



**I give notice that  
an Ordinary Meeting of the District Dog Control Committee will be held  
on:**

<b>Date:</b>	<b>Monday, 25 September 2023</b>
<b>Time:</b>	<b>1.00pm</b>
<b>Location:</b>	<b>Council Chamber 107 te Heuheu Street Taupō</b>

# **AGENDA**

## **MEMBERSHIP**

**Chairperson** Cr Kevin Taylor

**Members** Cr Kylie Leonard  
Cr Anna Park  
Mayor David Trewavas  
Cr John Williamson

**Quorum** 3

**Julie Gardyne  
Chief Executive Officer**

## Order Of Business

- 1 **Karakia**
- 2 **Whakapāha | Apologies**
- 3 **Ngā Whakapānga Tukituki | Conflicts of Interest**
- 4 **Whakamanatanga O Ngā Meneti | Confirmation of Minutes**
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- 6 **Ngā Kōrero Tūmataiti | Confidential Business**

Nil

**4.1 ORDINARY DISTRICT DOG CONTROL COMMITTEE MEETING - 2 FEBRUARY 2023**

**Author:** Shainey James, Governance Quality Manager

**Authorised by:** Nigel McAdie, Legal and Governance Manager

**NGĀ TŪTOHUNGA | RECOMMENDATION(S)**

That the minutes of the District Dog Control Committee meeting held on Thursday 2 February 2023 be confirmed as a true and correct record.

**NGĀ TĀPIRIHANGA | ATTACHMENTS**

1. District Dog Control Committee Meeting Minutes - 2 February 2023 [⇒](#)

**5.1 MENACING DOG CLASSIFICATION OBJECTION - BODKIN - 232048**

**Author:** Cameron Tait, Compliance Team Leader

**Authorised by:** Jessica Sparks, Environmental Services Manager

**TE PŪTAKE | PURPOSE**

This item is being presented to the Committee for it to consider upholding or rescinding a menacing dog classification for “Bodkin” that has been objected to by the dog owner 12206 – Ms Susan Atkins.

**WHAKARĀPOPOTOTANGA MATUA | EXECUTIVE SUMMARY**

Section 33A of the Dog Control Act 1996 (“the Act”) (Attachments 1 and 2) allows Taupō District Council to classify a dog as menacing if the dog is considered to pose a threat to a person or other animal due to **observed or reported behaviour**.

“Bodkin” a brindle/white female Boston/Chihuahua terrier, was classified as a menacing dog in accordance with section 33A of the Act on 01 May 2023 following the conclusion of an investigation into “Bodkin” rushing aggressively at a child in February 2023. This was the fourth incident reported to the Taupō District Council regarding “Bodkin” acting aggressively towards young children. “Bodkin’s” owner, Susan Atkins, has been issued one NUPC (not under proper control warning), two directions to contain “Bodkin” to her property, three dog incident (non-prosecution) warnings, two infringements for failing to keep “Bodkin” controlled or confined in a manner that she could not freely leave the property along with numerous verbal conversations with Compliance staff and Ms Atkins neighbours regarding “Bodkin” roaming and being aggressive to children.

In accordance with section 33B of the Act, Ms Atkins objects to the menacing classification.

The menacing classification has two components, the classification, and the effects of the classification.

**(1) the Menacing Classification.**

The classification includes:

- obligations (effects) the dog owner must comply with to mitigate the risk that the dog’s aggressive behaviour poses.
- a status on the dog’s registration file for the remainder of the dog’s life.
- ensuring the dog owner (including any future owner) understands the dog poses a higher-than-average risk of aggressive behaviour and must abide by certain conditions (effects).
- the classification extends across the country alerting other territorial authorities that the Council has identified the dog requires special management due to its aggressive behaviour.

**(2) The effects of the Menacing classification.**

There are three enforceable obligations placed on the dog owner designed to mitigate the risk that the dog’s aggressive behaviour poses:

1. The dog must not be allowed to be at large (uncontrolled) except when confined within the owner’s property;
2. The dog must be muzzled when in any public place or private way (or be confined completely within a vehicle or cage); and
3. The owner must produce a certificate issued by a veterinarian certifying that the dog has been desexed.

Each effect of the menacing classification, if not complied with, allows the Council to do any of the following:

- issue infringements against the dog owner; and
- to seize and impound the dog; and
- retain custody of the dog until it is satisfied that the dog owner has demonstrated a willingness to comply; or
- in the event of serious continued breaches of the classification, prosecute the dog owner.

