



# **MINUTES**

**Regulatory Hearings Panel meeting  
Thursday, 5 August 2021**

**Order of Business**

**1 Opening Karakia ..... 3**

**2 Apologies ..... 3**

**3 Declaration of conflicts of interest ..... 3**

**4 Business..... 3**

    4.1 Adoption of Hearings Procedures..... 3

    4.2 Objection to Menacing Dog Classification - Griffin and Whitaker ..... 4

**5 Discussion of late items ..... 6**

**MINUTES OF TAURANGA CITY COUNCIL  
REGULATORY HEARINGS PANEL MEETING  
HELD AT THE TAURANGA CITY COUNCIL, TE AWANUI HARBOUR ROOM, 91 WILLOW  
STREET, TAURANGA  
ON THURSDAY, 5 AUGUST 2021 AT 9.30AM**

**PRESENT:** Mrs Mary Dillon, Mr Terry Molloy, Mr Alan Tate

**IN ATTENDANCE:** Brent Lincoln (Team Leader: Animal Services), Coral Hair (Manager: Democracy Services), Nigel McGlone (Manager: Environmental Regulation), Robyn Garrett (Team Leader: Committee Support).

## **1 OPENING KARAKIA**

Chairperson Mary Dillon opened the hearing with a karakia.

The Panel acknowledged the passing of Tauranga kaumatua Dr Kihi Ngatai and noted his significant contribution to the community.

## **2 APOLOGIES**

### **APOLOGY**

### **COMMITTEE RESOLUTION RHP1/21/1**

Moved: Mr Alan Tate

Seconded: Mr Terry Molloy

That the apology for absence received from Puhirake Ihaka be accepted.

**CARRIED**

## **3 DECLARATION OF CONFLICTS OF INTEREST**

Nil

## **4 BUSINESS**

### **4.1 Adoption of Hearings Procedures**

**Staff** Coral Hair, Manager: Democracy Services

#### **Key Points**

- Noted the addition of a quorum requirement of two into the Terms of Reference.

### **COMMITTEE RESOLUTION RHP1/21/2**

Moved: Mr Terry Molloy

Seconded: Mr Alan Tate

That the Regulatory Hearings Panel:

- (a) Amends its meeting procedures for all quasi-judicial proceedings of the Panel (in accordance with Standing Order 3.6 and the Panel's Terms of Reference) by adopting:

- (i) the *Dog Control Hearings Procedure* in Attachment 1 for all hearings under the Dog Control Act 1996; and
  - (ii) the *Hearings Procedure (for Panel hearings other than those under the Dog Control Act 1996)* in Attachment 2 for all other hearings.
- (b) Approves that the *Regulatory Hearings Panel – Summary of hearings procedure* document in Attachment 3 be included in the agenda for all Panel hearings.

**CARRIED**

## **4.2 Objection to Menacing Dog Classification - Griffin and Whitaker**

**Staff** Brent Lincoln, Team Leader: Animal Services

### **Key Points**

- The Dog Control Act 1996 (DCA) required all reasonable steps to be taken by dog owners to avoid their dogs causing injury or distress to people or animals.
- The incident could have been avoided by the dogs being on leashes.
- Explained the process and options available under the DCA. Considered the most appropriate action in this case was to classify the dogs as menacing; they had met the threshold as had attacked another dog.
- Classifying the dogs was about managing future risk as it would require the dogs to be muzzled in public. A muzzled dog was a safe dog; wearing a muzzle does not impact on the wellbeing of the dog.
- Council's Dog Management Bylaw 2018 requires a dog to be kept under effective control so it cannot cause nuisance or danger to any person or other animal or enter private property.
- Outlined the offences and penalties under the law and the bylaw.
- Considered that dogs would default to embedded behaviour of their breed; a strong loyal protective dog can be aggressive. Despite the best training, a dog may default to natural tendencies; this breed was a dominant breed and can be aggressive to other dogs.

### **In response to questions**

- The breed characteristics were of bull breeds, the dogs were initially bred to control aggressive bulls by attacking/grabbing various body parts. This evolved over time into a blood sport and dog fighting, particularly in the United States. The American Pitbull Terrier and American Staffordshire Terriers are similar in appearance; however, the American Staffordshire was generally less aggressive than the American Pitbull. Confirmed that these dogs were both registered as American Staffordshires.
- The breed of dog was generally about knee height.

**Objector** Bev Edwards, Solicitor  
Chloe Griffin and Campbell Whitaker, dog owners

### **Key Points**

#### **Ms Edwards**

- Clarified and outlined the various documents available to the Panel.
- Noted the range of offences and the range of options available to council as penalties.
- Disputed the classification as menacing. This incident was a first and only offence; one dog was over three years old and had not been involved in any issues previously.
- The objectors would accept a fine of \$300 for dogs not being under control.
- Disputed the veracity of the statement of the complainant and did not agree that the dogs posed a threat or attacked the other dog. These dogs were also bitten, but no action had been taken against the complainant and his dog.

