

WAIMAKARIRI DISTRICT COUNCIL

MINUTES OF THE HEARING AND DELIBERATIONS FOR THE OBJECTION OF J DE ZWART TO A MENACING DOG CLASSIFICATION, HELD IN THE COUNCIL CHAMBER, 215 HIGH STREET, RANGIORA ON WEDNESDAY 27 APRIL 2022 WHICH COMMENCED AT 9.04AM.

PRESENT

Councillors S Stewart (Chairperson), P Redmond and W Doody

IN ATTENDANCE

T Tierney (Manager Planning and Regulation), W Taylor (Interim Environmental Services Manager), E De Boer (Senior Animal Control Officer), M Heap (Animal Management Officer), K Johnson (ESU Administrator), R Deo (Environmental Health Officer), A Connor (Governance Officer)

A Connor opened the hearing and called for nominations for Chairperson of the Hearing Panel.

1. APPOINT A HEARING PANEL CHAIRPERSON

Moved: Councillor Redmond

Seconded: Councillor Mealings

THAT the Hearing Panel

- (a) **Appoint** Councillor Sandra Stewart as Chairperson of the Objection to Menacing Dog Classification Hearing Panel.

CARRIED

At this time Councillor Stewart took the chair for the duration of this hearing and deliberations. She welcomed all parties present at the hearing and requested parties to introduce themselves.

2. APOLOGIES

There were no apologies.

3. CONFLICTS OF INTEREST

There were no conflicts of interest recorded.

4. REPORT

4.1. John de Zwart: Objection to Menacing Dog Classification – M Heap (Animal Management Officer) and W Taylor (Interim Environmental Services Manager)

M Heap took the report informing the hearing panel of an objection to a “Menacing” classification of a dog that had been lodged under section 33B of the Dog Control Act 1996 (DCA) by G Lynas as read

5. BRIEF OF EVIDENCE PRESENTED BY ANIMAL MANAGEMENT OFFICER M HEAP

M Heap stated that following her investigation of the reported incident that occurred on 21 February 2022, and discussing the case with her team leader, dogs Tahi and Kuri were both formally classified as menacing under section 33A of the Dog Control Act 1996 on 9 March 2022. The paper work outlining the classification had been delivered to J de Zwart's address on 10 March 2022.

Councillor Redmond asked what evidence the comment "prior similar incidents" was based on. M Heap explained that another complaint had been received on 22 February 2022 that referred to an incident that had taken place on 13 January 2022 where the owner was described as a man in a wheelchair with two "Staffy" type dogs where the complainant's dog had sustained three puncture wounds. No photos of this incident was received due to the time that had lapsed since the date of occurrence. This report was lodged after the 9 March 2022 incident trended on social media. Many people commented that they had similar interactions with J de Zwart and his dogs at the Kaiapoi Dog Park.

Councillor Redmond queried if any of the other reports had resulted in official complaints. M Heap clarified that the report pertaining to the incident on 13 January 2022 was officially lodged, however, not till 22 February 2022. None of the social media comments resulted in official reports. Councillor Redmond questioned how the Council could be sure that the reports on social media referred to J de Zwart's dogs. M Heap acknowledged that although they could not be certain, the detailed descriptions of the owner and the dogs made them very confident that the reports referred to J de Zwart's dogs.

Councillor Doody questioned how much weight could be given to the posts on social media as the information could be considered as hearsay. M Heap stated that although there had been previous complaints, the classification of the dogs under section 33A of the Dog Control Act 1996 was based on the official complaint received from G Lynas.

Councillor Stewart noted that J de Zwart had taken Tahi and Kuri to dog training for one session at the time of the report. She questioned whether, in M Heap's professional opinion, it would be safe for the dogs to be allowed in a dog park. M Heap replied that in her professional opinion it would take multiple sessions to train the dogs to come to the owner when called. She therefore believed that the dogs should not be allowed to be unmuzzled in a dog park.

6. EVIDENCE PRESENTED FROM DOG OWNER JOHN DE ZWART

J de Zwart commented that he did not dispute the facts presented, as he was aware that his dogs rushed at other dogs and they may have injured other dogs. He did however want the record to reflect that his dogs had never menacingly or aggressively attacked another dogs. His dogs only rushed at other dogs as a way of greeting. J de Zwart explained that he was not previously concerned that his dogs rushed other dogs, because his dogs had never been aggressive. He also would always check with other dog owners entering the dog park to ascertain if they were okay with this dogs actions. However, he now understood that allowing his dogs to rush at other dogs conditioned them in terms of their response to meeting other dogs.

J de Zwart did not agree with the comment in the Council report that he had not learnt from previous incidents. He had changed some of his behaviour and was now taking his dogs to the park earlier in the morning with the intention of avoiding other dogs and removing them before anyone else arrived. If other people and dogs arrived while they were at the dog park he would either allow his dogs to play with the other dogs if they got along, or he would call his dogs and leave. He acknowledged that his efforts to ensure other dogs and other people were not negatively impacted by his dog's presence had not been effective.

J de Zwart further stated that he had been to three sessions with trainer, Janice Kirk at Tevra Dog Training, to date and had no intention of stopping his dogs training. He noted that J Kirk ran sessions where dogs were allowed to socialise under supervision that they would attend. He had no intention of allowing his dogs to come into contact with any other dogs until they were trained. He would appreciate being able to continue using the dog park in the mornings while there were no other people or dogs.

J de Zwart mentioned that previously when an incident occurred, he would ask the owner if their dog was okay and had never received a response that indicated he had to take any further action. He noted that the new halters he was using on Tahī and Kuri had made them more obedient and rather than the dogs pulling him in his wheelchair he was now in control of them.

