

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

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**Date:** Wednesday 13 February 2019  
**Time:** 9am  
**Venue:** Committee Room 1, Level 2, Civic Offices,  
53 Hereford Street, Christchurch

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**Present**

Chairperson	Community Board Member Aaron Campbell
Members	Councillor Anne Galloway
	Community Board Member Melanie Coker

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**13 February 2019**

**Hearings Advisor**

Mark Saunders  
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The objections were dealt with in the following order.

**Election of a Chair**

It was resolved on the motion of Councillor Galloway, seconded by Community Board Member Melanie Coker that Community Board Member Aaron Campbell be appointed Chairperson of the Hearings Panel for the hearings scheduled for this date.

The objections were dealt with in the following order.

**1. First Hearing – 9am**

Hearing of an objection to the classification pursuant to section 33A(1)(b)(i) of the Dog Control Act 1996 of one-year-old, male, tri-coloured, Border Collie dog named "Ollie" as a menacing dog

Hearing closed and decision reserved at 9:43am

Refer page 3 below for the determination

**2. Second Hearing – 10am**

Hearing of an objection to the classification pursuant to section 33A(1)(b)(i) of the Dog Control Act 1996 of four-year-old, male, black-and-tan-coloured, German Shepherd dog named "Samson" as a menacing dog

Hearing closed and decision reserved at 10:28am

Refer page 16 below for the determination

**3. Third Hearing – 11am**

Hearing of an objection to the classification pursuant to section 33A(1)(b)(i) of the Dog Control Act 1996 of five-year-old, male, black-and-white-coloured, American Staffordshire Bull Terrier dog named "Para" as a menacing dog

Hearing closed and decision reserved at 12:11pm

Refer page 25 below for the determination

BEFORE THE HEARINGS PANEL  
OF THE CHRISTCHURCH CITY COUNCIL

19/240414

**IN THE MATTER**

of the Dog Control Act 1996

**A N D**

**IN THE MATTER**

of an objection of KIRI McARTHUR (nee DODGE) of Christchurch to the classification by the Christchurch City Council Animal Management Team under Section 33A(1)(b)(i) of her one-year-old, male, tri-coloured, Border Collie dog named "Ollie" as a menacing dog

Hearing: Committee Room 1, Level 2, Civic Offices  
53 Hereford Street, Christchurch  
13 February 2019 at 9am

Panel: Community Board Member Aaron Campbell (Chairperson)  
Councillor Anne Galloway  
Community Board Member Melanie Coker

Appearances

for the Objector: Kiri McArthur (Objector)  
(Objector's witness)

for the Animal Management Team: Bill Kohi (Senior Animal Management Officer)  
Paul Martin (Investigating Animal Management Officer)

Determination: 6 March 2019

Hearings Advisor: Mark Saunders

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

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**The classification of Ollie as menacing is upheld**

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**REASONS OF THE HEARINGS PANEL**

## INTRODUCTION

[1] The hearing was held to consider an objection received from dog owner, Kiri McArthur ('the Objector'), to the classification by the Christchurch City Council Animal Management Team under Section 33A(1)(b)(i) of the Dog Control Act 1996 ('the Act') of her one-year-old, male, tri-coloured, Border Collie dog named 'Ollie' 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 Ollie was classified, relates to a dog that a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of an observed or reported behaviour of the dog. Under section 33A(2) of the Act a territorial authority may classify such a dog as 'menacing', and following a report that Ollie had, on 28 October 2018, been not under effective control and bitten a child, the Senior Animal Management Officer under his delegated authority did so classify Ollie as a 'menacing' dog by causing to be given to the Objector notice of the classification and other prescribed matters, including her right to object to the classification under section 33B of the Act.

[3] The Objector exercised her right to object to the classification of Ollie as 'menacing' and in accordance with her right to be heard in support of her objection it was referred to the Hearings Panel of the Christchurch City Council as the body with the delegated authority to hear and determine the objection. The Hearings Panel on 13 February 2019 heard the Objector's evidence and submissions, and also heard from the Animal Management Team, having previously received a report from Bill Kohi, Senior Animal Management Officer, together with the evidence collected by the Investigating Animal Management Officer, Paul Martin, relating to the incident and classification.

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

## BACKGROUND

[5] On 28 October 2018, the Council received a complaint from the Complainant alleging that that day his 7 year old granddaughter (the 'Victim') had been attacked by a dog. The Objector has subsequently contacted the Victim's mother through Facebook, and then given a statement to the Investigating Officer confirming that the allegation related to her dog, Ollie.

[6] The Officer investigated the complaint and on the evidence he gathered determined that the alleged dog attack on the Victim did occur. The Investigating Officer further determined that the Objector's one-year-old, male, tri-coloured, Border Collie dog named 'Ollie' was the dog that attacked the Victim by circling her, appearing aggressive, and causing a minor bite injury. The Officer in this connection considered because of the reported attack that Ollie 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, i.e. a person, stock, poultry, domestic animal, or protected wildlife.

[7] The Council's Senior Animal Management Officer considered the evidence collated by the Investigating Animal Management Officer, and was satisfied that he had sufficient evidence that Ollie has attacked and injured the Victim and considered because of this reported attack that Ollie may pose a threat

to a person, stock, poultry, domestic animal, or protected wildlife, and so with delegated authority, classified the Objector's dog, Ollie, as 'menacing' in accordance with section 33A(1)(b)(i) of the Dog Control Act (which relates to a dog that a territorial authority considers may pose a threat because of an observed or reported behaviour of the dog).

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

[9] The following report and assessment summarises a considerable volume of oral and written evidence and submissions presented to the Hearings Panel. It is not intended to be exhaustive in its scope or 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**

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

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

[11] Mr Kohi summarised for the Hearings Panel the facts on which the decision to classify the Objector's dog as 'menacing' were based referring to his report and the attachments thereto. Mr Kohi referred to the formal statements provided by the Complainant and the Objector and the photographs available of the scene of the incident and injury to the Victim.

[12] Mr Kohi summarised the facts of the central incident of 28 October 2018 as follows:

*On Monday 28<sup>th</sup> October 2018 the Christchurch City Council received a complaint from [the Complainant] regarding a dog attack on his 7 year old granddaughter [the Victim].*

*Animal Management Officer Gail O'Keefe was sent to the area at 12:42pm, arriving at Taylors Mistake beach at 1:15pm.*

*Officer O'Keefe has asked staff at the surf club if they were aware of a young girl being attacked on the beach. No one was aware of the incident taking place. There was only one dog on the beach at this time.*

*The complainant has returned a missed call to the officer and has confirmed that the attacking dog was with two women. The complainant asked for their details but she refused to provide.*

*The complainant confirmed that the incident happened in the bay north of Taylors Mistake and there were two women with two dogs, one of the dogs was the attacking dog.*

*The complainant has taken photographs of the people and the dog which they will send through to the officer.*

*On Monday 29<sup>th</sup> October the job has been assigned to Animal Management Officer Paul Martin.*

*Officer Martin has been told by the mother of the victim...that the owner of the dog has made contact with them via Face Book. She has been identified as Ms Kiri Dodge.*

*The officer has taken a statement from [the Complainant] on the 29<sup>th</sup> October 2018*

*[The Complainant] has stated that he was at a bay north of Taylors Mistake with his wife...and three grandchildren.*

*At about 12:30pm the family were all on the beach within about 40 metres of each other.*

*[The Victim] was at the edge of the water, playing in the sand.*

*[The Complainant] has heard [the Victim] scream, he has turned to see a dog running towards [the Victim].*

*[The Complainant's wife] has yelled to [the Victim] telling her to stop screaming!*

*[The Complainant] says that the dog has then bitten [the Victim] on the bottom, then the dog has circled the child. [The Complainant] has described the dog as circling his granddaughter quickly and in an aggressive manner.*

*[The Complainant] has ran towards his granddaughter getting between the dog and [the Victim], throwing a shoe at the dog.*

*[The Complainant] has managed to chase the dog off but the dog has turned to have a go at him. He has shouted at the dog scaring it enough to make it back off into the water.*

*Two women have gone into the water and caught the dog putting a leash on it.*

*[The Complainant] has approached the women telling them that their dog has just attacked a child.*

*A request was made for their details but they refused to give him any information so [the Complainant] took photographs of the ladies and their dog.*

*The Complainant] has phoned Police who transferred him to the Christchurch City Council. He has waited at the beach while his wife took [the Victim] to the doctors.*

*The owner of the dog Ms Kiri Christine Dodge also gave a statement to the investigating Officer, on the 29<sup>th</sup> October 2018.*

*Ms Dodge has confirmed that she was at the beach with her dog Ollie and her flat mate...at about 12:30pm on the 28<sup>th</sup> October 2018.*

*She has stated that they normally like to go to secluded parts of the beach where there are not a lot of people and we can let our dogs off leash for a run.*

