

STAFF REPORT

TO: Environment & Planning Subcommittee

FROM: Phil Bergman, Tasman District Council Dog Control Officer

REFERENCE: D406

SUBJECT: **A BARNES - REPORT EP09/09/01** - Report prepared for hearing of 2 September 2009

1. INTRODUCTION

On Sunday 10 May 2009 at approximately 3.00pm a black Newfoundland cross breed dog named Sandy, owned by Adrian Barnes of the Naked Bun Café, bit a young child on the face just below the right eye causing puncture wounds, bruising, and an abrasion requiring medical attention.

I interviewed the victim's mother and another witness to the incident and the dog owner.

Following my investigation it appears that the child while interacting with the dog at the café, for reasons unknown, received a bite to his face.

This is totally unacceptable and required firm action to prevent a reoccurrence of this or a similar incident.

2. PREVIOUS INCIDENTS

My investigation also revealed that Mr Barnes' dog had bitten children on two previous occasions. One young boy on the face and another young boy on the arm. Fortunately both of these bites were at the minor end of the scale.

On both of these occasions Mr Barnes was spoken to and advised of the potential consequences of bringing the dog back to the café, unrestrained and the chance of a of a similar incident occurring.

3. OPTIONS AVAILABLE

Consideration was therefore given to the various options available to Council with regard to enforcing the Dog Control Act 1996.

For example:

The owners of dogs attacking people, stock, protected wildlife or domestic pets are liable and may be charged summarily with the following offences:

Section 53: Failing to Control a dog- maximum fine \$3,000

Section 57: Owning a dog that attacked a person or animal- \$3,000 maximum fine plus destruction of the dog unless circumstances of the offence were exceptional.

Section 57 (a): Dogs rushing at persons – maximum fine of \$3,000

Section 58: Dog causing serious injury- maximum fine of \$20,000 and/or three years Imprisonment, and also an order for Destruction of the Dog unless circumstances of the Offence were exceptional.

Section 33(a): Classification as Dog as Menacing

Section 31: Classification of Dog as Dangerous.

After considering all the facts associated with this case it was decided to issue Mr Barnes with an Infringement Notice for failing to control a dog (\$200) and classify the dog as a menace requiring it to be muzzled whenever in public to prevent another incident.

Serious consideration was given to taking firmer action against Mr Barnes through the District Court and charging him with owning a dog that attacked a person, but the unfortunate consequence of this action would be the likely destruction of his dog.

In this case the dog is a loved family pet and has been for 12 years and we felt that destruction of the dog would be unfair considering it is a control issue.

If there is another incident similar to this we would almost certainly recommend that Council take this form of legal action.

Further to this Menace classification and to prevent another incident I have also recommended to Mr Barnes that he refrains from taking his dog to the café.

4. RECOMMENDATION

That the Committee maintain the Menacing Dog Classification.



Phil Bergman
Animal Control Officer
Animal Welfare Inspector