HEARINGS COMMITTEE

AGENDA

Meeting to be held

FRIDAY 8 JULY 2016

9.00am

In the Manawatu District Council Chambers,
135 Manchester Street, Feilding

P.G.Templer
Dr Richard Templer
Chief Executive
HEARING PANEL

Chairperson

Councillor Howard Voss

Members

Councillor Tony Jensen
Councillor Shane Casey
Councillor Barbara Cameron
ORDER OF BUSINESS

1. MEETING OPENING

2. APOLOGIES

3. OBJECTION TO CLASSIFICATION OF MENACING DOG


4. MEETING CLOSURE
Hearings Committee

Meeting of 08 July 2016

Business Unit: Business
Date Created: 20 June 2016

Hearing of Objection to Classification of Dog

Purpose

This report seeks the Hearings Committee’s consideration and decision on the objection lodged by Trevor Cook against the issuing of a Menacing Dog Classification relating to the dog known as “Snap” pursuant to the provisions of Section 33A(1)(b)(i) of the Dog Control Act 1996.

Significance of Decision

The Council’s Significance and Engagement policy is not triggered by matters discussed in this report.

Recommendations

That the “menacing” classification imposed on the dog “Snap” belonging to Trevor Cook, pursuant to Section 33A(1)(b)(i) of the Dog Control Act 1996, be upheld.

Report prepared by:
Lou Fairest-Harper
Acting Senior Animal Control Officer

Approved for submission by:
Shayne Harris
General Manager - Business
1  **Contribution to the Council Vision and Council Outcomes**

1.1 Relationship to the Council Outcomes that underpin the Council’s Vision:

*Connected, vibrant and thriving Manawatu – the best rural lifestyle in New Zealand*

| Manawatu District will improve the natural environment, stewarding the district in a practice aligned to the concept of kaitiakitanga. | The Manawatu will attract and retain residents. | Manawatu district develops a broad economic base from its solid foundation in the primary sector. | Manawatu and its people are connected via quality infrastructure and technology. | Manawatu’s built environment is safe, reliable and attractive. | Manawatu District Council is an agile and efficient organisation. |

2  **Background**

2.1 Section 33A of the Dog Control Act 1996 provides that a Council may classify as menacing a dog that the Council considers may pose a threat to any poultry because of any observed or reported behaviour of the dog.

2.2 On 29 April 2016 a complaint was lodged with the Council by the owner of the chickens, Mr Bruce Brownlie, that two Jack Russell dogs had been attacking his chickens at 46 Ranfurly Road, and that he had picked up the dogs in question and put them in his car. He subsequently delivered the two dogs to the Pound.

2.3 The owner of the dog, Mr Trevor Cook, has objected to the classification of one of the dogs, “Snap” as menacing, on the grounds that there was no evidence that she was active in attacking the hens, and was not involved other than being there with the other dog.

2.4 The Hearings Committee in considering the objection may uphold or rescind the classification. In making its determination the committee must have regard to:

(a)  the evidence which formed the basis for the classification; and

(b)  any steps taken by the owner to prevent any threat to the safety of persons or animals; and

(c)  the matters relied on in support of the objection; and

(d)  any other relevant matters.

2.5 Following the hearing of the objection the Hearings Committee must, as soon as practicable, give written notice to the owner of—

(a)  its determination of the objection; and

(b)  the reasons for its determination.

3  **Discussion and Options considered**

3.1 The following statements of evidence are appended to this report:

(a)  Fred de Burgh, Animal Control Officer
3.2 Also included are a copy of the Contact Centre Request detailing the complaint, and a copy of the letter received from Mr Trevor Cook objecting to the classification of the dog “Snap” as menacing.

4 **Operational Implications**

5 There are no capital or operating expenditure implications or maintenance costs associated with this matter.

6 **Financial implications**

6.1 There are no financial implications associated with this matter.

7 **Statutory Requirements**

7.1 The provisions around classifying a dog as menacing are as follows:

33A Territorial authority may classify dog as menacing

(1) This section applies to a dog that—

(a) has not been classified as a dangerous dog under section 31; but

(b) a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of—

(i) any observed or reported behaviour of the dog; or

(ii) any characteristics typically associated with the dog’s breed or type.

(2) A territorial authority may, for the purposes of section 33E(1)(a), classify a dog to which this section applies as a menacing dog.

(3) If a dog is classified as a menacing dog under subsection (2), the territorial authority must immediately give written notice in the prescribed form to the owner of—

(a) the classification; and

(b) the provisions of section 33E (which relates to the effect of classification as a menacing dog); and

(c) the right to object to the classification under section 33B; and

(d) if the territorial authority’s policy is not to require the neutering of menacing dogs (or would not require the neutering of the dog concerned), the effect of sections 33EA and 33EB if the owner does not object to the classification and the dog is moved to the district of another territorial authority.
8 Delegations

8.1 Council has delegated authority to the Hearings Committee to hear the objection to the Menacing Dog Classification and to make its determination based on the case presented. The committee may either uphold or rescind the classification.

