



AGENDA

Hearings Committee Meeting Thursday, 5 December 2024

Date Thursday, 5 December 2024

Time 2:00 pm

Location Council Chambers
District Council Building
2 King George Place
Timaru

File Reference 1726048

Timaru District Council

Notice is hereby given that a meeting of the Hearings Committee will be held in the Council Chambers, District Council Building, 2 King George Place, Timaru, on Thursday 5 December 2024, at 2:00 pm.

Hearings Committee Members

Mayor Nigel Bowen, Cllr Peter Burt, Cllr Owen Jackson.

Quorum – no less than 2 members

Local Authorities (Members' Interests) Act 1968

Committee members are reminded that if you have a pecuniary interest in any item on the agenda, then you must declare this interest and refrain from discussing or voting on this item, and are advised to withdraw from the meeting table.

Paul Cooper

Group Manager Environmental Services

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- 1 Apologies**
- 2 Identification of Items of Urgent Business**
- 3 Identification of Matters of a Minor Nature**
- 4 Declaration of Conflicts of Interest**
- 5 Chairperson's Report**

6 Reports

6.1 Dog Control Act 1996 - Section 33B, - Objection to Classification of Menacing Dog 'Maggie'

Author: Joanne Hamilton, Team Leader Animal Control/Parking

Authoriser: Debbie Fortuin, Environmental Compliance Manager

Recommendation

That the Hearing Committee Panel, after giving consideration to the available evidence, makes a determination under the provisions of the Dog Control Act 1996 to either:

- (a) Rescind the Menacing Dog Classification of Maggie; or
- (b) Uphold the Menacing Dog Classification of Maggie.

Purpose of Report

- 1 This covering report relates to an objection received in writing regarding Notice of Classification of Menacing Dog dated 3 September 2024, posted to the owner of dog 'Maggie'.

Assessment of Significance

- 2 Council's assessment under its significance and Engagement Policy is that this matter is not applicable.

Background

- 3 The serving of the Menacing Dog Classification notice has followed an investigation into a complaint of a dog attack that took place in a public place, being a street in Temuka, at approximately 10:30am on 5 July 2024.
- 4 The complainant reported the incident on 5 July 2024 advising that while riding a biking along a street in Temuka the complainant saw two young boys standing at the back of a vehicle, the complainant had continued to bike past when all of a sudden, a greyish coloured dog came out of behind the vehicle from the footpath at him, biting him on the leg. The complainant yelled and the dog let go giving the complainant a chance to use the bike as a barrier between himself and the dog. The complainant had yelled at the boys asking if the dog belonged to them and they answered, "Yes sorry". The complainant received one puncture wound on his leg.
- 5 On 5 July 2024 Kama Dick, Animal Control Officer (ACO), checked the Timaru District Council database and found that the dog 'Maggie' of Temuka was in the database but had not been registered since the 2022/23 year and had been infringed for this offence under section 42 of the Dog Control Act 1996.
- 6 On 12 July 2024 the ACO, visited the complainant at their home in Temuka to take a witness statement, and obtained a photograph of the injury (after it had begun to heal). The complainant advised the dog came from Temuka and drew a map to confirm which property it came from. The complainant also provided the ACO with paperwork from the Doctor relating to the injury.

- 7 At 11:50am the ACO visited the home of the dog 'Maggie' in Temuka. The ACO did not sight the dog 'Maggie' however, confirmed a dog was barking from inside the house. No-one came to the door, so a business card was left in the mailbox for the dog owner to make contact.
- 8 On 20 July 2024 at 10:11am the ACO called the owner of the dog 'Maggie'. The phone rang but there was no option to leave a message.
- 9 On the 23 July 2024, the ACO visited the home of the owner of the dog 'Maggie' as there had been no response from the card was left in the mailbox. No-one was home so the ACO left another business card asking the owner of the dog 'Maggie' to make contact.
- 10 On 5 August 2024 at 11:01am the ACO tried calling the owner of the dog 'Maggie' again but could not make contact. On the 9 August 2024 the ACO then visited the home of the dog 'Maggie' again. No-one was home so the ACO left a third business card requesting contact. On the same day the ACO visited the complainant, and asked further questions regarding the attack, the complainant confirmed the breed and colouring of the dog, choosing from a range of breeds. He also confirmed the age of the children that were present when he was bitten.
- 11 On 20 August 2024 the Dog Maggie was registered for the 2024/25 year.
- 12 On 28 August 2024 Animal Control Officer's (ACO) Kama Dick, Bevan Ross, visited the home of the owner of the dog 'Maggie' again. No-one was home. They sighted the dog 'Maggie' and took a picture.
- 13 On 29 August 2024 ACO sent a text message to the owner of the dog 'Maggie', no reply was received.
- 14 On 3 September 2024 the ACO completed the Officers attack Investigation Report. A Menacing Dog Classification under section 33A of the Dog Control Act 1996 was issued and posted to the owner of the dog 'Maggie' at their home, along with an infringement for Failure to Control and Confine Dog under section 52A of the Dog Control Act 1996 and a Fencing Order under chapter 6 of the Timaru District Council Consolidate Bylaw 2018. An attempt was made to contact the owner of the dog 'Maggie' by phone to advise of the outcome, however the number held on file had been disconnected.
- 15 On 4 September at 8:51am the owner of the dog 'Maggie' contacted the Council and through LGOIMA requested a copy of the Officers investigation report.
- 16 On 19 September 2024 the owner of the dog 'Maggie' emailed advising that she had spoken with the complainant followed by a series of emails between the owner of the dog 'Maggie', their partner and Joanne Hamilton, Team Leader Animal Control and Parking. Within the email chain there was a request to object to the Menacing Dog Classification on 30 September 2024.

