

Minutes of a meeting of the Hearings Panel - Other

Held in Ruma Marama, Level 2A, Civic House, 110 Trafalgar Street, Nelson

On Tuesday 14 March 2017, commencing at 8.35am

Present: Councillors I Barker (Chairperson), and P Matheson

In Attendance: Councillor S Walker, Team Leader Regulatory (Brent Edwards), Manager Environmental Inspections (Stephen Lawrence), Animal Control Officer (Martin Vince) and Team Leader Administration Advisers(R Byrne).

1. Confirmation of Business

Item 4 on the Agenda had been withdrawn to a later date as both parties had requested that the witness to the dog attack be present and the witness was unavailable for the meeting.

2. Interests

No interests.

3. Objection to classification of a dog as menacing – Annette Te Kotua – Dog named “Wahine Toa”

Annete Te Kotua was in attendance, accompanied by Sue Walsh Canine Behaviour consultant, and Trish Goulter.

Brent Edwards, Team Leader Regulatory presented his report and outlined that the onus of proof that their dog was not classified as a menacing dog fell to the owner. He advised that the Dog Control Act stated that an American Pitbull type was a menacing dog and that the Bitsa DNA results were not suitable evidence because the term Pit Bull was considered to be a social construct which groups any number of dogs with particular physical characteristics, and was not considered a ‘breed’. He noted the Dog Control Officer is very experienced and two officers had identified the dog as American Pitbull type.

Annette Te Kotua spoke at length and tabled additional documentation (A1760747) as part of her objection. She noted she was waiting on results of another DNA test from Australia which tested for American Pitbull Terrier genes.

She commented that she had found significant information which stated that visual identification of breed had been found to be inaccurate up to 88% of time and this was the basis of her objection.

She noted that if the classification was upheld and she was required to muzzle and neuter the dog this would severely limit Toa's socialisation. She requested that Council remove the menacing classification from Wahine Toa.

Sue Walsh, from Dog Almighty was present to support the objection. She advised her qualifications which were: Certified Dog Behaviour Consultant with the International Association of Animal Behaviour Consultants (IAABC); Diploma in Canine Studies with Oxford College in UK.

She noted that the owner of Wahine Toa had hired her to complete a behaviour assessment on Toa and found no aggression; Toa was a safe, loving quiet dog. She further noted that Ms Te Kotua's section was fully fenced and that Toa was microchipped and registered.

Trish Goulter spoke of her support for Ms Te Kotua and Wahine Toa. She noted that her dog attacked by a Pitbull cross so was wary of similar dogs. She had met Ms Te Kotua in the park and was surprised that Toa was such a placid dog.

When asked what breed she thought her dog was, Ms Te Kotua advised Wahine Toa was a Bull Mastiff Pitbull cross, registered as a Bull Mastiff Cross.

Brent Edwards, Team Leader Regulatory advised Dog Control Officers had no reason to be concerned about the behaviour of Wahine Toa, it was important that the decision to uphold the classification or not must be based on the breed or type of dog that Wahine Toa was.

Councillor Barker suggested adjourning the Hearing to undertake more research. He noted that he and Councillor Matheson may request to view Toa.

That the Hearing

Adjourn for further research and to be reconvened on a further date to be determined.

Barker/Matheson

Carried

The meeting adjourned at 9.35am.

Minutes of a reconvened meeting of the Hearings Panel - Other

Held in Ruma Marama, Level 2A, Civic House, 110 Trafalgar Street, Nelson

On Thursday 20 April March 2017, commencing at 1.00pm

Present: Councillors I Barker (Chairperson), and P Matheson

In Attendance: Councillor S Walker, Team Leader Regulatory (Brent Edwards), Manager Environmental Inspections (Stephen Lawrence), Animal Control Officer (Martin Vince) and Team Leader Administration Advisers(R Byrne).

1. Confirmation of Business

Item 4 on the Agenda which had been withdrawn to a later date was now able to be heard as all parties were able to attend.

2. Interests

No interests were declared.

3. Objection to classification of a dog as menacing – Annette Te Kotua – Dog named “Wahine Toa” - reconvened

Annete Te Kotua was in attendance, accompanied by Sue Walsh Canine Behaviour consultant.

Councillor Barker asked Team Leader Regulatory, Brent Edwards to recap from the adjourned meeting. Mr Edwards advised that two experienced dog control officers had identified Wahine Toa as, in their opinion, a predominately pit bull type dog and subsequently had been required to classify it as a menacing. The owner objected to the classification and in original the hearing brought a Bitsa DNA test. The panel had reviewed the information provided and decided that to wait for the results of a second DNA test which the owner had requested from an Australian firm. Results were now provided by the owner of dog.

