storm is a potential threat, the Hearings 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 classifications of Storm.

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 still perceiving some risk in this case. It is unfortunate to add a label of ‘menacing’ 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.

[31] 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 Storm, and their constructive approach to the hearings process.

[32] The Hearings Panel was mindful of the potential relevance of these determinations to the safety of the wider public, and was not persuaded that Storm no longer had the propensity to attack in unpredictable circumstances. The Hearings Panel regarded that the nature and result of the attack did justify upholding the ‘menacing’ classifications of Storm so as to require muzzling as a preventative measure.

Other relevant matters

[33] 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 Storm’s classification as menacing would be justified by the evidence and submissions and would align with the objects of the Act.

RESULT

[34] Having considered the objection of the Objector to the classifications of his dog, Storm, 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 2-year-old, male, brindle and white, Boxer as a ‘menacing’ dog be upheld for the reasons indicated herein and for the reason that the Hearings Panel considers because of the reported incident that Storm 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

AND

IN THE MATTER of an objection of **MEGAN LATTA** 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, brown and white coloured, German Short Haired Pointer dog named 'Reginald' as a menacing dog.

Hearing: Committee Room 2, Civic Offices,
53 Hereford Street
20 September 2024 at 12.00pm

Panel: Emma Norrish - Chairperson
Councillor Mark Peters
Community Board Member Tim Baker

Appearances
for the Objector: Megan Latta (Objector) (*appeared by A/V link*)
for the Animal Management Team: Lionel Bridger (Manager Animal Services)

Determination: 20 September 2024

Hearings Advisor: Simone Gordon

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

The classification of Reginald as menacing is rescinded.

REASONS OF THE HEARINGS PANEL

INTRODUCTION

[1] The hearing was held to consider an objection received from dog owner, Megan Latta ('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 her:

- 2 year old brown and white male German Short Haired Pointer dog named Reginald;

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 Reginald 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 Reginald had, on 29 July 2024, attacked a cat who was subsequently euthanised due to their injuries, the Manager of Animal Management under his delegated authority from the territorial authority in which the Objector and his dogs reside did so classify Reginald as a 'menacing' dog by causing to be given to the Objector notice of the classifications and other prescribed matters, including her right to object to the classifications under section 33B of the Act.

[4] The Objector exercised her right to object to the classifications of Reginald as 'menacing' and in accordance with her 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 20 September 2024 heard the Objector's evidence and submissions, and also heard from Animal Management in relation to the incident leading to the classification of Reginald, having previously received a report from Lionel Bridger, 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, Reginald, 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 Reginald 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.

BACKGROUND

[7] On 29 June 2024, Reginald absconded from his property and entered a neighbouring property. The neighbour had their door open at the time. Reginald entered the neighbour's house and attacked their cat. The attack was unprovoked. Subsequently the cat passed away from their injuries on their way to the veterinary clinic for treatment.

[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 Reginald 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 her dog, Reginald, 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 Reginald 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] Lionel Bridger 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. He listed considerations for this as (a) Reginald having a high prey drive, as he went straight for the Complainants cat as opposed to their dog; and (b) the requirement to muzzle would provide a level of security.

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

On the 29 July 2024, the cat owner got up early and let her dog out to go toilet. Due to the length of time the dog as taking, the owner went back to bed leaving her back door open.

The cat owner went back to sleep and was awoken by barking coming from her lounge. Getting out of bed she entered her lounge and witnessed a neighbour's dog attacking her elderly cat named 'Pappy'.

She yelled at the dog to stop which responded to her command and then took him and locked him in the laundry.

Later the owner identified two women out on the street who were searching for the dog. Both women then entered her house and retrieved the dog called Reginald and took him back home.

The two women who retrieved Reginald were house sitting for the dog owner, while she was overseas participating in a sports competition.

The cat was taken to the Animal and Bird Hospital but died en route.

The Investigating Officer spoke to Mel at the Ferry Rd Vets, who confirmed there is no clinical summary nor photos taken of the deceased cat as there were no obvious signs of injury. She believed the cat had a broken or dislocated leg and commented on how it was covered in dog slobber.