*When they arrived at the beach they saw a family but thought it was ok to let the dogs off their leash.*

*She has noticed that Ollie has approached a little girl who began to scream, Ollie has then proceeded to run around the girl barking. She has tried to call Ollie back but he did not respond to her commands.*

*An older man has ran over and began throwing things at Ollie.*

*She has ran over and secured Ollie by a leash. The man, who she now knows was the girl's grandfather said that Ollie had bitten his granddaughter and asked for our details.*

*Ms Dodge was reluctant to give him her details because he was quite aggressive.*

*The grandfather has advised that he will call the police.*

*The grandmother has come over to show us the wound that Ollie was supposed to have caused. Ms Dodge stated that it looked like a scratch.*

*Ms Dodge and her flat mate decided to sit on the rock and wait for the Police to arrive. The Police haven't arrived.*

*Later the same evening Ms Dodge has seen a post and her photograph on Facebook.*

*Ms Dodge has immediately got in contact with the little girl's mother apologised and deposited \$100 in her bank account to cover any expenses.*

*As a result of the incident Ms Dodge has approached two dog trainers but at the time of the statement was still waiting for them to make contact. She has purchased a harness and an extendable lead for Ollie*

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

*The investigating officer has completed a file which includes photographs supplied by the complainant, statements from the complainant and dog owner and a medical report.*

*I considered the facts as presented by the officer. I noted that the dog has approached and bitten the child on the bottom. The dog has then circled the child and according to witness statement has acted in an aggressive manner. The dog while being chased away has acted aggressively and the dog failed to respond to the owner when she was attempting recall.*

*I agree that the wound is probably at the lower end of the scale but the fact that the dog continued to circle the child and that the dogs behaviour appeared to be aggressive*

*Accordingly, with delegated authority I classified the dog as menacing in accordance with section 33A(1)(b)(i) of the Dog Control Act 1996.*

[14] In response to the Panel's inquiries, Mr Kohi opined that the Victim's grandmother did the right thing telling the Victim to stop screaming in case it exciting Ollie further, but also indicated that Ollie's behaviour during the attack was sheep dog type behaviour and such circling behaviour can indicate that the dog will go back in to nip again – that might not have happened again in this case, it being unclear since there was intervention.

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



**Evidence of the Complainant**

[16] The Complainant was not available for the hearing but Mr Kohi's summary was informed by the statements the Investigating Officer took from both the Complainant and Objector.

**The Objector**

**Evidence and Submissions of the Objector**

[17] In initially raising her objection in writing, the Objector had submitted that:

To whom it may concern,

I am writing to ask for a review of our dog Ollie, and his classification as menacing. I completely understand the ruling being protocol for when an animal has an incident with a human, but I feel that because of his age it is very harsh to give him this classification for life. With him only being 1 and a half as well as it being his first offence I feel that we could come to an agreement with a more suitable time frame and something that is able to be reviewed in the future.

As discussed with Paul Martin, we have been undertaking training with Lisa from Sit Happens. I have attached a summary from her that I also sent through to Paul on the 19/11/2018. I would also like to point out that the trainer identifies his highest reward being a ball. We were hoping to use this to help his recall but with a muzzle on Ollie is unable to pick up a ball. We have also booked in another appointment with Lisa on 16/12/18 to see how his recall is improving.

On 27/11/2018 we took Ollie to the vet as he has been very tense around his abdomen and would not let us touch or see that area. They have found Struvite Crystal's in his bladder. We are not sure how long they have been there but for a few months he has been uncomfortable with us touching his back end. In the past week this got worse and as a result we have found the problem causing this discomfort. When speaking with the vet she mentioned that this discomfort could affect his mood as well as his tolerance which may be why he acted so out of character that day at the beach. Our vet would be more than happy to discuss this with you and I have attached his clinical summary. Ollie is now on a special Vet diet to get rid of the crystals and we have already noticed a change in his mood since he is no longer as uncomfortable.

As we understand that the goal is to ensure that this incident does not repeat itself, we would like to propose a compromise if that is acceptable. We will continue our training with Lisa as we have seen great improvements in Ollie's temperament even after one session. We are also happy to continue using the muzzle with Ollie when out in public, but we would like it if this could be reviewed in 6-12 months as we believe that Ollie has the potential to respond very well to recall if correct training is undertaken. We also believe that with age his temperament will continue to settle and with ongoing training this will be managed effectively.

I look forward to having further discussion about this. Please do not hesitate to call me.

Yours sincerely,

[18] The summary from trainer, Lisa of Sit Happens, mentioned by the Objector was supplied by her and stated that:

*Hi Kiri...*

*Thanks for the 90-minute training session with Ollie on Sunday, the 11th of November.*



*As discussed, Ollie appeared to be a lovely dog and the described incident seems out of character for him. We now need to ensure to give him the mental stimulation a Collie requires and to work on a solid recall to avoid unpleasant situations in future.*

*I have provided you with specific information on Collies and why mental under stimulation can cause them to become reactive even if they are generally friendly.*

*One training exercise that you have already been doing with Ollie is tracking. Tracking makes Ollie use his nose which is the best mental stimulation you could give him. He should get at least 10 minutes of this per day.*

*You mentioned you were considering Agility which I think would be a great sport for Ollie, so long as the setup of your club allows him to relax when not being run.*

*In order to practise Ollie's recall we are working on a strong reflex which we need to reward with something of very high value for him. He likes treats, but he showed a specific interest in the Chuck-it ball used in training. Therefore, I recommend to use the ball for training. You told me you were advised to have a soft muzzle on Ollie at all times. That is unfortunate for the training with the ball, however in busy environments this might be safest for now until training has proceeded further.*

*Maybe in less busy environments, like the Red Zone Ollie could be permitted to not wear his muzzle as long as he is kept on the long line? This would need to be decided by the authorities.*

*In order to reduce stressors in Ollie's life, I recommend to keep him safely locked inside while you are not at home.*

*Let me know if you've got any questions and be in touch if you'd like to book another training session.*

*Cheers,*

-----  
*Lisa Sturm  
Trainer*

[19] The Objector subsequently also ahead of the hearing submitted that:

*This objection is based on section 33B of the Dog Control Act 1996.*

*Under sub sec 2 (b) & (c) namely:*

**(b) any steps taken by the owner to prevent any threat to the safety of persons or animals; and  
(c) the matters relied on in support of the objection;**

*Under sec (b) We can confirm that these events namely the prevention of any threat to persons or animals will never be allowed to occur again based on the following point:*

- 1. When Ollie is off the property they will remain on a lead at all times*
- 2. Ollie has not been let of the lead in any public area since the incident*

*Under sec (c)*

*According to the AMVA (American Veterinary Medical Foundation) There are up to 15 reasons a dog will bite.*

*In this case there is potentially 1 reason:*

*1. The dogs was in pain - refer to veterinary notes from 27th November 2018*

[20] The Objector also supplied veterinarian notes from 31 January 2019 indicating in relation to Ollie's history:

*Struvite crystals were found in the urine before the ultrasound a few months ago  
He still is weary of having his tummy touched but if he is distracted he doesn't notice  
Doesn't seemed in back in his back and can get into sofa etc without pain  
Eating and drinking normally (probably about 2 litres)  
Is on royal canin urinary diet*

[21] At the hearing the Objector acknowledged that it was not okay what had happened in terms of the incident, indicating an accepting of responsibility and also that Ollie got over-excited and when the Victim screamed he reacted and he also reacted to the Complainant then throwing shoes at him.

[22] The Objector indicated that she had not seen immediately that Ollie had bitten the Victim and was taken aback by the Complainant photographing her and stating that he would get Ollie put down. The Objector noted that she was unwilling to disclose her details to the Complainant in these circumstances but duly waited for the authorities to arrive to address the incident.

[23] Though the police did not arrive, the Objector noted that she saw a relevant post on Facebook and messaged the Victim's mother and gave her money for the Victim's ripped dress, acknowledging the incident would have been scary for the Victim, and taking full responsibility for taking Ollie off lead, which she admitted she should not have done.

[24] The Objector's witness noted that Ollie had been off lead before without incident. The Objector explained that she had had Ollie since he was a puppy and he had always been around people without incident, but after this incident she had engaged a trainer and identified what she needed to work on with Ollie since he is a working dog needing stimulation. The Objector expressed how productive the training and understanding of Ollie had been, allowing her to know how to manage Ollie when he is excited.

[25] The Objector also explained how around the time of the incident he had been funny with rubbing his tummy and touching his underneath area, leading to the Vet identifying the medical condition noted in her submissions, which had been causing him a lot of pain for some time. This condition was treated through a change of diet, and the Objector noted her evidence that the condition had now been treated.