Discussion

- 17 The investigation established that an attack had taken place on public land in Temuka and a minor-moderate injury had been sustained. The Timaru District Council considers that the dog 'Maggie' poses a threat to people because of the reported behaviour and evidence collected. The behaviour of the dog needs to be addressed, and risk eliminated to ensure the safety of other animals and the public. This can be managed by the owners adhering to the effects of the classification, being that they must not allow the dog to be at large or in any public place or any private way, except when confined completely within a vehicle or cage, without being muzzled in such a manner as to prevent the dog from biting but allow it to breathe and drink without obstruction.

Standard of proof

18 The panel will need to determine for itself which recommendation is appropriate, the evidence contained in the Public Excluded Report should be considered on the balance of probabilities. Simply stated this means 'more likely than not'. This recommendation decision should be based on the following:

- Relevant legislation
- Assessment of the evidence as it relates to the legislation; and
- Weighting of the evidence

Relevant Legislation, Council Policy and Bylaws

19 Dog Control Act 1996, section 5 – *Obligations of dog owners*

20 Dog Control Act 1996, section 33A – *Territorial Authority may classify dog as menacing*

21 Dog Control Act 1996, section 33B – *Objection to classification of dog under section 33A*

22 Dog Control Act 1996, section 33E – *Effect of classification as menacing dog*

23 Dog Control Act 1996, section 52 – *Control of dogs generally*

24 Dog Control Act 1996, section 52A – *Control of dog on owners property*

25 Dog Control Act 1996, section 57 – *Dogs attacking persons or animals*

26 Timaru District Dog Control Policy 2018, Part 3 18.0 - *Enforcement Protocol*

27 Timaru District Dog Control Policy 2018, Part 3 23.0 - *Dogs attacking persons.*

28 Timaru District Dog Control Policy 2018, Part 3 24.0 - *Dogs attacking or rushing*

29 Timaru District Consolidated Bylaw 2018 Chapter 6.11 – *Dogs becoming a nuisance or injurious to health*

Financial and Funding Implications

30 Council's assessment of financial and funding implications policy is not applicable in this instance.

Objection to Classification as Menacing Dog

31 The reason given for the objection to the 'Classification as Menacing Dog', was that the classification is "questionable" and "it appears this conclusion was determined" based on the witness statement, and, that in their opinion (dog) Maggie "does not fit the category of menacing".

32 Documents provided by the owner in objection to classification as menacing dog of 'Maggie'.

Attachments

Nil

7 Consideration of Urgent Business Items**8 Consideration of Minor Nature Matters****9 Exclusion of the Public****Recommendation**

That the public be excluded from—

- *(a)the whole of the proceedings of this meeting; or
- *(b)the following parts of the proceedings of this meeting, namely,—

10.1 Dog Control Act 1996 - Section 33B, - Objection to Classification of Menacing Dog 'Maggie'

The general subject 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(1) 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	Plain English Reason
10.1 - Dog Control Act 1996 - Section 33B, - Objection to Classification of Menacing Dog 'Maggie'	s7(2)(a) - The withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons	To protect a person's privacy, including the privacy of deceased persons

Note

[Section 48\(4\)](#) of the Local Government Official Information and Meetings Act 1987 provides as follows:

- “(4)Every resolution to exclude the public shall be put at a time when the meeting is open to the public, and the text of that resolution (or copies thereof)—
 - (a)shall be available to any member of the public who is present; and
 - (b)shall form part of the minutes of the local authority.”

10 Public Excluded Reports**11 Readmittance of the Public**