9 Consultation

9.1 There are no community consultation requirements.

10 Cultural Considerations

10.1 There are no cultural considerations to be taken into account in this matter.

11 Conclusion

11.1 Manawatu District Council Animal Control staff have a duty to enforce the provisions of the Dog Control Act 1996.

11.2 Pursuant to the provisions of Section 33A(1)(b)(i) of the Dog Control Act 1996, Manawatu District Council classified the dog known as “Snap” as a menacing dog in reliance on the reported behaviour of the dog.

12 Attachments

- Statement of Evidence - Fred de Burgh, Animal Control Officer
- Statement of Evidence - Bruce Brownlie, Complainant
- Statement of Evidence –Ryan Henson, Witness
- Copy of Contact Centre Request detailing complaint
- Copy of letter objecting to classification of dog “Snap”
Appendix 1

My name is Rupert Frederick de Burgh I am employed by the Rangitikei District Council as an Animal Control Officer.

The Rangitikei District Council has a shared service arrangement with the Manawatu District Council to administer and discharge animal control services to this district which I am part of.

On Friday 29th April I was carrying out duties in the Manawatu District.

At approximately 1440 hours on this day I received a call on my cell phone advising a member of the public had called at the Manawatu District Council offices in Macheester Street Feilding and he had contained in his vehicle two dogs that had been caught killing his livestock and could he bring them to Council dog pound.

This person was informed to come straight to the pound at Awa Street Feilding with these two dogs.

This person arrived at the pound and introduced himself as Bruce Brownlee and accompanied by a young male he introduced as Ryan Henson.

Mr Brownlee explained that Ryan resides at 46 Ranfurly Road Feilding a property owned by Mr Brownlee himself and rented to Ryan’s parents.

46 Ranfurly Road Feilding is where this incident took place.

Mr Brownlee outlined that he keeps a few sheep and some chickens at this address and Ryan takes care of the daily feeding and care of the chickens.

On this day prior to 1440 Ryan discovered two small dogs chasing Mr Brownlee’s chickens and he could see they had already killed one of the chickens.

Ryan then sought assistance from his Father who then called Mr Brownlee.

Mr Brownlee and Ryan soon caught these two dogs, uplifted them into Mr Brownlee’s vehicle and eventually arrived at the Council pound in Awa Street Feilding.
From Mr Bronwlee’s vehicle we removed two White and Tan Jack Russell Terriers and placed in holding pens at the pound. Mr Brownlee informed me that he was sure that three of his chickens were dead.

Mr Brownlee asked that no harm come to these two dogs and if possible not be impounded but if I could locate the owner and inform them of what these two dogs had done and the owner make reparation for the loss of his chickens he would be quite comfortable with this as an outcome.

This was agreed to and must be noted this is quite out of the standard operating procedure for a Manawatu District Council Animal Control Officer to be involved in.

Through current registration tags and microchip implants on these two dogs identified one dog was named “Snap” and the second dog “Maui” both Jack Russell Terriers and owned by Mr Trevor Cook 101 Ranfurly Road Feilding.

It was not possible to make contact with Mr Cook as he was working in Gisborne.

Other calls to Mr Cooks resident and Wife did not receive a reply at this time.

A message was also left on Mrs Cook’s cell phone asking for contact to be made with Manawatu District Council.

It was through a contact at Mr Cook’s business that assisted in getting calls and messages through.

A visit to 101 Ranfurly Road did not assist in making any contact as there was no person present.

At approximately 1630 Mrs Cook made contact with the Manawatu District Council and was advised to do straight to the pound in Awa Street Feilding.

Mrs Cook was informed of the attack on Mr Brownlee’s chickens by these two dogs and that Mr Brownlee would like contact from either Mr or Mrs Cook in regard to the incident as soon as possible.

The two dogs were placed in Mrs Cook’s vehicle and driven from the pound.
I was not satisfied that some form of penalty had been incurred on the dog owner for these two dogs misdemeanor.

Further discussion regarding this incident with the Senior Animal Control Officer and colleagues was that “Snap” and “Maui” pursuant to the Dog Control Act 1996 be classified Menacing.

Notices Classifying “Snap” and “Maui” as Menacing were prepared and sent to Mr Cook at 101 Ranfurly Road Feilding

Fred de Burgh
Animal Control Officer
The Animal Pound
Manawatu District Council

FEILDING

On .......................................................... at about 1215 pm I was advised by the tenant of my property at 46 Ranfurly Road, that two dogs were chasing and destroying my chookies in the front paddock.

