

**IN THE MATTER** of an objection against the classification of a dog as menacing pursuant to section 33A of the Dog Control Act 1996 by Nichola Brookes.

**BEFORE THE WAIKATO DISTRICT COUNCIL REGULATORY  
SUBCOMMITTEE.**

Chairperson Cr Janet Gibb  
Members Cr Crystal Beavis  
Cr Peter Thomson

**HEARING** at NGAARUAWAAHIA on 23 February 2024.

**APPEARANCES**

Ms N Brookes — Objector, Dog owner  
Ms T Ericksen – Support person  
Ms C Pidduck – Waikato District Council Legal Counsel, to assist  
Ms N Lee– Waikato District Council Senior Solicitor, to observe  
Ms A Twiss – Waikato District Council Animal Control Officer  
Mr P Greeves – Waikato District Council Acting Team Leader Animal Control

**IN ATTENDANCE:**

Mr T Rowland – Democracy Team, WDC

**APOLOGIES AND LEAVE OF ABSENCES:**

No apologies were received.

**Introduction**

*The meeting was opened at 10:00am and adjourned at 10:01am due to the objector running late with the meeting to resuming at 10:31 am.*

*The Objector was welcomed and introduced to the members of the Hearing Panel and Council Staff.*

**DECISION OF THE SUB-COMMITTEE**

<p><b>Having considered the information presented in writing, and in person at the hearing, the Waikato District Council Regulatory Sub-Committee upholds the menacing dog classification of the dog ‘Sarge’ imposed under s33A of the Dog Control Act 1996.</b></p>
--

## HEARING:

- [1] WDC provided a written agenda to all parties and the hearing panel. The agenda contained such matters as statements and classification documents, and extracts of legislation that pertained to the menacing classification and the objection process.
- [2] The chairperson reopened the meeting at 10:31am and introduced the objector to those present at the hearing.
- [3] The objector outlined her reasoning to objecting the menacing classification, explaining she took the dog in from her son. The objector said she could not see it in Sarge's nature to attack another dog. The objector said his behaviour was playful.
- [4] The chair outlined what a menacing classification is in accordance with the Dog Control Act 1996 ("the Act") to the objector referring to the report from Animal Control.
- [5] Ms Ericksen noted that Sarge is a farm dog and queried the difference between herding sheep and being aggressive to sheep. The objector specified the breed of the Sarge whilst also specifying the breed of Sarge's parents saying the mother is a whippet cattle dog and the father a Labrador Pit cross.
- [6] The objector outlined that Sarge belongs to her son who is currently in prison, and that he was registered to her husband Craig Isherwood. She noted that she is now a co-owner of Sarge.
- [7] Cr Beavis noted that Sarge had been observed several times chasing sheep and had been observed getting more aggressive.
- [8] The objector stated that Sarge was playing with the sheep and not attacking them.
- [9] Animal Control stated that the video of Sarge chasing sheep provided as evidence from the complainant was after Sarge had been classified as menacing.
- [10] Cr P Thomson queried if the objector had seen Sarge chasing sheep in person. She said she has only seen video evidence and told of when it has happened.
- [11] The objector said she has made corrections to Sarge's kennel to keep him contained as per the menacing classifications. The chairperson clarified the menacing classification to the objector such as a dog been muzzled off the property, suitable containment and neutered.
- [12] The chairperson further outlined the Act to the objector stating that if the Animal Control team considers the dog a threat or perceived threat, they can classify the dog as menacing.
- [13] The objector said she had not received any paperwork regarding Sarge being classified as menacing until a few weeks ago when Sarge was impounded again. The chairperson stated that this may have been due to the objector not being the registered dog owner at the time.
- [14] The objector said her objection had not been accepted until she was the registered owner of the dog. She was able to rectify that a couple of weeks ago.
- [15] The objector noted that Sarge is currently back at home and not impounded. She noted that she was still working on the kennel improvements when a member of the Animal Control team had returned Sarge to her.