Mr Edwards noted that DNA testing was scientific evidence and should be accompanied by an expert to present the evidence. The second results showed that Wahine Toa was a mixture of a number of different dogs, in particular Mastiff and Dogue de Bordeaux which differed to the original DNA test, this raised questions on how valid identification could be.

He advised a Pitbull exemption certificate was also provided certifying that based on genetic analysis of Pitbull breeds Wahine Toa was excluded, based on 100% non-Pitbull contributing breeds. He pointed

out that the officers had identified the dog as part Pitbull; the owner had also identified it as a Pitbull cross. He felt there were too many questions over the breed to be given substantial weight. On that basis he recommended the classification to be upheld.

Ms Te Kotua tabled the related documentation (A1760750 and A1760751) and reiterated that she had requested the second DNA test from Australia as she was advised the Bitsa test was not accepted and that the only way to dispute the visual identification was to get the DNA test done. She noted that there had been no behavioural complaints about Wahine Toa, she had passed a behavioural test and the only reason she was being classed as menacing was by visual identification.

The meeting was adjourned from 1.23 pm to 1.26 pm for the panel to reach a decision.

That the Panel

Receives the report Objection to classification of a dog as menacing – Annette Te Kotoa – Dog named “Wahine Toa” (A1717209) and its attachments (A1724511, A1724521, A1588269, A1724558, A1724572, A1724578, A1724583 and A1724587); and

Recommends that, in view of the evidence which formed the basis of the classification of “Wahine Toa” and further evidence submitted by the owner, the Panel finds that the non-classification of Pitbull as a breed has meant that it doesn’t accept that it has enough evidence to be convinced that under the legislation that the classification of the dog Wahine-Toa as a menacing dog can be proven and that the objection be upheld and that the menacing dog classification be dismissed.

Barker/Matheson

Carried

4. Objection to classification of a dog as dangerous – Alex Wilkinson – Dog named “Boris”

Document number A1613999

Alex Wilkinson, Ms O’Malley, Nigel McFadden, Barry Rowe and Jill Miller were present.

The Manager, Environmental Inspections, outlined the progress of the case and advised that this was a rehearing of the situation. He took his report as read and noted that fencing had been improved since the

previous meeting. He maintained that a dangerous dog classification should be upheld to protect the neighbourhood cats.

Jill Miller provided a sworn affidavit and outlined the actions of the dog seen to kill a cat on her property. She noted that since fencing was improved he had not seen the dog on his property however he had seen it on the road.

Barry Rowe, owner of the cat said that he did not dispute that Boris was a great family pet and good with children, however his breed (German shorthaired pointer) was bred for hunting. He tabled an aerial photograph (A1760753), showing the circuit which Boris would take. He noted that there had been a number of neighbourhood cats that used to roam around and have since disappeared.

Nigel McFadden, lawyer for Mr Wilkinson read statements into the record (A1760755) and noted that Mrs Miller has seen a black dog, when seen from a distance Boris did look predominantly black but he had white on his legs and front. He noted it was an issue of identification and Mr Wilkinson believed that it was not his dog which Mrs Miller had seen.

Mr Wilkinson further noted that the day the cat was killed he had Boris with him on the property all morning. At at one point he noticed the dog was still there and carried on working, 10 minutes later that Mrs Miller showed up. He had no previous history of complaints.

Mr McFadden noted that the panel needed to be very satisfied if it was to impose the classification. He didn't believe there was the evidence to impose the penalty that it had been asked to impose.

The meeting was adjourned from 2.20 pm to 2.23 pm for the panel to reach a decision.

Councillor Barker advised the panel had considered the information presented and there had been conflict in terms of the matter in particular as to whether or not the dog that killed the cat was Boris. Because the panel had not been able to be 100% convinced that Boris killed the cat he noted that its decision was to uphold the objection and that Boris would not be classified as dangerous dog.

That the Panel

Receives the report Objection to classification of a dog as dangerous – Alex Wilkinson – Dog named "Boris" (A1613999) and its attachments (A1586227, A1586527, A1311905, A1598524, A1311931 and A1721845); and

Recommends that, in view of the evidence received by way of sworn statement, the objection on the classification of "Boris" be

dismissed and the dangerous dog classification upheld.

Barker/Matheson

Carried

There being no further business the meeting ended at 2.26pm

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date