Councillor Doody noted she would have liked an update from Tevra Dog Training on Tahī and Kuri's progress after the three sessions. She asked if J de Zwart could to the best of his knowledge provide an update. J de Zwart explained that when he was walking the dogs in his wheelchair they were no longer pulling. The next step would be working with J Kirk on introducing Tahī and Kuri to other dogs at a dog familiarisation day session.

Councillor Doody questioned if Tahī and Kuri had come into contact with any other dogs while out on a walk. J de Zwart confirmed that they had been in contact with other dogs while on walks and clarified that he was using a Halti while walking them that pulled a dog's face around when the lead was pulled.

Councillor Redmond enquired why J de Zwart believed his dogs did not meet the definition of a menacing dog as set out in section 33A in the Dog Control Act, 1996. J de Zwart believed that his dogs had not deliberately attacked another dog and that their behaviour was rather that of overzealous welcoming and playful.

Councillor Redmond questioned what the impact of Tahī and Kuri having to wear muzzles would be. J de Zwart noted that a dog wearing a muzzle implied to other people that dog was aggressive and that his dogs did not like wearing muzzles. A dog wearing a muzzle could also not defend itself.

Councillor Stewart asked that if J de Zwart did not believe that his dogs were aggressive, how he could explain the other dog in the incident being injured. J de Zwart noted the puncture marks did not occur from his dogs viciously grabbing or biting the other dog, however they occurred because G Lynas' dog Whit pulled away during normal interaction.

Councillor Stewart queried if it was fair to ask for the exclusive use of a public dog park which was a space people go to with the expectation other dogs would be well socialised. J de Zwart noted that his intentions was to only use the dog park when other people and dogs were not around as to avoid any further incidents. He admitting to failing to control his dogs during the incident on 21 February 2022, however, he was working on recall and it was getting better every day.

Councillor Stewart questioned if J de Zwart agreed that having his dogs muzzled in a public place would be protecting other dogs and potentially other people. J de Zwart agreed that people should be able to go to the dog park without fear of being rushed, hence he was taking precautions and wanted his end game to be that his dogs could socialise with other dogs without the need for muzzles.

Councillor Stewart expressed her appreciation for the measures J de Zwart was taking to train his dogs, however, she did not believe it would be safe for Tahī and Kuri to go unmuzzled in the meantime.

Councillor Doody questioned how Tahī and Kuri could learn to socialise when they were the only dogs in the park. J de Zwart replied that Tevra Dog Training hosted sessions where you take your dogs to play with other dogs under supervision. Councillor Doody queried if these socialisation session involved the dogs wearing muzzles. J de Zwart was unsure.

Councillor Doody further asked if the socialisation training would include teaching the dogs to not go for a neck or leg. J de Zwart believed that this would be part of the training.

Councillor Redmond explained that under section 33B of the Dog Control Act 1996 the panel could only chose to rescind or uphold. J de Zwart understood that once a dog was classified as menacing it was very hard to have the classification removed.

Councillor Stewart clarified that once a dog had been classified as menacing it was a life time classification.

Councillor Doody asked the staff if there was any grey area where J de Zwart would have time to show his dogs have improved. M Heap confirmed the panel must either uphold or rescind the classification.

7. HEARING PANEL DELIBERATIONS

At this time the hearing and deliberations adjourned at 10am, and reconvened at 10.10am.

The Chairperson advised that the hearing panel proposal was to uphold the decision that the dogs, Tahi and Kuri, were menacing and members of the Hearing Panel highlighted the following reasons for upholding the classification:

Councillor Redmond questioned if the hearing could be adjourned for a couple of months before making a decision to allow J de Zwart to continue with his training programme. E De Boer stated the Dog Control Act 1996 was clear in that it gave Animal Control Officers the option to classify dogs and it gave the Hearing Panel the option to rescind or uphold the classification, there was no probation period.

Councillor Stewart appreciated all the work J de Zwart was doing to train his dogs now, however, commented it should have been done earlier. As a ratepayer, J de Zwart, had the right to use the dog park, but in light of Tahi and Kuri's current behaviour she had no confidence that other dogs would be safe or that J de Zwart could control his dogs if necessary. The public safety of other dogs was important and therefore Tahi and Kuri should be classed as menacing.

Councillor Redmond believed J de Zwart was a responsible dog owner and understood how he could perceive what some may consider aggression as playful or boisterous behaviour. It was unfortunate that the panel's decision could not be delayed to ascertain the effect of Tahi and Kuri's training. Councillor Redmond believed that at this time the classification of menacing was fair and therefore supported the upholding of the classification.

Councillor Doody appreciated the effort that J de Zwart had made to get his dogs trained with the help of J Kirk and hoped he would continue. However, under the provisions of the Dog Control Act, 1996 Councillor Doody felt the panel had to uphold the dogs' classification.

Councillor Stewart commended J de Zwart for acknowledging that Tahi and Kuri had behaviour problems and for taking remedial actions. She noted that Tahi and Kuri would get used to wearing muzzles and that J de Zwart would still be able to use the dog park at any time. The muzzles would warn others dog owners that the dogs may have issues and would protect others if another incident was to occur. Councillor Stewart stressed that it was essential he continue the training.

At this time the recommendation from staff report was put.

Moved: Councillor Stewart

Seconded: Councillor Doody

THAT the Hearing Panel:

- (a) **Receives** Report No. ANC-09 / 220321041358.
- (b) **Upholds** the classifications of Mr. de Zwart's dogs, Tahi (tag 2100911) and Kuri, (tag 2100912), as menacing.

CARRIED

THERE BEING NO FURTHER BUSINESS, THE HEARING AND DELIBERATIONS CONCLUDED AT 10.18AM.

CONFIRMED



Chairperson
Councillor Sandra Stewart

9/05/2022

Date