The house sitter was the person-in-charge that morning who let both dogs out and was feeding them. The other house sitter was still in bed as the incident began to unfold.

Both house sitters identified Reginald as the dog they retrieved from the neighbour's house.

Reginald was unregistered at the time of the attack as he'd only just been adopted in early May just prior to the dog going overseas. The second dog Winnie, who also escaped, played no part in the attack and is registered.

Both dogs are microchipped. Reginald was previously registered in the Waitaki District during the 2023/24 year. There is no known history.

The offending dog escaped the property because the driveway gates were partially open. The shallow hole in the driveway for the bolt to slip into may have contributed to the gates being partially open. The dog owner returned to New Zealand on 1 August 2024. She has indicated to the Investigating Officer that she will immediately rectify the gates. There are no vet bills.

Mitigating Circumstances: *The person-in-charge (PIC) and dog owner have been very cooperative with the investigating officer. Both PIC's offered to house sit for a friend who was participating in an international sports competition. Neither could have foreseen their good intentions would have resulted in the death of a cat. The design of the gate and shallow hole in the driveway for the bolt locking mechanism may have contributed.*

Aggravating Circumstances: *The complainant had to witness her elderly beloved cat getting tossed around by the offending dog in her lounge. This will be highly traumatic and something she won't forget.*

Officer Recommendation: *To classify Reginald as Menacing. To issue two written warnings to the PIC for Winnie and Reginald escaping under S52A.*

Principal Advisor Recommendation: *I agree with the investigating officers recommendations. The dog called Reginald to be classed as Menacing Section 33A(1)(b)(i) of the Dog Control Act. I don't believe any warning notices should be issued to PIC as the officer indicated they had no idea of the potential of the dog or that the property was insecure.*

Evidence of the Complainant

[13] The Complainant had provided the following affidavit to the Investigating Officer:

At approximately 9.35am on 29 July 2024, I had got up early to let my old dog go out to the toilet. As he was out for ages I decided to leave one of my back doors open for him to come in, when he was ready. I was cold (as I'm just getting over Covid) so I went back to bed and I must have fallen asleep again.

Sometime just after 9.30 I had woken to barking. I called my dog and sat up to realize my dog was on his bed next to me (thank god he's also very old and he's deaf now as I'd hate to think what would of happened if he followed me into the lounge). When I got to the lounge there was a dog tossing around my cat. I yelled at the dog and it stopped. I grabbed the dog and put him in my laundry and shut the door so I could check on my cat.

He'd dragged himself behind my couch he was still alive, but he could not get up and he had his mouth open tongue out and breathing really horrible. I rung my mum to ask if she can take me to the vet as I don't drive. I have got 2 other cats and my dog and I had to deal with my cat that was suffering 1st.

I knew it was one of the dogs from over the road so I ran out to see if I could see anyone and that's when I see 2 girls running around the street and it looked like a dog lead in their hand. I yelled out are you looking for a dog they said yes. I said it's just almost killed my cat. Come and get it out of my house. They called the dog Regy or Reginald or something that sounded like that. They put on the leash and left with the dog. I then picked up my poor cat. He made a horrid sound when I moved him. I had him in a blanket and held him until my mum picked us up. Unfortunately, Pappy passed away before we got to the vet.

The Objector

Evidence and Submissions of the Objector

[14] The Objector provided the following statement to the classification:

I believe that Reginald shouldn't be classified as a menacing dog and muzzled for a few reasons;

- *The council representative having met Reggie and seeing him in his home environment with his owners present he is calm and docile as ever. He is a very sweet dog who was stressed and we believe, experiencing separation anxiety and when the gate was left open he left the property. As I stated to the council representative, Reggie has never shown this behaviour. The council representative also commented how different the dogs energies were with their parents' home.*
- *This is the first time we have left the dogs and in future, they will be kennelled as being at home with their usual routine and company interrupted they have both been stressed, having both had dry skin, anxious behaviours such as toileting inside and dull eyes when we came home.*

