



MINUTES

**Regulatory Hearings Panel meeting
Thursday, 30 March 2023**

Order of Business

1	Opening karakia	3
2	Apologies	3
3	Confirmation of minutes	3
4.1	Minutes of the Regulatory Hearings Panel meeting held on 10 March 2023.....	3
4	Declaration of conflicts of interest	3
5	Business	4
5.1	Objection to Disqualification as Dog Owner - Tina Bowrind.....	4
5.2	Objection to Menacing Dog Classification - Denese Konowe.	4
6	Public excluded session	7
6.1	Public Excluded minutes of the Regulatory Hearings Panel meeting held on 10 March 2023	7
7	Closing karakia	7

**MINUTES OF TAURANGA CITY COUNCIL
REGULATORY HEARINGS PANEL MEETING
HELD AT THE GROUND FLOOR MEETING ROOM 1, 306 CAMERON ROAD, TAURANGA
ON THURSDAY, 30 MARCH 2023 AT 9.30AM**

PRESENT: Mrs Mary Dillon (Chairperson), Mr Terry Molloy, Mr Alan Tate

IN ATTENDANCE: Brent Lincoln (Team Leader: Animal Services), Robyn Garrett (Team Leader: Governance Services), Sarah Drummond (Governance Advisor)

1 OPENING KARAKIA

Mrs Mary Dillon opened the meeting with a karakia.

2 APOLOGIES

APOLOGY

COMMITTEE RESOLUTION RHP2/23/1

Moved: Mr Alan Tate

Seconded: Mr Terry Molloy

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

CARRIED

3 CONFIRMATION OF MINUTES

4.1 Minutes of the Regulatory Hearings Panel meeting held on 10 March 2023

COMMITTEE RESOLUTION RHP2/23/2

Moved: Mr Terry Molloy

Seconded: Mr Alan Tate

That the minutes of the Regulatory Hearings Panel meeting held on 10 March 2023 be confirmed as a true and correct record.

CARRIED

4 DECLARATION OF CONFLICTS OF INTEREST

Chairperson Mary Dillon noted that she was a resident of the area in relation to the Objection of Dense Konowe, but Mr and Mrs Konowe and their dog were not known to her. This was raised as a matter of clarity, rather than a conflict of interest.

5 BUSINESS

5.1 Objection to Disqualification as Dog Owner - Tina Bowrind

Staff Brent Lincoln, Team Leader: Animal Services
Kiran Erasmus, Animal Services Officer

Key points

- Ms Bowrind advised the Governance Advisor Ms Drummond on the morning of the hearing that, due to ill health of herself and other family members, she would be unable to attend the hearing in person. Ms Bowrind requested that the hearing of her objection be rescheduled to a later date.
- The Panel agreed to this request and advised that the hearing would be rescheduled, and the report would continue to lie on the table. However, if Ms Bowrind was unable to attend the next hearing the matter would be decided by the Panel on the papers already before them.

COMMITTEE RESOLUTION RHP2/23/3

Moved: Mr Terry Molloy

Seconded: Mr Alan Tate

That the Regulatory Hearings Panel leaves the report to lie on the table

CARRIED

5.2 Objection to Menacing Dog Classification - Denese Konowe.

Staff Brent Lincoln, Team Leader: Animal Services

External

Mr Leon and Mrs Denese Konowe (the objectors), Mr Alan and Mrs Liz Dentith (victim) and support person Ms Jaquie Foot

Key points

- Chairperson Mary Dillion welcomed all parties to the hearing and noted that the Panel had received the pre-circulated staff officer's report, further information provided by Mr and Mrs Konowe and the affidavit of Mrs Dentith and Mrs Foot.
- Staff provided a brief overview of matters in the report and noted that this was an objection by Mr and Mrs Konowe to a menacing dog classification imposed by the Tauranga City Council on their dog Fiora (Fi), that followed an incident involving Fi where a dog bite had occurred.
- Noted that Council could classify a dog as menacing under Section 33A of the Dog Control Act 1996, if there had been observed or reported behaviour by the dog that posed a threat to any person, stock or domestic animal.
- Noted while this was a low threshold, the purpose of the classification was that of a deterrent and would be imposed to minimise any further risk of incidents occurring.
- It was possible that Fi had attacked other people in the community; however, not all these incidents were reported to Council or recorded at the time they allegedly occurred so were not verified.
- Staff advised that the evidence provided as Attachment 7 by Mr Hickey which referred to nine other potential bite incidents with the dog Fi was hearsay and not evidential.
- An attack action matrix was completed following the receipt of the complaint against Fi. The matrix completed was a sliding scale where the outcome was graded from 0 to 37, 37 being a level where there could be a prosecution. A summary of the matrix was provided at the bottom of the report and indicated why and how the conclusion was reached.