**NGĀ TŪTOHUNGA | RECOMMENDATION(S)**

That the District Dog Control Committee:

1. upholds the menacing dog classification for “Bodkin”; and
2. agrees that “Bodkin” be given one exception to the menacing dog classification. The exception is that “Bodkin” would not be required to be muzzled when on a leash under the direct control of a person.

**TE WHAKAMAHIKI | BACKGROUND**

The proposal has not been presented previously.

A report to Council’s Compliance Team was received on 25 February 2021 that on that day, “Bodkin”, a 4-year-old female Boston Terrier/Chihuahua cross (Tag #232048) had left her property on Holland Grove Taupō uncontrolled, and aggressively chased a neighbour’s child on a bike (Attachment 3). The complainant also reported that “Bodkin” was constantly roaming and had aggressively chased the complainant’s child the day before (Attachment 4). This complaint was investigated and the owner of “Bodkin”, Ms Susan Atkins was interviewed regarding the incident (Attachment 5) and admitted that “Bodkin” had left her while she was watering her garden and “wandered off down the street”. Ms Atkins admitted that this was her fault as “Bodkin” was not on her lead at the time of the incident but that she would ensure that “Bodkin” would not be allowed out of her sight or off her lead in future.

At the conclusion of the investigation, Ms Atkins was issued a “Not Under Proper Control” (NUPC) warning letter (Attachment 6) and a dog incident warning letter (Attachment 7). Care was taken to explain to Ms Atkins that “Bodkin” needed to be on a leash if out the front of the property and the consequences of not adhering to the requirement to keep “Bodkin” confined to Ms Atkins’s property.

On 28 November 2022 a report, SR2221524, was made to the Council Compliance Team that “Bodkin” was uncontrolled on 26 November 2022 and had rushed aggressively at the complainant’s 3-year-old daughter on Holland Grove (Attachment 8). The complainant when interviewed also reported that “Bodkin” had previously bitten one of his children on Holland Grove some months prior although this was not reported at the time (Attachment 9). The complainant provided video footage of each incident which will be provided at the meeting. These complaints were investigated, including speaking with Ms Atkins who admitted that she knew “Bodkin” had chased a child on a scooter (refer to Attachment 5). Ms Atkins was directed to ensure that “Bodkin” was kept at the fenced rear of the property (Attachment 10) and tethered when out the front. Ms Atkins was issued a second dog incident warning letter (Attachment 11) along with an infringement (Attachment 12) under section 52A of the Act for failing to keep “Bodkin” controlled or confined to her property on 26 November 2022.

On 03 February 2023, another complaint was lodged with the Council Compliance team via email that “Bodkin” had chased a small child on a bicycle while roaming uncontrolled in Holland Grove that day (Attachments 13&14). An interview with the complainant and his wife was conducted on 07 February 2023 regarding this incident (Attachment 15 & 16) where yet another incident involving “Bodkin” was reported to have occurred on 06 February 2023 and involved two children being aggressively rushed at by an uncontrolled “Bodkin” SR2303011 (Attachment 17). Both incidents were investigated, including a formal interview with Ms Atkins (Attachments 18&19). Ms Atkins admitted during this interview that she was cutting roses at the time of the incident and did not know where “Bodkin” had gone until she heard the child screaming. At the conclusion of the investigation, a Dog Classification Evaluation Matrix was completed (Attachment 20) and a score of 26 was recorded with a recommendation of a menacing classification. The outcome was that “Bodkin” was classified as a menacing dog in accordance with section 33A(1)(b)(i) of the Act (reported behaviour) (Attachment 21). Ms Atkins was also issued an infringement in accordance with section 52A of the Act (Attachment 22), a final dog incident warning (Attachment 23) and a direction to contain “Bodkin” to her property (Attachment 24).

Ms Atkins objects to the menacing classification (Attachment 25).

Ms Atkins’s Dog Owner history is attached (Attachment 26).

**NGĀ KŌRERORERO | DISCUSSION**

**Statutory Framework – Section 33A and 33B of the Dog Control Act 1996**

The objectives of the Act are to make better provision for the care and control of dogs. The Act also imposes obligations on dog owners designed to ensure that dogs do not cause a nuisance to any person and do not injure, endanger, or cause distress to any person.

Should a dog, by action or observed behaviour, be considered to pose a threat, then section 33A of the Act allows the territorial authority to classify a dog as menacing and section 33B allows the owner to object to the classification and to be heard in support of the objection.