- The owners were concerned about having to neuter the currently unneutered dog, in terms of the timing of the procedure on the health of the dog. Also concerned that a muzzled dog in public made that dog defenceless and a target for attack by other dogs.
- Noted reservations around breed-specific legislation; various breeds had been targeted through the years e.g. rottweilers previously, now pit bulls.
- Emphasised that these dogs were registered American Staffordshire terriers with known breeding.
- Submitted that the Panel should take account of the dogs' before and after behaviour and the range of options available, rather focusing solely on this incident.

### **Ms Griffin**

- Ms Griffin was an experienced pitbull and staffordshire owner.
- Ms Griffin recounted her version of the incident. Explained the location of the event; she had not seen any dog or person before exiting the vehicle and only saw the complainant at the last minute as the complainant was hidden by the shipping container. Considered her dog Nellie (off lead) was acting in a friendly manner and that the complainant's dog (on lead) snapped at Nellie through the bars of the structure which Nellie had entered. The complainant's dog snapped and bit Nellie, dog Tynie arrived at this stage, was bitten and bit back. Both dogs were then returned to the owners' van and secured.
- The complainant was angry and insisted that Ms Griffin must have seen him and his dog; Ms Griffin provided her name and number.
- The dogs were subsequently sent for retraining; the owners provided references from dog trainers documenting the dogs' good behaviour, general demeanour and absence of signs of aggression.
- Did not consider that muzzling and being on leash was required for the dogs.

### **Mr Whitaker**

- Dog Tynie was not initially involved but reacted to seeing dog Nellie in distress, and exchanged barks and bites with the complainant's dog.
- Considered that the complainant should have made himself known and visible as soon as he saw Ms Griffin and Nellie.
- Deliberately chose areas to exercise the dogs that did not have other dogs around, had thought the area was clear.

### **In response to questions**

- Noted that the owners had worked with various dog trainers; one before the incident and several since the incident; and were continuing to work with one trainer.
- People were intimidated by the breed of the dogs and could be unpleasant (Ms Griffin had experienced verbal abuse; dog Nellie had been kicked) and so tended to avoid areas with other people/dogs. The dogs had no previous record with Council.
- There was no plan to breed the dogs; would be neutered at about 2.5 years old when fully matured.
- Disputed that both dogs were attacking the complainant's dog at the same time.
- The owners had not taken the dogs to the vet as they were competent to provide their own first aid/wound treatment. The offer to pay the complainant's vet costs was to try and calm the situation.
- Clarification was provided around the location and position of dogs around the structure in terms of access to bite.
- The owners' van could have been visible to the complainant.

### **Right of Reply**

**Staff** Brent Lincoln, Team Leader: Animal Services

- It was an owner's choice about the appropriate age to neuter a dog; vets would generally be

comfortable to neuter a nearly two-year old dog.

- There had not been many cases reported to Council of muzzled dogs being attacked, could only think of one instance.
- Considered that a person with a dog on a lead was acting responsibly to do what was required. The overall principle of the DCA was that an owner must make all reasonable efforts to control a dog; dogs off lead could approach a dog on lead.
- Advised that the courts had held that where two dogs off lead interact, then no blame could be attributed to either dog; a different scenario when one dog was on lead.

The Panel adjourned at 10.30am for deliberations.

The Panel reconvened 11.19am.

## Decision

The Panel decided to rescind the classification of both dogs as menacing.

Factors taken into consideration in reaching the decision included:

- s33B(2) of the Dog Control Act – the Panel considered the further evidence and information provided in the hearing and noted the disputed views of the incident between the complainant and the objectors. The Panel also noted the further steps taken by the owners to ensure the dogs' behaviour had improved, with subsequent training and behaviour management undertaken.
- The Panel considered the threat the dogs might pose to people or animals, and concluded there was minimal risk of the dogs reoffending – there was no history of offending or any other reported incidents and the owners had demonstrated responsibility and awareness, and taken steps to address the safety concerns.

The Panel noted the overall obligations imposed on dog owners by s5 of the Dog Control Act and reminded the owners that they had primary responsibility to ensure that the dogs posed no further threat, and that they took all reasonable steps to ensure the dogs did not injure or cause distress to people or other animals. It was suggested that the owners had muzzles available to use, kept the dogs on lead when practicable and neutered the dog when appropriate.

The Chairperson concluded that this had been a difficult decision to make and it was up to the owners to ensure there was no repeat of the incident.

## COMMITTEE RESOLUTION RHP1/21/3

Moved: Mr Alan Tate

Seconded: Mr Terry Molloy

That the Regulatory Hearings Panel:

- (a) Receives the report; and:
  - (ii) Rescinds the classification of the dog Nellie as menacing dog; and
  - (iv) Rescinds the classification of the dog Tynie as menacing dog.

**CARRIED**

## 5 DISCUSSION OF LATE ITEMS

Nil.

**The meeting closed at 11.22am**

**The minutes of this meeting were confirmed as a true and correct record at the Regulatory Hearings Panel meeting held on 11 November 2021.**

.....  
**CHAIRPERSON**