- Fi was graded as 31 on that matrix. A dog not under lead control and with an attack rating of 31 could also have been classified as dangerous.
- On completion of the matrix, a decision was made by staff to impose a classification of menacing on Fi. Under this classification there would still be a high threshold to meet to ensure no other incidents or attacks could occur.
- The owner of a dog classified as menacing was required to muzzle the dog in public at all times and at all times have the dog under lead control. There would only be one defence to any further attacks, in that the owners of the dog had taken all reasonable steps to prevent an attack occurring.
- Section 33E of the Dog Control Act 1996 Act detailed the muzzling and lead provisions applied to a menacing dog. The objection would be to the classification and the Panel could only uphold or rescind the classification. There was no ability for the Panel to impose specific conditions with the classification.
- The High Court in past rulings had determined that past behaviour of a dog would be indicative of future behaviour, i.e., if a dog had acted aggressively/bitten previously, the presumption would be that this would occur again in the same circumstances.
- Dogs were reactive animals and highly likely to react in that same way again if placed in the same situation. If the dog was under lead and muzzle control, any future incidents would be prevented from occurring.
- Mrs Dentith had no further comment to add to her affidavit. She advised the Panel that she was now fully recovered and had taken approximately four weeks to heal. Mrs Dentith felt that it would be appropriate for Fi to be always muzzled and on lead control in public.
- Mrs Dentith provided the Panel a brief overview of how and when the incident had occurred, where she and her husband were standing in relation to parked cars in the area.
- Mr Konowe presented the case for the objection to the classification of Fi as menacing. He provided background evidence of his qualifications and work history that involved extensive work with animals in a laboratory environment studying behaviour.
- Mr and Mrs Konowe noted that in their view the victim Mrs Dentith felt that the Konowes had provided an inadequate response or apology to the incident involving Fi.
- There were areas of dispute between the statement of Mrs Dentith and Mr and Mrs Konowe over the time that the incident with Fi had occurred, the lighting in the area at the time and the severity of the bite that had been inflicted by Fi on Mrs Dentith.
- Mr Konowe noted that he had apologised for the incident but that was disputed by Mr and Mrs Dentith.
- A map was supplied by Mr Konowe to the Panel showing the location of parked cars and street lighting and the walking paths taken around the parked cars by Mrs Dentith when the incident occurred.
- Mr and Mrs Konowe put forward that the incident had occurred after 10:30pm on New Year's Eve and that it was dark when the incident occurred with poor street lighting. The approach of Mr and Mrs Dentith around a parked van had startled Fi, who was not on lead, and had reacted by nipping Mrs Dentith.
- Noted that other dogs in the area regularly played off lead in the grassed area marked on the map.
- Mr and Mrs Konowe advised that they had always acknowledged that there was an incident involving Fi and had never denied that fact.
- Mr and Mrs Konowe disputed the dates of issue of notices from the Council. They further advised of their concern that Mrs Foot and Mrs Dentith had been instructed to or were taking photographs of Fi on public property not muzzled.
- Noted that all phone calls and interactions with Council staff had been recorded and transcribed. Mr Konowe drew attention to a home visit made by Animal Services staff which had shown that Fi was not restrained in their home and had not been barking or aggressive.
- Mr Konowe described to the Panel his concerns and the failings he perceived with the sliding scale matrix used by Council to determine the severity of an incident. The Panel advised Mr and Mrs Konowe that this was not a matter which they could consider.
- Three different types of muzzles had been purchased for Fi by Mr and Mrs Konowe and none had proved workable.

- Fi was seen as a friend by the Konowes, and they expressed concern that muzzling Fi would cause her distress and alter her personality.
- The Konowes offered an outcome from the hearing that Fi would be always on lead outside of their property and receive 'soft' training with a dog behaviour specialist at their expense to curb her instinct to nip.

In response to questions

- Staff had considered all evidence before them, and the matrix used to determine the severity of an incident, and felt that in this instance a classification of menacing would be more appropriated than that of dangerous.
- In response to concerns of the Konowes, staff advised the Panel that a muzzle must be designed for the dog to breath and be able to drink as normal, and acknowledged that this would require training for the dog and an adjustment period to wearing of the muzzle for the dog.
- In staff experience or understanding there was no specific evidence that showed muzzling would be any different for a border collie. At present staff were not aware of any other border collies being muzzled in the Tauranga area.
- Mrs Dentith corrected her affidavit to note that the incident occurred on 31 December 2022 at approximately 7:55pm. This was disputed by Mr and Mrs Konowe who placed the incident at approximately 11:00pm.
- Fi was a failed farm dog and had been with Mr and Mrs Konowe for approximately four years; Fi was two and a half when she came to them.
- As it was not unusual for the public to walk across their driveway Mr and Mrs Konowe were aware of one or two other incidents of Fi nipping people, but this had occurred on their property.
- Fi would bark at people passing the property but was fully fenced off from the front of the property and all entrance ways.
- Mr and Mrs Konowe disputed that a full bite had occurred and contended that Fi had nipped Mrs Dentith which was not as severe as a full bite.
- Mr and Mrs Konowe had cats and Fi was not a threat to them. She had been around children and there had been no incidents.
- Mr and Mrs Konowe were unaware of Fi's history prior to coming to them; however, they had noted that she had an aversion to gumboots and saw them as a threat.
- Fi was walked off lead at Papamoa Beach in an unpopulated area when no others were present.
- Mrs Konowe was aware of the documented two other incidents involving Fi from October 2022 and disputed them.
- The Panel again reiterated that they were only able to make a decision regarding the classification.

COMMITTEE RESOLUTION RHP2/23/4

Moved: Mr Alan Tate

Seconded: Mr Terry Molloy

That the Regulatory Hearings Panel:

- (a) Receives the report "Objection to Menacing Dog Classification - Denese Konowe."
- (b)(i) Upholds the classification.

CARRIED

6 PUBLIC EXCLUDED SESSION

Resolution to exclude the public

COMMITTEE RESOLUTION RHP2/23/5

Moved: Mr Terry Molloy

Seconded: Mr Alan Tate

That the public be excluded from the following parts of the proceedings of this meeting.

The general subject matter of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48 of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48 for the passing of this resolution
6.1 - Public Excluded minutes of the Regulatory Hearings Panel meeting held on 10 March 2023	<p>s6(a) - The making available of the information would be likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial</p> <p>s7(2)(a) - The withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons</p>	s48(1)(a) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7

CARRIED

7 CLOSING KARAKIA

Mrs Mary Dillon closed the meeting with a karakia.

The meeting closed at 12:04pm

The minutes of this meeting were confirmed as a true and correct record at the Regulatory Hearings Panel meeting held on _____ 2023.

.....
CHAIRPERSON