[26] The Objector's witness noted that the dog trainer implemented a training plan to give Ollie mental stimulation, and was working on his recall. She added that the Objector has worked tirelessly on recall and had had progress, purchasing a 10 metre lead to train Ollie with, and had been training him with a muzzle. It was explained how recall was being worked on with the 10 metre lead, and how an appropriate, unique recall command, pitch and tone was being developed for Ollie.

[27] It was also explained that another change suggested by the trainer centred around Ollie getting frustrated by birds he cannot get at, and so his surrounds had been adapted appropriately, and his mental stimulation attended to, and he was now also kept with another dog and could during the day sleep inside for a time, and these new arrangements had seen a very big improvement.

[28] In response to the Panel's questions, the Objector confirmed that Ollie had not done this before with a child, and the Objector's witness confirmed that Ollie had been fine with other children. The Objector noted that though it had not previously been clear, when she saw the photos of the bite injury on Facebook, she could see it was indeed a bite injury and she apologised to the Victim's mother (when the Objector saw the injury at the time of the incident, she indicated that the Victim's grandmother's finger must have been covering the puncture wound, so she had originally thought it was a more scratch-like wound).

[29] The Objector noted that Ollie is very young and hoped the classification if upheld could be reviewed after a time. The Objector's witness expressed concern for Ollie's quality of life when he is old and required to be muzzled.

#### **Reply from the Animal Management Team**

[30] The Senior Animal Management Officer, Mr Kohi, added in reply that Collies can require a strong owner to control, and he was pleased that the Objector had pursued training, but Collies do need a lot of work and they are inclined to nip as sheep dogs. Mr Kohi was concerned at the mention of a 10 metre lead being used as that was potentially a length at which an unmuzzled Collie could engage in its nipping behaviour, and there is a requirement to have a dog under effective control, which is difficult to maintain with a 10 metre lead.

[31] Mr Kohi assured the Objector that how she handled the tension of the aftermath of the incident was fine as she had responsibly come forward afterward.

[32] Mr Kohi also offered comment on indication that Ollie is otherwise good with children, advising that dogs behave differently in their own environment with people they know, and owners need to be aware that their dog can react unexpectedly in other contexts, and even in those same familiar contexts at home and with family, so owners need to always exercise care and not be complacent as how the dog has behaved in the past is not always a clue to reliable future behaviour.

[33] Mr Kohi complemented the Objector using the muzzle to date, and acknowledged the obvious unfortunate consequence of a muzzle that in addition to preventing biting, they also prevent the dog fetching a ball or stick.

#### **Close of Hearing**

[34] 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.

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

**PANEL DELIBERATIONS**

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

[36] The evidence which formed the basis for the classification was not in the Panel's view in any doubt with regard to it supporting the assessment that Ollie was not under effective control and attacked and injured and distressed the Victim, a child.

[37] The evidence suggested to the Hearings Panel that the incident resulted from Ollie not being kept under control and that Ollie could endanger a child again if again not kept under control. It was to the credit of the Objector though that she accepted responsibility for the incident.

[38] The Hearings Panel, having regard to the evidence which formed the basis for the classification of Ollie as 'menacing', considered that it was sufficient to form the basis for the Animal Management Team's classification, recognising that it would proceed to consider 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**

[39] It was not doubted that the Objector was sincere that she would from now on control Ollie. The Hearings Panel also recognised that the Objector had consulted a trainer and was working on recall with Ollie. The Panel was encouraged by these steps.

[40] The Hearings Panel accordingly considered the Objector's evidence and submissions in regard to the steps they had taken to prevent any further threat to the safety of children. However, the Panel considered that the attack demonstrated that the Objector did not have Ollie under effective control at the time of the incident to prevent the attack, and considered that reasonable steps to prevent any threat were not taken; the Panel perceived a continuing risk that the steps suggested could not eliminate given that accidents or lapses may happen and it is unfair that potential victims of such bear that risk.

[41] The Panel had particular concern about a dog inclined to attack children. The Panel recognised that it would be easy to return to believing that Ollie would not be a threat to children, but his sheep dog type behaviour is ingrained in him and such trust could be misplaced, such that upholding classification would be justifiable to prevent complacency.

[42] The Hearings Panel did not feel the high level of confidence it would want to in respect of the steps taken that could justify de-classifying a dog that is potentially a capable and inclined threat to children. Ollie may be unlikely to do serious injury to a child, but in unfortunate circumstance it would be a risk, and doing minor injury or causing distress to any child is still unacceptable, and the prevention of this is something classification of a dog as 'menacing' is proportionate to.

[43] The Panel had regard to the objects and provisions of the Act, the nature of the attack and the resulting injury to a child, and the need to address the threat. It recognised the difficulty in constantly controlling a dog that could so quickly switch to its ingrained sheep dog type behaviour, and the threat it presents when unmuzzled.

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

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

[45] The Objector essentially accepted the Complainant's account of the incident to her credit; it also being very much to the credit of the Objector that she was proactive in contacting and apologising to the Victim's mother for the incident and was so willing to address compensation and understanding of the effect on the child. The Panel were also encouraged by the Objector progressing professional training with Ollie, perceiving this as worthwhile whether or not Ollie is classified and a sign of a good dog owner. However, while it is admirable that the Objector has been proactive, responsible and compassionate, training takes time and the Panel saw a more immediate need to eliminate the biting risk through muzzling.

[46] The Panel gave due consideration to the Objector's submission that Ollie had been suffering a medical condition around the time of the incident causing a level of pain that could have contributed to Ollie's agitation and inclination to resort to the behaviour that led to the bite. However, the Panel were unpersuaded that any such pain was materially relevant to the incident as the behaviour that led to the bite was not atypical to Ollie's breed and there was no evidence that Ollie's stomach area was touched or similar at the time, so the Panel conceived the behaviour as more relating to Ollie's breed and nature, and not reliably linked to his medical condition at the time. The Panel were unpersuaded that the treatment of Ollie's medical condition had appropriately eliminated the possibility the incident recurring.

[47] The Hearings Panel had regard to the matters relied on in support of the objection. The Panel appreciated the Objector's level of concern and commitment in respect of Ollie, and was thankful for the Objector's sincerity and constructive approach to the hearing process, much appreciating that the Objector is evidently a very good and responsible dog owner. However, the Hearings Panel was mindful of the potential relevance of these determinations to the safety of the wider public, and was not persuaded Ollie no longer had the propensity to attack and injure in similar contexts. The Hearings Panel regarded that the nature of the attack and its focus on a child justified upholding the 'menacing' classification so as to require muzzling as a preventative measure.

[48] The Hearings Panel appreciated the Objector's submissions, but for reasons already canvassed above considered that they should not rescind the classification on the basis of those submissions all things considered. The Hearings Panel perceived that Ollie had demonstrated a capacity for attacking children as though they were sheep, and so could presumably attack stock in similar manner if uncontrolled in their vicinity. This behaviour is apparently natural such that one might feel some sympathy for Ollie and not wish to stigmatise him but the Panel considered that any impingement on Ollie and the Objector through the muzzling requirement would be justified to prevent Ollie biting another child. The Hearings Panel considered, in light of the injury and distress to the Victim, a child, and the circumstances of Ollie quickly and unpredictably reverting to that ingrained behaviour and being inclined to centre it on a child, that the classification should be in place.

[49] The Panel note that classification is a preventative measure, and is not intended to be punitive; the Panel was encouraged by the Objector's responsibility, reparations and efforts, but regarded that it should nonetheless uphold the classification having regard to the object of the Act to impose on dog owners

obligations designed to ensure that dogs do not injure, endanger, or cause distress to any person, stock, poultry, domestic animal or protected wildlife. There is a risk that a child especially may be distressed by being attacked by a dog in disproportion to the resulting injury, so the Panel takes seriously its role in furthering the object of the Act to ensure dogs do not cause such distress while being appropriately fair and recognising the Objector's efforts to eliminate the risk and other relevant matters.

### **Other relevant matters**

[50] While the injury to the Victim might have been minor relative to what a dog may be capable of at worst, the Panel had serious concern that it was a true bite to a child evidencing a degree of a puncture wound, and together with the likely level of distress to the child, the Panel regarded the incident as serious such that the Victim and community deserved assurance that enforceable preventative measures are in place.

[51] The Panel considered the Objector's request for a review of the classification in 6-12 months on the basis there would be ongoing training of Ollie to improve recall, and on the basis that Ollie's temperament would likely settle with that extra maturity and training. Even if the Panel could commit to any such review it was not suitably persuaded to explore any possibility for it. However, the Panel noted the opportunity for Ollie to be unmuzzled when not in a public place or any private way or at large. The Panel also noted that the Objector may apply to Animal Management under section 33E(5) of the Act for Ollie to be unmuzzled in other specified circumstances; the Act provides an example of such other specified circumstance as at a dog show. Any such application is currently delegated to staff and at their discretion so the Panel will not comment on how that discretion should be exercised, though the Panel can here clarify that it would not regard it as contrary to this determination for staff to consider an application, particularly (but without limitation) if it were after 12 months or longer and if there had been no further incident and ongoing training, and was for specified circumstances in which no children especially could potentially be endangered.