Based on this information it is considered that there are two options:

1. Rescind the classification.
2. Uphold the classification.

**NGĀ KŌWHIRINGA | OPTIONS**

Analysis of Options

Option 1. Rescind the menacing classification.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Council is seen to have a fair and robust process when considering an objection.</li> </ul>	<ul style="list-style-type: none"> <li>• Should there be another incident involving a child being bitten or chased in front of a vehicle, Council may be criticised for not taking all actions available to prevent harm, by upholding the menacing classification to ensure the dog is not a threat to the public.</li> </ul>

Option 2. Uphold the menacing classification.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Bodkin must not be allowed to be at large (uncontrolled) in any public place or in any private way (this includes the owner’s driveway or unfenced front lawn).</li> <li>• Further breaches of the menacing classification give Council the power, if appropriate, to remove “Bodkin” from Ms Atkins and not return “Bodkin” unless Ms Atkins demonstrates a willingness to comply with the classification.</li> <li>• The menacing classification ensures that the dog is muzzled in public or any private way, including any unfenced portion of Ms Atkins’s property where the dog is not confined securely. The aim is to reduce the risks of “Bodkin” causing further harm or injury.</li> <li>• Council is seen to take any incident involving dogs being repeatedly aggressive seriously.</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>

Analysis Conclusion:

The menacing classification is upheld by the Committee.

**NGĀ HĪRAUNGA | CONSIDERATIONS****Whakahāngai ki tā te Kaunihera wawata | Alignment with Council's Vision**

Council's vision is 'to be the most prosperous and liveable district in the North Island'. This is accompanied by a core set of values to underpin decision-making, the following of which are relevant to this particular proposal: Resilient.

**Ngā Aronga Pūtea | Financial Considerations**

There are no financial considerations.

**Ngā Aronga Ture | Legal Considerations**Local Government Act 2002

The matter comes within scope of the Council's lawful powers, including satisfying the purpose statement of [Section 10](#) of the Local Government Act 2002. That section of the Act states that the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. It is considered that social well-being is of relevance to this particular matter.

The proposal has been evaluated with regards to a range of legislation. The key legislation applicable to the proposal is the Dog Control Act 1996, in particular section 31(3), (4) – Objection to classification of dog under section 31(3),(4)

**Objection to classification of dog under section 33C**

- (1) If a dog is classified as a menacing dog under section 33C, the owner—
  - (a) may, within 14 days of receiving notice of the classification, object in writing to the territorial authority in regard to the classification; and
  - (b) has the right to be heard in support of the objection.
- (2) If an owner objects to the classification, he or she must provide evidence that the dog is not of a breed or type listed in Schedule 4.
- (3) The territorial authority considering an objection under subsection (1) may uphold or rescind the classification, and in making its determination must have regard to—
  - (a) the evidence which formed the basis for the classification; and
  - (b) the matters relied on in support of the objection; and
  - (c) any other relevant matters.
- (4) The territorial authority 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.

**Ngā Hīraunga Kaupapa Here | Policy Implications**

There are no known policy implications.

## **Te Kōrero tahi ki te Māori | Māori Engagement**

Taupō District Council is committed to meeting its statutory Tiriti O Waitangi obligations and acknowledges partnership as the basis of Te Tiriti. Council has a responsibility to act reasonably and in good faith to reflect the partnership relationship, and to give effect to the principles of Te Tiriti. These principles include, but are not limited to the protection of Māori rights, enabling Māori participation in Council processes and having rangatiratanga over tāonga.

Our statutory obligations outline our duties to engage with Māori, and enable participation in Council processes. Alongside this, we recognise the need to work side by side with the ahi kaa / resident iwi of our district. Engagement may not always be required by law, however meaningful engagement with Māori allows Council to demonstrate good faith and our commitment to working together as partners across our district.

Appropriately, the report author acknowledges that they have considered the above obligations including the need to seek advice, guidance, feedback and/or involvement of Māori on the proposed recommendation/s, objective/s, project/s or service/s outlined within this report.

### **Ngā Tūraru | Risks**

If the classification is rescinded, there is a risk to Council if “Bodkin” was to be involved in another incident of similar nature. The risk is a reputational one i.e., that Council did not use all of its tools to prevent future harm.

## **TE HIRANGA O TE WHAKATAU, TE TONO RĀNEI | SIGNIFICANCE OF THE DECISION OR PROPOSAL**

Council’s Significance and Engagement Policy identifies matters to be taken into account when assessing the degree of significance of proposals and decisions.