- *This is Reggie's first infringement, he has never exhibited menacing this behaviour before, nor since the incident. Seeing as the incident happened whilst house sitters were home and the gate accidentally left open, we don't see how muzzling him in public is an appropriate response.*
- *Since being muzzled in public, Reggie has become very quiet, does not run with his sister, chase a ball or interact with any other dogs, just hides behind his parents. As a 2 year old dog, this is incredibly harmful for his development and I believe could then lead to undesirable behaviours due to inability to socialise or enjoy time outside of his yard.*

Having had experience as a volunteer handling dogs with Dog Watch shelter, I have watched this happen with dogs in the shelter who become withdrawn leading to depressive and reactive behaviour. I understand that there is an expectation of some recourse for an incident of this severity, I have reached out to the owner of the cat to talk when she feels she is ready. We have amended the gate to ensure neither of the dogs can get out, with future plans of replacing the fence entirely. Both dogs are on e-collars with boundary settings to train them where their boundary is should they try to abscond the yard.

- [16] At the Hearing, the Objector reiterated the above statement. She noted that Reginald had stress induced dermatitis at the time of this incident and this was an extraordinary one-off event. At the time of the incident, the Objector had been away for 6 weeks. The Objector believes her absence contributed to Reginald's stress and subsequent behaviour that day.

Final Remarks from the Objector

- [17] The Objector assured the Panel that in future when she is going away, she will have Reginald kennelled instead of relying on a house-sitter.
- [18] The Panel thanked the Objector for their appearances at the hearing.

Reply by Animal Management

- [19] Lionel Bridger noted that the classification is not designed to be punitive in nature but rather to protect the public and ensure an attack does not happen again. Mr Bridger noted that muzzling a dog is not meant to be seen as a punishment. A muzzle should not be stigmatised and demonstrates a responsible dog owner.

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 classification was in the Panel's view not in any doubt with regard to it supporting the assessment that Reginald had attacked and killed a cat.

[23] 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 gave weight to the mitigating circumstances of the case.

[24] The Panel considered that the incident resulted from a lapse in judgement on the part of the person-in-charge of Reginald at the time of the incident, 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.

[25] 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 and apology. The Panel appreciated the Objector's level of commitment to their animal. They noted that this incident happened under unique circumstances for Reginald, and the Objector assured the Panel that Reginald will not be put in that situation again.

[26] Thus the Hearings Panel, having regard to the evidence which formed the basis for the classification of Reginald 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 and her submissions in support of her objection to the classification.

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

[27] The Hearings Panel thus considered the Objector's evidence and submissions in regard to the steps she had taken to prevent any further threat. The Panel were encouraged by the Objector's reassurances that this is an event highly unlikely to happen again, as she will kennel Reginald in future, along with remediations made to the gates on her property.

[28] Having considered the steps taken by the Objector, the Panel felt that Reginald did not pose a threat to the wider community. Though the nature of the attack and resulting injury were serious the Panel was unconvinced that 'menacing' classification would prevent further incidents given the events which led to the attack occurred at the Objectors property rather than a public place where Reginald has consistently shown to be safe and under control. Furthermore, the Panel noted that Objector had learned a lot from the event and taken the appropriate steps necessary to prevent any further events.

[29] In light of these various considerations speaking to the fact that Reginald is 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 classification of Reginald as a 'menacing' dog.

Matters relied on in support of the objection

[30] 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.

[31] 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 that this was a unique situation which would not have been prevented by a 'menacing' classification.

[32] The Hearings Panel was mindful of the potential relevance of these determinations to the safety of the wider public, and was persuaded that Reginald no longer had the propensity to attack in unpredictable circumstances. The Hearings Panel regarded that the nature and result of the attack did not justify upholding the 'menacing' classifications of Reginald so as to require muzzling as a preventative measure.

Other relevant matters

[33] 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 would be justified by the evidence and submissions and would align with the objects of the Act.

RESULT

[34] Having considered the objection of the Objector to the classifications of her dog, Reginald, 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 2 year old brown and white male German Short Haired Pointer named Reginald as a 'menacing' dog be not upheld for the reasons indicated herein and for the reason that the Hearings Panel considers because of the reported incident that Reginald 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 1.27pm.

CONFIRMED THIS 7TH DAY OF OCTOBER 2024.