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

### **RESULT**

[53] Having considered the objection of the Objector to the classification of her dog, Ollie, 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 one-year-old, male, tri-coloured, Border Collie dog named 'Ollie' 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 Ollie 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, i.e. a person, stock, poultry, domestic animal, or protected wildlife.

**CONFIRMED THIS 6<sup>TH</sup> DAY OF MARCH 2019**



**AARON CAMPBELL**  
**CHAIRPERSON**



BEFORE THE HEARINGS PANEL  
OF THE CHRISTCHURCH CITY COUNCIL

19/240420

**IN THE MATTER**

of the Dog Control Act 1996

**A N D**

**IN THE MATTER**

of an objection of ANNA SPARK of Christchurch to the classification by the Christchurch City Council Animal Management Team under Section 33A(1)(b)(i) of her four-year-old, male, black-and-tan-coloured, German Shepherd dog named "Samson" as a menacing dog

Hearing: Committee Room 1, Level 2, Civic Offices  
53 Hereford Street, Christchurch  
13 February 2019 at 10am

Panel: Community Board Member Aaron Campbell (Chairperson)  
Councillor Anne Galloway  
Community Board Member Melanie Coker

Appearances

for the Objector: Anna Spark (Objector)  
(Objector's father)

for the Animal Management Team: (Complainant)  
Bill Kohi (Senior Animal Management Officer)  
Paul Martin (Investigating Animal Management Officer)

Determination: 6 March 2019

Hearings Advisor: Mark Saunders

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

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**The classification of Samson as menacing is upheld**

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**REASONS OF THE HEARINGS PANEL**

## INTRODUCTION

[1] The hearing was held to consider an objection received from dog owner, Anna Spark ('the Objector'), to the classification by the Christchurch City Council Animal Management Team under Section 33A(1)(b)(i) of the Dog Control Act 1996 ('the Act') of her four-year-old, male, black-and-tan-coloured, German Shepherd dog named 'Samson' 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 Samson was classified, relates to a dog that a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of an observed or reported behaviour of the dog. Under section 33A(2) of the Act a territorial authority may classify such a dog as 'menacing', and following a report that Samson had, on 26 October 2018, been uncontrolled and killed the Complainant's cat, the Senior Animal Management Officer under his delegated authority did so classify Samson as a 'menacing' dog by causing to be given to the Objector notice of the classification and other prescribed matters, including her right to object to the classification under section 33B of the Act.

[3] The Objector exercised her right to object to the classification of Samson as 'menacing' and in accordance with her right to be heard in support of her objection it was referred to the Hearings Panel of the Christchurch City Council as the body with the delegated authority to hear and determine the objection. The Hearings Panel on 13 February 2019 heard the Objector's evidence and submissions, and also heard from other relevant persons and from the Animal Management Team, having previously received a report from Bill Kohi, Senior Animal Management Officer, together with the evidence collected by the Investigating Animal Management Officer, Paul Martin, relating to the incident and classification.

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

## BACKGROUND

[5] On 29 October 2018, the Council received a complaint from the Complainant alleging that at approximately 9:30pm on 26 October 2018, the Objector's dog, Samson, had attacked and killed his cat, named 'Maxine'.

[6] The Investigating Officer investigated the complaint and on the evidence he gathered determined that the alleged dog attack on the Complainant's cat, Maxine, did occur. The Investigating Officer further determined that the Objector's four-year-old, male, black-and-tan-coloured, German Shepherd dog named 'Samson' was the dog that attacked and killed Maxine, that Maxine was kept as a domestic pet, and that he considered that because of the reported attack Samson 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, i.e. a person, stock, poultry, domestic animal, or protected wildlife.

[7] The Council's Senior Animal Management Officer, considered the evidence collated by the Investigating Animal Management Officer, and was satisfied that he had sufficient evidence that Samson has attacked and killed Maxine and considered because of this reported attacked that Samson may pose a threat to a person, stock, poultry, domestic animal, or protected wildlife, and so with delegated authority,

classified the Objector's dog, Samson, as 'menacing' in accordance with section 33A(1)(b)(i) of the Dog Control Act (which relates to a dog that a territorial authority considers may pose a threat because of an observed or reported behaviour of the dog).

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

[9] The following report and assessment summarises a considerable volume of oral and written evidence and submissions presented to the Hearings Panel. It is not intended to be exhaustive in its scope or 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**

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

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

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

[12] Mr Kohi summarised the facts of the central incident of 26 October 2018 as follows:

*The Christchurch City Council received a complaint at 8:56 on the 29<sup>th</sup> October 2018 from [the Complainant] regarding a dog attacking and killing the domestic cat that lived at the [Complainant's] complex.*

*The incident occurred at about 9:30pm Friday 26<sup>th</sup> October 2018. The owner of the dog that attacked their cat gave her first name and contact phone number to the complainant.*

*The investigation was assigned to animal management officer Paul Martin.*

*Officer Martin has phoned the number given to him via the complainant and spoke to [Objector's friend] who said he was a friend of Anna, the dog's owner and that he was with her when the incident took place. He confirmed that the dog was not on a leash and that when he and Anna walked around the corner they found her dog standing over a dead cat.*

*The officer spoke to Anna by phone on the afternoon of the 29<sup>th</sup> October 2018. She told the officer that she had been to the café with an apology letter to the staff at the...café.*

*The officer has taken a formal statement from the dog owner Anna Elizabeth Spark.*

*Anna has stated that she was walking her dog of leash near the Christchurch public hospital at about 9:30pm Friday 26<sup>th</sup> October 2018.*

*As they approached the bridge...she called her dog Samson so that she could put his leash on, but he didn't respond and ran off towards the...café.*

*Anna stated that she thought her dog was chasing a duck. But when she caught up with the dog he was standing over a dead cat.*

*Anna has picked the cat up and thinks that it passed in her arms. She has noticed that the cat had a collar and name tag with a phone number.*

*Anna has called the number and waited for the owner to come and collect their pet.*

*[The Complainant] who collected the cat, Maxine, after being called by Anna has provided an email account of the incident after he was called and collected Maxine from Anna. [The Complainant] has also provide a copy of the letter that Anna wrote to the staff at the [café] apologising for the loss of their pet.*

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

*The investigating officer has completed a report and issued a warning notice to the dog owner for not having their dog on a leash and under effective control*

*I considered the file and decided the appropriate action to take was to classify the dog as menacing which would require the dog to be muzzled when in public. Being muzzled will prevent the dog from killing any other domestic or wild animal.*

*Accordingly, with delegated authority I classified the dog (above) as menacing in accordance with section 33A (1) (b) (i) of the Dog Control Act 1996.*

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

### **Evidence of the Complainant**

[15] Prior to the hearing, the Complainant had provided this email to the Investigating Officer:

*Hi Paul,*

*Letter as requested Anna phoned me on Friday night about 9.30 to tell me Max had been killed by her dog, "... " and I immediately went down to the Boatsheds.*

*We found Anna and "... " with Max wrapped up in one of their Jackets and the dog on a leash on the deck of the sheds, everyone at that point were very emotional and in shock.*

*Anna was very upset and told me to contact her if we needed any more info.*

*We left with Max.*

*I let the morning staff know at 06.00 on Saturday Max would not be there today and took me most of the day to contact all staff and explain what happened.*

*I rang "... " to say we were putting it on our Facebook page and was going to contact the Council about it on Monday.*

*Thank you for taking time to follow this up.*

*Regards*

[16] The Complainant spoke at the hearing and confirmed Mr Kohi's summary of the facts to the extent he could, acknowledging that the Objector phoned him straight away and had compassionately wrapped Maxine in a jacket at the scene of the incident, noting that the Objector and her friend with her were caring and kind. The Complainant noted the number of persons connected with Maxine and that they were devastated by news of her death and the circumstances of it, noting that persons connected with Maxine took a lot of consoling as she was like family to them. The Complainant noted that some especially connected with Maxine were receiving counselling, and everyone is gutted about what has happened with people still acknowledging Maxine's passing and upset at the circumstance of her being mauled; Maxine had a connection to many people, many of whom had sent messages acknowledging her passing, and some of whom had even sent in photos of her. The Complainant noted what a sad, unfortunate thing the incident is, and for the Objector too, though she still has Samson.