As I was at my residential address 14A Ranfurly Rd, I responded immediately.

On arriving both my tenant and his young son were at the front gate and advised me that the two dogs had killed one chook and were giving at least another two a hard time with intent.

I called to the dogs in the paddock and they both came to me straight away.

We grabbed them, gave them a good telling off, and looked for identification.

One dog had contact details, and I made a call to the tel phone number, but there was no reply.

I rang the Council, who in turn advised me that the rangers were at the pound and they would come and collect the dogs.

I offered to deliver the dogs, and with the young boy holding them both in my vehicle we delivered them to the pound where they were caged.

It appeared to me that two chooks while not dead, were traumatised (they are or were laying chooks)

So with one dead and two others looking rather sad, I said to the ranger that I did not want the dogs released until I had received compensation.

The ranger subsequently rang me later that day to say that the dogs belonged to the Cooks and Mrs Cook wished to pick them up.

I authorised him to release them to Mrs Cook as I did not envisage any problem in getting compensation.

A couple of days later I visited Mrs Cook and she paid me for the replacement of 3 chooks.

I did advise her that I would not wish to see the dogs again in the paddock especially with ewes and lambs, as the consequences for the dogs may not have been so favourable.

Bruce Brownlie

14/6/16
Appendix 3

My Name is Ryan Hansen.

1. I am 10 years of age student and attend Mount Biggs school. I live at 46 Ramfurlly Road feilding. My parents rent this property from Mr. Bruce Brownelee. He lives at 14a ramfurlly road feilding.

2. Mr. Brownelee keeps chickens and sheep where I live and I look after them, sometimes for him.

On Friday 19th of April 2015 at approximately 2 pm I saw 2 Jack Russell Type Dogs which had brown heads on white coats. One was smaller and lighter in colour and was wearing a collar. The bigger one looked older than the smaller one.

I was sitting on the new stone wall watching cars go past. I heard chucking from a chicken and saw 2 small dogs chasing "Red" across the tincon paddock.
I ran an got dad and told him to
• some dogs were chasing a chicken. We came with me to where the chicken was rings and she was dead. One of the dogs had in the bush area.
the bigger dog was still around. Chicken care.
• dad phoned Mr. Brownlee then he up.
the dogs came up to us and were very friendly and then we caught them.
• put them in the car.

from Ryan Henson.
Bruce Brownlie phoned to say that two Jack Russells had been attacking his chickens.

Q> What has been attacked?
A> CHICKENS (1 KILLED POSSIBLY 3)

Q> What is the breed of the dog(s) that attacked?
A> JACK RUSSELL

Q> What is the description of the dog?
A> NO DESCRIPTION

Q> When did the attack happen?
A> 2:30PM/3:00PM

Q> Where did the attack happen?
A> 46 RANFURLY ROAD, FEILDING

Q> Describe what happened:

Q> What address does the dog come from?
A> 101 RANFURLY ROAD, FEILDING

Q> What injuries were sustained?
A> 1 DEAD CHICKEN (POSSIBLY 3)
Q> Has your animal been taken to the vet?
A> NO
Q> Where is the dog that attacked now?
A> IN BRUCE BROWNIE'S CAR
Q> Who witnessed the attack?
A> THE YOUNG GUY THAT LIVES AT 46 RANFURLY ROAD
Q> Any other details:
A> NO ANSWER
Q> Check if dog is registered: Yes No N/A
A> Y
Q> Name of ACO contacted:
A> FRED
Q> Time ACO contacted:
A> 2.30/3.00PM
</questions>

### Further Details

### Actions

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Appendix 5

TG and DM Cook
101 Ranfurly Road
Feilding 4702

16th May 2016

Re Dog Classification notice 10th May 2016

Following is a response to a letter from the Manawatu District Council regarding the classification of two dogs as being menacing:

Our Jack Russel dogs being amongst neighbouring hens on 29th April, 2016 was a big surprise to us and certainly something that has never happened before. We were caught out by a small lapse in containment, which in the past had them escape to explore our bush. Certainly not ever anything like the recent outcome. The category of “menacing” presumably only includes birds as the victim because in no way are these dogs menacing to people. But they are to mice, rats, rabbits and possums. We have put actions in place to ensure that this cannot happen again.

We challenge that label of a menacing dog being given to the old female 4 kg dog, Snap. There is no evidence that she was active in attacking the hens. The owner of the hens and an observer both said that she was not involved other than being there. She is now hardly menacing to anything. Her status could influence our recreation options in the future.

Trevor Cook