**The Animal Control Officer gave a verbal report and answered questions of the Committee.**

- [16] Animal Control team noted that on the 21 November 2023 they had received a historic aggressive complaint about Sarge chasing sheep. Then on 24 November another complainant said that she had seen Sarge the day prior chasing and barking at sheep and later in the same day pinning down on the ground a border collie dog that was being walked in the reserve. The owner of the border collie kicked Sarge away, but he returned and tried to attack the dog again. The complainant's attention was drawn to the incident by growling, barking and screaming.
- [17] Animal Control left a voice message for Mr C Isherwood who was the registered owner of Sarge at the time. On 28 November 2023 Animal Control visited Mr C Isherwood about the incidents involving Sarge and that Animal Control was concerned about Sarge's escalating aggression. Mr C Isherwood said he had a running wire which was keeping Sarge contained.
- [18] Animal Control issued a menacing classification on the 7 December 2023 to Mr C Isherwood.
- [19] Animal Control noted that there had been multiple reports of Sarge roaming.
- [20] Animal Control noted that Sarge's behavioural change was due to him defending and extending his territory outside of his home which led to his aggressive behaviour which is why Animal Control applied the classification of menacing to contain the dog.
- [21] Animal Control noted that the menacing classification applied to Sarge was both a protective measure for the public and Sarge.
- [22] Cr Beavis queried why Sarge had been allowed to be released the last time it was impounded and was Animal Control convinced that Sarge could be contained.
- [23] Animal Control stated he was last impounded for a breach of menacing classification. Animal Control informed the owner that Sarge would not be returned until it was proven that Sarge was not going to escape again.
- [24] Animal Control saw evidence that the kennel had been upgraded and there was area for Sarge to roam giving them the confidence to return Sarge to his owners.
- [25] Animal Control noted that the muzzle must be worn by the dog when out in public but not at home. The chairperson noted that whilst the dog is required to wear a muzzle, they must still be under control by its owner.
- [26] Cr Beavis queried if Sarge had undertaken any training which the objector answered Sarge had not.
- [27] Cr Thomson queried how far away the sheep were from Sarge. Animal Control responded that the sheep were with the length of a rugby field away.
- [28] The chairperson outlined to the objector what would happen in deliberations.
- [29] The objector said Sarge is booked into be neutered however she can't currently afford to at this stage. Animal Control said that they may be able to support the objector with the neutering.

[30] Cr Beavis queried if the objector understood entirely what the menacing classification meant. The objector responded with that they were unsure on what the classification meant and that after the explanation during the hearing the objector stated they were now not entirely against the objection however reiterated that she believed Sarge was not harmful to members of the public.

*The hearing was adjourned for deliberations at 11:05am*

**Reasons and decision:**

[31] Taking into account the matters in section 33B of the Act the Sub-Committee has considered the evidence, and notes the following:

- a. The Sub-Committee is satisfied there is no dispute that an incident took place, nor is there any dispute of the identity of the animal. Sarge was observed threatening and attacking a border collie and videoed chasing sheep, and photos were taken of his dog tags.
- b. The Sub-Committee records that there are historic complaints regarding Sarge's behaviour and Sarge was not contained as directed by the menacing classification and was seized when roaming and not under control, in contravention of the menacing classification. The Sub-Committee also notes that the Animal Control team is concerned that Sarge's behaviour is escalating as a result of lack of control.
- c. The Act states that the territorial authority may classify a dog as menacing if the territorial authority considers Sarge may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of any observed or reported behaviour of Sarge.
- d. Sarge was free to leave the Objector's property and able to access a public place. Sarge exhibited behaviour which indicates he may pose a threat to any person or domestic pet. As a result of being able to leave the property, Sarge worried sheep and made threatening contact with another dog. No one was in attendance to control Sarge. The Sub-Committee notes the requirements of a menacing classification includes muzzling in public places to help mitigate the threat Sarge poses, and neutering. The Sub-Committee acknowledges that Sarge is booked in to be neutered.
- e. The Sub-Committee noted that while some effort was made to confine Sarge within private property, on the evidence to date this was not successful in preventing the incidences complained of, nor subsequent wandering that led to Sarge being impounded.
- f. The Sub Committee notes that the Objector has undertaken further work on the property to contain Sarge, including new kennel and run areas and that Animal Control are satisfied with the new containment. Whilst this is a positive step, the Sub Committee considers, taking into account all the other evidence that the classification is required to mitigate the risk posed by Sarge. Accordingly, the classification of Sarge as a menacing dog pursuant to s33A of the Act is upheld.

Dated at Ngaaruawaahia this

day of March 2024

Janet Gibb  
Chairperson