## **The Objector**

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

[17] In initially raising her objection in writing, the Objector had submitted that:

*To whom it may concern,*

*My name is Anna Spark and myself and German Shepard cross husky Samson were involved in an incident whereby I had Samson off the lead which I commonly did in the past down by the river near the boatshed in town.*

*A cat Maxine was attacked and killed because I failed to have Samson on a lead. I am deeply apologetic about this sad incident. I wish a cat didn't have to die for me to realise I should have had Samson on a lead that night and previous nights.*

*I take full responsibility that I was careless with controlling my dog. In my defence Samson lives with four cats and two other dogs and he is definitely not a menacing dog but a dog with 'chase and catch' instincts. Probably kill instincts but that was the first I've witnessed and the last as Samson will be controlled on a lead from now on.*

*I ask that you re-consider the muzzle and menacing dog classification as it is simply not true in Samson's case. He is well trained and has never shown any aggression toward strangers or children.*

*My question is why muzzle a dog that does not need muzzling? It was my responsibility and I am sorry and it won't happen again. Yours truly*

[18] The Objector's father also supplied a letter stating that:

*To whom it may concern,*

*I am Anna's father and I have known and lived in the same house as Sammy from a very young dog till now (several years later). Sammy is a very friendly dog who just loves people who visit.*

*Sammy lives with four cats and fully understands that they are our pets also what happened with the savaging of the...cat was very very sad and resulted from my daughter having him off the lead at the wrong time. Something Anna takes full responsibility for.*

*Anna did the right thing, phoning the owners of the dead...cat straight away and informing them of what had happened. To insist on having Sammy muzzled in public sends a terrible message both to Sammy and to people in general.*

*Yours sincerely*

[19] At the hearing the Objector acknowledged that it was a horrible situation and she accepts full responsibility as she should have had Samson on a lead, but had trusted him to be under her call. The Objector again acknowledged that the incident was absolutely horrible and she did not think Samson was capable of killing a cat and she was sorry to the Complainant, noting how lovely the Complainant was at the time of the incident. The Objector noted that she was really devastated by the incident and wanted to do the right thing, which was hard, as she also had the instinct to protect her dog. The Objector wished to ask for a second chance for Samson through her objection, requesting that he not be required to be muzzled, noting that he's also a dog that helps people describing how she had been to the hospital to offer comfort and prayer to someone.

[20] The Objector acknowledged that Samson needs to be on a lead, though noted he had never acted aggressively to a person, though acknowledging that Samson could chase another cat unknown to him in such context, hence her commitment to always have Samson on a leash in such context henceforth, repeating that she was really sorry to the Complainant.

[21] In response to the Panel's questioning the Objector noted that Samson is normally responsive to vocal controls as long as not distracted, the Objector opining that a lot of dogs have a chase instinct.

[22] The Objector's father noted that Samson is a lovely dog and not vicious at all, suggesting that it would be a step backward for Samson to be muzzled.

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

[23] The Complainant queried the legality of Samson being off leash in the city limits. The Senior Animal Management Officer, Mr Kohi, clarified that Samson should have been on a leash where the incident occurred being in an urban context near roads, and noted that the Objector acknowledges this. Mr Kohi noted that the natural behaviour of a dog to chase and kill small animals in these circumstances is not acceptable; Samson was understood to have some Husky in him, which are prolific hunters, and rules are

needed to deal with the prey/chase drive of such dogs. Mr Kohi noted that it was sufficient for classification that Samson presents a threat to domestic cats and it is not necessary that there be any threat to humans.

[24] Mr Kohi did, however, note that the Objector did the right thing ringing up the Complainant at the time of the incident to her credit, evidencing an obvious and admirable level of responsibility.

### **Close of Hearing**

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

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

### **PANEL DELIBERATIONS**

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

[27] The evidence which formed the basis for the classification was not in the Panel's view in any doubt with regard to it supporting the assessment that Samson was not under effective control and attacked and killed the Complainant's cat, Maxine, and thus they accepted there was evidence supporting the assessment that Samson may pose a threat to domestic animals.

[28] The evidence suggested to the Hearings Panel that the incident resulted from Samson not being kept under control and that Samson could endanger domestic animals again if again not kept under control. It was to the credit of the Objector that she accepted responsibility for the incident.

[29] The Hearings Panel, having regard to the evidence which formed the basis for the classification of Samson as 'menacing', considered that it was sufficient to form the basis for the Animal Management Team's classification, recognising that it would proceed to consider 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**

[30] It was not doubted that the Objector was sincere that she would from now on control Samson, and accordingly considered the Objector's evidence and submissions in regard to the steps she had taken to prevent any further threat to the safety of animals. However, the Panel considered that the attack demonstrated that the Objector did not have Samson under effective control at the time of the incident to prevent the attack, and considered that reasonable steps to prevent any threat were not taken; the Panel perceived a continuing risk that the steps suggested could not eliminate given that accidents or lapses may happen and it is unfair that potential victims of such bear that risk.

[31] The Panel had particular concern about a dog with an evident prey/chase drive and a capacity to quickly and efficiently kill a domestic cat. It was evident that Samson was not responsive to vocal command in that context of seeing an unknown domestic cat in public, and the Objector did not seem surprised that Samson would chase what she thought to be a duck. The Panel would encourage the training of dogs to enhance control, though acknowledges that training takes time and would not often fully address its concern about a dog with a demonstrated prey drive that had attacked a domestic animal to this degree.



[32] The Hearings Panel did not feel the high level of confidence it would want to in respect of the steps taken that could justify de-classifying a dog that is potentially a capable and inclined threat to other domestic animals. The Panel had regard to the objects and provisions of the Act, the nature of the attack and the resulting death of Maxine, and the need to address the threat. It recognised the difficulty in constantly controlling a dog inclined to chase a domestic cat not known to it immediately upon spotting such, and the threat it presents when un-muzzled.

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

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

[34] The Objector immediately contacted the Complainant and took a responsible and compassionate approach to the incident to her credit; it also being to the credit of the Objector that she apologised to the Complainant for the incident. However, while it is admirable that the Objector has been proactive, responsible and compassionate, the Panel saw an immediate need to eliminate the risk Samson poses through muzzling.

[35] The Hearings Panel had regard to the matters relied on in support of the objection. The Panel appreciated the Objector's level of concern and commitment in respect of Samson, and was thankful for the Objector's sincerity and constructive approach to the hearing process, much appreciating that the Objector had aimed to be good and responsible dog owner. However, the Hearings Panel noted that the Objector recognised that Samson could do this again, and it was a significant lapse in judgment to have him unleashed in such an urban context (including for Samson's own safety near roads). The Panel was further mindful of the potential relevance of these determinations to the safety of the wider public, and was not persuaded Samson no longer had the propensity to attack and injure or kill in similar contexts. The Hearings Panel regarded that the nature and seriousness of the attack justified upholding the 'menacing' classification so as to require muzzling as a preventative measure.

[36] The Hearings Panel appreciated the Objector's submissions, but for reasons already canvassed above considered that they should not rescind the classification on the basis of those submissions all things considered. The Hearings Panel perceived that Samson had demonstrated a capacity for attacking other domestic animals unprovoked. The Hearings Panel considered that in light of the death of Maxine that Samson had caused, and the circumstances of Samson being let entirely inappropriately loose in an urban context, the classification should be in place.

[37] The Panel note that classification is a preventative measure, and is not intended to be punitive; the Panel was encouraged by the Objector's responsibility and compassion following the incident, but regarded that it should nonetheless uphold the classification having regard to the object of the Act to impose on dog owners obligations designed to ensure that dogs do not injure, endanger, or cause distress to any person, stock, poultry, domestic animal or protected wildlife.

**Other relevant matters**

[38] The Hearings Panel had regard to the evidence as a whole and considered that it had all the information it needed to have regard to under section 33B(2) of the Act. The Hearings Panel noted that every objection to a menacing dog classification is considered on its own merits and having regard to the circumstances particular to the case. The Hearings Panel, having regard to all relevant matters, considered that upholding, and not rescinding, the classification 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 classification of her dog, Samson, 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 four-year-old, male, black-and-tan-coloured, German Shepherd dog named 'Samson' 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 Samson 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, i.e. a person, stock, poultry, domestic animal, or protected wildlife.