Officers have undertaken an assessment of the matters in the [Significance and Engagement Policy \(2022\)](#), and are of the opinion that the proposal under consideration is of a low degree of significance.

## **TE KŌRERO TAHI | ENGAGEMENT**

Taking into consideration the above assessment, that the decision is of a low degree of significance, officers are of the opinion that no further engagement is required prior to Council making a decision.

## **TE WHAKAWHITI KŌRERO PĀPAHO | COMMUNICATION/MEDIA**

No communication/media required.

## **WHAKAKAPINGA | CONCLUSION**

It is the dog owner’s responsibility to ensure a dog is controlled effectively and in accordance with the Act. Dog owners must understand their obligations, to protect the community from their dog causing a nuisance and/or injury through aggressive behaviour.

The incidents detailed in this report of “Bodkin” roaming uncontrolled on Holland Grove, Taupō and the subsequent aggressive rushing at children (and in one case biting a young child) are the direct result of the dog not being controlled or confined to Ms Atkins’s property in a manner that she cannot freely leave.

Despite the evidence presented and previous warnings and discussions with Ms Atkins, there was not sufficient action taken to ensure “Bodkin” ceased to pose a risk to others. In fact, Ms Atkins does not appear to acknowledge that there is such a risk. This is confirmed in Ms Atkins’s objection to the menacing classification where she “objects to the classification as the dog has never threatened or attempted to bite anyone or anything”.

The position of the Compliance team on behalf of the Council is that the evidence substantiates the classification of “Bodkin” as menacing and the classification will reduce any future risk posed to the community if Ms Atkins complies with these requirements.

Should Ms Atkins not comply, then the ability to impose financial penalties (through infringements) and remove the dog from her possession remains available to Council.

Section 33E of the Act gives the territorial authority the ability to consider the need for the dog to not be muzzled in specified circumstances. The Compliance team agrees with the request by Ms Atkins’s family that “Bodkin” not be muzzled in public when being exercised on a leash off the property. This is because, in this situation, the dog is deemed to pose little risk while being actively controlled.



While it is acknowledged that there have been no further incidents in regard to “Bodkin” since the objection was made by Ms Atkins, it is common for dog owners to ensure they are complying with the Act while awaiting a hearing. This does not remove the risk posed by the dog but reinforces the effectiveness of the classification.

### NGĀ TĀPIRIHANGA | ATTACHMENTS

1. Dog Control Act 1996 No 13 (as at 30 November 2022), Public Act 33A Classification as menacing dog – New Zealand Legislation [↔](#)
2. Dog Control Act 1996 No 13 (as at 30 November 2022), Public Act 33E Effect of classification as menacing dog – New Zealand Legislation [↔](#)
3. SR2103564 [↔](#)
4. 2021 02 25 Complainant Interview SR2103564 [↔](#)
5. Offending DO Interview [↔](#)
6. 2021 03 01 - Warning NUPC - Bodkin [↔](#)
7. 2021 01 03 - Warning Dog Incident - Bodkin [↔](#)
8. SR 2221524 [↔](#)
9. 2022 11 29 - Complainant Interview - SR 2221524 [↔](#)
10. 2022 12 22 - Direction to Contain - SR 2221524 [↔](#)
11. 2022 12 22 - Incident Warning Letter [↔](#)
12. Infringement 805048 [↔](#)
13. SR2302578 [↔](#)
14. 2023 02 03 - Scene Diagram [↔](#)
15. 2023 02 08 - Interview with witness 1 SR 2302578 and 2303011 [↔](#)
16. 2023 02 08 - Interview with witness 2 SR 2302578 and 2303011 [↔](#)
17. SR 2303011 [↔](#)
18. 2023 02 07 - Interview with Dog Owner Page 1 of 2 SR 2302578 [↔](#)
19. 2023 02 07 - Interview with Dog Owner Page 2 of 2 SR 2302578 [↔](#)
20. TDC Dog Classification Evaluation Matrix [↔](#)
21. 2023 05 01 - DO12206 - Bodkin classified Menacing Letter 2302578 [↔](#)
22. Infringement 805212 [↔](#)
23. 2023 05 01 - Warning Dog Incident letter BODKIN 2302578 [↔](#)
24. 2023 05 01 - Direction to contain Bodkin 2302578 [↔](#)
25. Objection to menacing classification [↔](#)
26. Dog Owner History 12206 ATKINS Susan BODKIN