**CONFIRMED THIS 6<sup>TH</sup> DAY OF MARCH 2019**



**AARON CAMPBELL  
CHAIRPERSON**

BEFORE THE HEARINGS PANEL  
OF THE CHRISTCHURCH CITY COUNCIL

19/240429

**IN THE MATTER**

of the Dog Control Act 1996

**A N D**

**IN THE MATTER**

of an objection of HE-TIKAKAIRAKAU-GASHTRA-TEUM of Christchurch to the classification by the Christchurch City Council Animal Management Team under Section 33A(1)(b)(i) of his five-year-old, male, black-and-white-coloured, American Staffordshire Bull Terrier dog named "Para" as a menacing dog

Hearing: Committee Room 1, Level 2, Civic Offices  
53 Hereford Street, Christchurch  
13 February 2019 at 11am

Panel: Community Board Member Aaron Campbell (Chairperson)  
Councillor Anne Galloway  
Community Board Member Melanie Coker

Appearances  
for the Objector: He-Tikakairakau-Gashtra-Teum (Objector)  
for the Animal Management Team: (First Complainant)  
Bill Kohi (Senior Animal Management Officer)  
Nina McDrury (Investigating Animal Management Officer)

Determination: 6 March 2019

Hearings Advisor: Mark Saunders

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

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**The classification of Para as menacing is upheld**

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**REASONS OF THE HEARINGS PANEL**

## INTRODUCTION

[1] The hearing was held to consider an objection received from dog owner, He-Tikakairakau-Gashtra-Teum ('the Objector'), to the classification by the Christchurch City Council Animal Management Team under Section 33A(1)(b)(i) of the Dog Control Act 1996 ('the Act') of his five-year-old, male, black-and-white-coloured, American Staffordshire Bull Terrier dog named "Para" 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 Para was classified, relates to a dog that a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of an observed or reported behaviour of the dog. Under section 33A(2) of the Act a territorial authority may classify such a dog as 'menacing', and following reports that Para had, on 21 October 2018, injured dogs owned or in the control of the First Complainant and Second Complainant, the Senior Animal Management Officer under his delegated authority did so classify Para as a 'menacing' dog by causing to be given to the Objector notice of the classification and other prescribed matters, including his right to object to the classification under section 33B of the Act.

[3] The Objector exercised his right to object to the classification of Para as 'menacing' and in accordance with his right to be heard in support of his objection it was referred to the Hearings Panel of the Christchurch City Council as the body with the delegated authority to hear and determine the objection. The Hearings Panel on 13 February 2019 heard the Objector's evidence and submissions, and also heard from other relevant persons and from the Animal Management Team, having previously received a report from Bill Kohi, Senior Animal Management Officer, together with the evidence collected by the Investigating Animal Management Officer, Nina McDrury, relating to the incident and classification.

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

## BACKGROUND

[5] On 29 October 2018 the Investigating Officer took a formal statement from the First Complainant confirming his complaint alleging that at approximately 10am on 21 October 2018, the Objector's American Staffordshire Bull Terrier dog had attacked his Doberman dog named 'Maximus', causing Maximus serious injury. And on 27 November 2018 the Investigating Officer took a formal statement from the Second Complainant confirming his complaint alleging that at approximately 10am on 21 October 2018, the Objector's American Staffordshire Bull Terrier dog had attacked a Golden Retriever dog named 'Scout' the Second Complainant was in control of, causing Scout injury.

[6] The Investigating Officer investigated the complaint and on the evidence she gathered determined that the alleged dog attacks on Maximus and Scout did occur. The Investigating Officer further determined that the Objector's five-year-old, male, black-and-white-coloured, American Staffordshire Bull Terrier dog named 'Para' was the dog that attacked and injured Maximus and Scout, that Maximus and Scout were kept as domestic pets, and considered because of the reported attacks that Para 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, i.e. a person, stock, poultry, domestic animal, or protected wildlife.

[7] The Council's Senior Animal Management Officer, considered the evidence collated by the Investigating Animal Management Officer, and was satisfied that he had sufficient evidence that Para has attacked and injured Maximus and Scout, and considered because of these reported attacks that Para may pose a threat to a person, stock, poultry, domestic animal, or protected wildlife, and so with delegated authority, classified the Objector's dog, Para, as 'menacing' in accordance with section 33A(1)(b)(i) of the Dog Control Act (which relates to a dog that a territorial authority considers may pose a threat because of an observed or reported behaviour of the dog).

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

[9] The following report and assessment summarises a considerable volume of oral and written evidence and submissions presented to the Hearings Panel. It is not intended to be exhaustive in its scope or 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**

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

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

[11] Mr Kohi summarised for the Hearings Panel the facts on which the decision to classify the Objector's dog as 'menacing' were based referring to his report and the attachments thereto. Mr Kohi referred to the formal statements provided by the Complainants and the Objector and to the photographs available of the injuries to Maximus.

[12] Mr Kohi summarised the facts of the central incident of 21 October 2018 as follows:

*The Christchurch City Council received two complaints from [the First Complainant] and [the Second Complainant].*

*Both reports concern a dog attack in Hanson's Park, Opawa, Christchurch. On both occasions a black and white american staffordshire bull terrier has attacked another dog.*

*Both complaints were assigned to Animal Management Officer Nina McDrury on Tuesday 23 October 2018.*

*[The Second Complainant] has reported that a dog known to him as "Para" and owned by a man known as Gashtra has attacked one of his dogs as they were being walked around Hanson's park, Opawa.*

*Officer McDrury has taken a formal statement from [the Second Complainant] at 10:00am 27<sup>th</sup> November 2018.*

*[The Second Complainant] has stated that on the 21<sup>st</sup> October 2018 at about 10:00am he and his wife were walking their dog, Luna a Golden Retriever and two friends' dogs, Scout a Golden Retriever and Indy a Golden Retriever/Collie Cross Breed.*

*The dogs were being walked in Hanson's Park along the path next to the Heathcote river. All the dogs were on lead.*

*As the [Second Complainant and his wife] approached the pedestrian bridge at the north East end of the park they noticed two ladies walking a couple of terrier type dogs across the bridge. They could also see Gastra standing to the side of the bridge holding Para by his collar. One of the terrier dogs although on a leash has lunged toward Para but has quickly been pulled back by the lady before they have walked away. Para didn't react to the terriers advance.*

*The [Second Complainant and his wife] have proceeded to cross the pedestrian bridge, Gastra and Para have stayed stationary while they crossed.*

*As the [Second Complainant and his wife] and three dogs have walked off the bridge and passed Gastra the dog Para has broken free from Gastra and attacked Scout.*

*Scout didn't appear to be injured so they continued to walk towards home.*

*When they have arrived home they decided to check Scout again and discovered that he had a puncture wound to his left rear leg.*

*Scout was taken to the Vet on the following Tuesday after the holiday weekend.*

*The second complaint received by the council was from [the First Complainant].*

*[The First Complainant] gave a formal statement to Officer McDrury at 4:45pm on the 29<sup>th</sup> October 2018 where he has stated.*

*At about 10:00 am on the 21<sup>st</sup> October 2018 he was walking his Red and Tan Doberman called Maximus off leash at Hanson's park, Opawa.*

*After about 10 minutes walking around the park he heard his dog Maximus “scream”. [The First Complainant] has looked over towards where his dog was and he has seen what he described as a brown Pitt Bull type dog on top of his dog.*

*[The First Complainant] has ran over to where the dogs were. By the time he had reached the dogs the owner of the Pitt Bull type dog has got a hold of his dog holding it in a type of choker hold , but his dog still had hold of his dog.*

*[The First Complainant] has blocked the attacking dog’s nose in an attempt to make him release his hold. The attacking dog eventually let go after about two minutes or struggling.*

*Once the dog let go the owner secured his dog on a leash. [The First Complainant] has also leash his dog. Maximus had sustained injuries and was obviously bleeding from a wound near his ear.*

*[The First Complainant] has obtained the other owners phone number and said to him that he would need to contribute to his vet costs which he responded with “that’s fair”.*

*[The First Complainant] has left the area and taken his dog to At the Vets, Brougham Street.*

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

*The investigating officer has completed a report which includes photographs, copy of the vet’s account both provided by [the First Complainant] and a map of the Hanson’s park area highlighting the general area where both reported incidents occurred.*

*Gashtra has also lodged a letter with the investigating officer. This seems to be an explanation to the incidents and a reference to the good nature of his dog Para.*

*I have considered all the evidence, the results of the reported attacks on the other dogs and their owners. While the first attack on Scout the retriever was at the lower level of attacks the second attack on Maximus the Doberman was much more serious and resulted in serious injuries and the unfortunate euthanasia of Maximus some weeks later.*

*Accordingly, with delegated authority, I classified the dog known as Para as menacing in accordance with section 33A (1) (b) (i) of the Dog Control Act 1996.*

[14] At the hearing in response to the Panel’s queries Mr Kohi acknowledged that Para did not react to the smaller dog that initially lunged at him, and that that incident may have influenced Para’s inclination to attack Scout and Maximus, but it would be difficult to know. It was possible that Para was stressed and behaving naturally, but Mr Kohi noted that the Act was appropriately aimed at addressing unwanted natural behaviours as unacceptable.

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

### **Evidence of the Complainants**

[16] Prior to the hearing, the Second Complainant had written to the Investigating Officer as follows:



Hi Nina,

*Thanks for the call earlier. Here's a quick account of our experience this past Sunday (21 Oct), around 10am - we took our dog and two visiting dogs out for a walk as a family into the riverside (Heathcote) park next to our house near the bridge into the Opawa School riverside carpark. We encountered a group of walkers and dogs at the bottleneck of the bridge over Jackson Brook.*

*Gastra (owner) and Para (dog - slate grey and white short heavy dog - Bulldog? Mastiff? Staffie cross) were there, and I believe (not sure) that Gastra was restraining Para by the collar (not sure if it was on the lead) as the other dogs went past.*

*One of the passing smaller dogs (a terrier, I believe, don't know the dog or owner) lunged, unprovoked, at Para, who restrained him (despite him trying to respond to the terrier). The terrier was also pulled back and we didn't think anything of it. A few seconds later, we continued over the bridge past Para who, without warning, attacked the largest of our dogs, Scout (golden retriever). Gastra immediately leapt in to pull Para back, but Scout was mauled (we only found the 1cm long, deep puncture wound in his rear right leg later due to his limping) in the few seconds before he was able to retrieve him. We spoke to Gastra at the time who was very contrite and offered his apologies and home address if we needed to talk to him about any fall out (e.g. he \*implied\* covering any vet bill)...*

*I have been told since that apparently Para savaged a Doberman at Hansen Park shortly thereafter.*

*We're not interested in punishing either dog or owner, but it's fairly clear that Para is not a safe dog to have in a public park without a muzzle (due to his power, even a lead would be insufficient for controlling him, I believe).*

Thanks,

[17] At the hearing, the First Complainant gave his testimony indicating that he was very emotional recalling the incident as he had had dogs all his life, and had had Maximus about eight years before his death, but had never experienced an incident like this with his dogs.

[18] The First Complainant recalling the incident and day in question noted that he was down at the local park he had been to a thousand times with Maximus when he heard Maximus screaming in agony after encountering Para. He saw the Objector running toward their dogs; the Objector reached them a couple of seconds before him and got Para in a choke hold so he could not shake (Para being latching onto Maximus

with his teeth). Other people in the park were screaming, the First Complainant recalled, and Maximus was still screaming in agony. The First Complainant signalled to the Objector that he would need to hit Para to get him to release his bite-hold on Maximus; the Objector acknowledged but Para was unresponsive to the First Complainant's first and second strikes. It was only when the First Complainant restricted Para's air supply by holding his nose that he got Para to release Maximus.

[19] The First Complainant noted that then inspecting Maximus he noticed blood pouring out of him and realised he had to get Maximus to the vet quickly. The First Complainant indicated to the Objector that he thought the Objector should contribute to the cost, noting that the Objector indicated that that sounded fair and so he obtained the Objector's details and proceeded straight to the vet. The First Complainant noted that Maximus was in surgery for a couple of hours, and referred to the photos indicating that Para bit Maximus on the spine first before latching on around the neck, behind the ear for the more substantial tear.

[20] The First Complainant indicated that the vet bill was over \$1,000, and that he took a couple of days to calm down before addressing the incident given how emotional he was. Maximus was recovering but having nightmares like he had PTSD, and had started shying away from other dogs, and was altogether a different dog than before, and did not want to go to Hansons Park again. The First Complainant described how Maximus then got worse in the proceedings days to weeks and had to be euthanized, noting that he was an older dog of 10 years, and so could not be sure whether the attack on him by Para was directly related to his physical decline, but the trauma of the incident was regardless a poor way for him to experience his twilight.

[21] The First Complainant indicated that when he spoke to the Objector the Objector was non-responsive to his conciliatory remark that neither of them went down the park for this to happen, and his lack of agreement to that remark concerned him. The First Complainant also raised concern around the breed of Para and lack of apology or compensation, expressing his anger and noting how his friends and family are gutted over the incident. The First Complainant described Maximus as a friendly dog who everyone loved, and the attack on him was one of the worst events of his life.

[22] In response to the Panel's queries, the First Complainant indicated he had never seen an incident like this with one dog latched onto the other by such a bite-hold, and opined that if he and the Objector had not been there, then Maximus would have died then and there. The First Complainant indicated that he had been at the Park a 100 times before and had no expectation of such incident; he noted seeing the Objector there a month or so prior to the incident and seeing the Objector pull Para back indicating, he suggested, that the Objector knew there was an issue with Para.

## **The Objector**

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

[23] In initially raising his objection in writing, the Objector had submitted that:

*Tena Koutou katoa !!*

*To whom it may concern,*

*on the morning of the 21/10/18 Para and I were on our way to the Opawa Markets. We had started at our Home...*

*Para had been very settled on recent walks over the previous week and a half and I had been allowing him to be off his lead if other dogs were off their leads and watching him very closely as he is such a strong dog and his presence and expression can be quite concerning for some people. Prior to that, as we had just returned to the area, I had not been allowing him to be off his lead when other dogs were within about 40m. He will stay by my side if I command him to heel. Though it is much easier to control him if he is on a short lead if other dogs come over to say hello. He loves his social life and I have to speak to him very strongly to get him to stay by my side if he is not on his lead. Often people seem to not understand us and seem to become less comfortable if I speak to him strongly. So I only allow him off if I feel very secure that he is very settled.*

*We were quite close to the foot bridge which crosses the side creek well before Hansen park when 2 middle aged to older couples walking 2 grey, fluffy, shorn Terriers came towards us with their dogs off their leads. I was actually caught unawares which is very unusual for me as I am usually very guarded to ensure the peace of the general community and Para was not on his lead. One of the dogs attacked Para and was jumping up beside his right cheek snapping and generally going off as little terriers can do. Para did not react at all, though stood there with his head slightly turned away peaceful. He looked very relaxed and I do not remember seeing any evidence of his hair raised at all on his back. The other couple called out to their dog though did not try to grab it at all. I would say the terrier jumped at Para's face about 4 times to the best of my recollection.*

*Very shortly after that, only a matter of a few seconds, 10-15.....? Another dog came along, a Golden Retriever...? Long light golden coloured hair. Very soft and gentle dogs generally. It came straight over to Para and looked very friendly. They sniffed for a few moments and then Para became upset and snapped at it. I did not see any reason why it may have occurred other than that he was still edgy from the previous experience with the terrier and now that this was a bigger dog perhaps too much in his personal space(?) he reacted. He lightly caught the dog on the outside of one of its rear legs. We didn't realise that until after I had pounced on Para. When Para reacted like lightning I pounced on him and grabbed him in a headlock. Para had nipped the other dog and if I remember correctly, it's a bit vague, he did not let go straight away though it was very quickly. The other dog limped a little and its owner was saying they should take it to the vet. I have grown up with dogs all my life and could not see how their dog could have been injured other than perhaps a very light sprain though dogs don't really seem to get that injury in my experience. I tied Para to a tree and went to see if I could examine the other dog. It lay down naturally and allowed me to examine its leg thoroughly. I squeezed it gently with my fingers all over to see if there were any damaged/sensitive areas. I could not find any so I went over the leg 2 or 3 times and then told the people that I did not feel there was anything wrong with it and that it was most likely a reaction to shock. The dog stood back up and walked away towards the river. At first with a tiny reaction and then nothing, walking normally. That dog was being walked by a middle aged couple. The woman examined the dog more and commented that she found blood. I did not encounter blood anywhere or see any sign of a wound. I was aware that Para had lightly nipped it though I did not see any evidence of tissue damage. We all went on our way. After the caretakers of that dog had shared with me that they felt it was okay though the experience was a little shaking for them.*

*Para and I entered Hansen Park. [The First Complainant] was there walking his chocolate Doberman. A young dog though well grown. We were quite a distance from each other, 60-80m, the distance shifted back and forth. Initially I think I had Para on his lead though as the dogs were so far away from each other I let him off and kept him close by 4-5m. If as I was facing straight ahead was 12 o'clock [the First Complainant] was at about 7 o'clock though a good 70m away though out of my site until I turned around. I turned when I noticed Para take off, he was close by 5-6m away. Though [the First Complainant]'s dog had slipped away from [the First Complainant] and had most likely in my opinion come back to check Para's sent and was around 15-20m away from us when Para*

*bolted. Para went straight at him and when they met they began to fight and Para got a light hold of his facial skin just around and below [the First Complainant]'s dog's left ear. I sprinted to the dogs and grabbed Para in a choke hold to try to affect his oxygen supply as I did not have any other means to my awareness to get him to let go. It felt like it took quite some time and [the First Complainant]'s dog was crying considerably which was a horrible experience for all of us I would say. [The First Complainant] seemed to feel powerless and did not manage to control his dogs head. I was bitten a few times lightly on my left hand and lower arm. It was unavoidable to me and was not concerned even if I had have been punctured by a canine tooth. Sometimes it happens. I've spent years working in the streets breaking up fights between strangers, breaking up fights between strangers dogs if I have seen them (only a couple of times) and dealing with vehicle accident scenes. Most recently with vehicle accident scenes I have not managed to shed a few tears initially though have managed to pull myself together to take of the situation. I've only been punctured once by a dog's canine tooth. I was breaking up a fight between neighbourhood dogs by myself. The incident the 21/10/18 was the second time I had had to break up a fight involving Para. That time it was a Rednose Pittbull who was not on a lead in Hansen Park and whose owner appeared to be intoxicated. It was hard work trying to deal with it by myself as well as what appeared to be an illicit drug intoxicated person. The other dog had no collar on it making it even harder. I guided the young man on how to assist in future and the value of having a good strong collar on his dog.*

*Para is well known in Hansen Park and in his youth was exceptional in helping other dogs work through their emotional issues developed I believe through the current cultural style of dog ownership. The lack of socialising etc....He is very powerful, though he has also shown an exceptionally tolerant nature and skill in identifying social issues within other dogs and assisting them to work through those issues. More in the first two years of his life than the later ones. He loves his social life and to play with other dogs. I feel he has been judged a lot simply by his appearance, which I feel is quite natural also considering our current culture, though people have also spoken often in his support to new people to the park regarding his nature.*

*I cannot think of anything else which I could share which I feel would be of service. I understand the difficulty, as much as I can without more knowledge, of the dynamics of your job requirements and do not envy you one bit. I wish you all the best and look forward to hearing back from you regarding this matter.*

*Yours sincerely,*

[24] At the hearing the Objector made similar submissions noting his shock at the incident and history and experience with dogs. The Objector noted that his dogs had been fine prior to this incident, though other dogs had come out of their properties and attacked his dogs on occasion. The Objector indicated that Para had had an amazing history at Hansons Park and is really well known. On the day in question, Para had just been lunged at by another dog immediately before the incidents, and the first involved Scout coming in very close to Para to begin with. The Objector indicated that Para was stressed when he nipped at one of Scout's legs, and the Objector grabbed Para straight away. The Objector indicated that he could not see how injury could have occurred at the time and examining Scout thought he might just be in a bit of shock as he seemed to then walk away casually like there was no trauma in spite of the initial indication of a limp.

[25] The Objector was feeling very tried and what happened next with Para taking off was very uncharacteristic of him, the Objector stated. He saw Maximus heading straight toward him, and conceived later that Para may have thought he was protecting the Objector. Neither dog had connected when the First Complainant tried to call in Maximus, and Maximus did not respond; Para then hit Maximus and

grabbed him straight away. The Objector again noted the incident was really uncharacteristic of Para, and he had never seen anything like it in his encounters with dogs.

[26] The Objector noted that he always takes a lead when taking Para to the Park, and he was on a lead; he had only taken him off lead as the First Complainant and Maximus were a long way away, some 70 metres. The Objector noted that he took responsibility and would not have had Para off lead at all if he saw a risk. The Objector noted that Para is very obedient and described a previous occasion he had been attacked and he told Para to be peaceful and he obeyed. The Objector observed he had been with Para since he was a puppy, he has a huge history at the Park of being helpful, and was known as a well-natured dog.

[27] The Objector stated that Para has not been off his property since the incident and has a large run on an acre property where he is secured with a steel cable, which he is let off three times a week, but has not been back to the Park since the incident. The Objector noted that he was shocked by the vet bill and he has no experience of a dog dying from such injury. The Objector indicated a lack of contact details for the First Complainant to address the matter. The Objector concluded noting the exceptional character of Para by nature indicating that he would be of great value to breed.

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

[28] The Complainant in response to the Objector's submission noted that if this incident is not regarded as meeting the standard for being dangerous than he does not know what would, asking the Panel to consider the consequences if the attack had been on a child.

[29] Senior Animal Management Officer, Mr Kohi, clarified that Animal Management do not become involved in matters of compensation other than being able to pass on contact details to facilitate the possibility, but otherwise it is a matter for the Disputes Tribunal.

[30] Mr Kohi further clarified that Animal Management were satisfied that Para is correctly noted in the Register as to his breed, and that Hansons Park is an off leash area, though there is the standard requirement to keep dogs under effective control – to be able to recall them.

[31] Mr Kohi did not know why Para did not react to the terrier that lunged at him, and suggested that the Second Complainant may have only decided to report the incident with Scout after hearing about the incident with Maximus; the incident with Scout was at the lower end, but appropriately reported Mr Kohi said.

#### **Close of Hearing**

[32] 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.

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

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**PANEL DELIBERATIONS**

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

[34] The evidence which formed the basis for the classification was not in the Panel's view in any doubt with regard to it supporting the assessment that Para attacked and injured at least Maximus and more likely than not Scout also. Whether or not the attack contributed to the death of Maximus, the attack itself was violent causing serious injury, which likely would have been more violent and possibly killed Maximus there and then if the Objector and First Complainant had not been present and ready and capable to hold Para and force him to release Maximus. The Panel thus they accepted there was evidence supporting the assessment that Para may pose a threat to domestic animals. Indeed the Panel were deeply impressed upon by the First Complainant's account of the violence of the attack, and had great sympathy for the effect of it upon him recognising it as a traumatic event that dogs and owners should be protected from.

[35] The evidence suggested to the Hearings Panel that the incidents resulted in part from Para not being kept under control and in part from Para's unpredictable capacity to sudden decide to attack other dogs and that Para could endanger domestic animals again if again not kept under control. It may have contributed to Para's inclination to attack that right before the incidents he was lunged at by a smaller dog, but the material causes for the Panel were that the Objector did not maintain Para under effective control and that Para is evidentially not reliably safe around unknown dogs in public and potentially violent to them.

[36] The Hearings Panel, having regard to the evidence which formed the basis for the classification of Para as 'menacing', considered that it was sufficient to form the basis for the Animal Management Team's classification, recognising that it would proceed to consider 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**

[37] It was not doubted that the Objector was sincere that he would from now on contain and control Para. The Hearings Panel also recognised that the Objector had completed steps to secure Para on his property and was committed to Para and being a good dog owner. The Panel was encouraged by these steps and respected the Objector's background and efforts to prevent dogs doing harm, recognising his quick and committed efforts to minimise the harm when Para attacked Maximus.

[38] The Hearings Panel accordingly considered the Objector's evidence and submissions in regard to the steps he had taken to prevent any further threat to the safety of animals. However, the Panel considered that the attack demonstrated that the Objector did not have Para under effective control at the time of the incident to prevent the attack, and considered that reasonable steps to prevent any threat were not taken; the Panel perceived a continuing risk that the steps suggested could not eliminate given that accidents or lapses may happen and it is unfair that potential victims of such bear that risk.

[39] The Panel had particular concern about a dog capable of such a violent and unceasing attack that took two fit and grown men to stop.

[40] The Hearings Panel did not feel the high level of confidence it would want to in respect of the steps taken that could justify de-classifying a dog that is potentially a such a threat to other dogs. The Panel had



regard to the objects and provisions of the Act, the nature of the attack and the resulting serious injury to Maximus, and the need to address the threat. It recognised the difficulty in constantly controlling a dog that is so powerful, and the threat it presents when un-muzzled.

[41] In light of these various considerations speaking to the fact that Para is a potential threat, the Hearings Panel considered that the steps taken by the Objector, though respectable in confining Para to his property, were not sufficient in all the circumstances of this case to persuade it to rescind the classification.

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

[42] The Hearings Panel had regard to the matters relied on in support of the objection. The Panel appreciated the Objector's level of concern and commitment in respect of Para, and was thankful for the Objector's sincerity and constructive approach to the hearing process, much appreciating that the Objector is evidently a committed dog owner. However, the Hearings Panel was mindful of the potential relevance of these determinations to the safety of the wider public, and was not persuaded Para no longer had the propensity to attack and injure in similar contexts. The Hearings Panel regarded that the nature and seriousness of the attack justified upholding the 'menacing' classification so as to require muzzling as a preventative measure.

[43] The Hearings Panel appreciated the Objector's submissions, but for reasons already canvassed above considered that they should not rescind the classification on the basis of those submissions all things considered. The Hearings Panel perceived that Para had demonstrated a capacity for attacking other dogs. The Hearings Panel considered that in light of the serious injury to Maximus that Para had caused, and the circumstances that Para had just prior more likely than not attacked and injured Scout, the classification should be in place.

[44] The Panel notes that classification is a preventative measure, and is not intended to be punitive; the Panel was encouraged by the Objector's commitment to his dogs, but regarded that it should nonetheless uphold the classification having regard to the object of the Act to impose on dog owners obligations designed to ensure that dogs do not injure, endanger, or cause distress to any person, stock, poultry, domestic animal or protected wildlife.

#### **Other relevant matters**

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

#### **RESULT**

[46] Having considered the objection of the Objector to the classification of his dog, Para, 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 five-year-old, male, black-and-white-coloured, American Staffordshire Bull Terrier dog named 'Para' 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 Para 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, i.e. a person, stock, poultry, domestic animal, or protected wildlife.

**CONFIRMED THIS 6<sup>TH</sup> DAY OF MARCH 2019**



**AARON CAMPBELL**  
**CHAIRPERSON**