

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

<b>Date:</b>	<b>Thursday, 2 February 2023</b>
<b>Time:</b>	<b>10.00am</b>
<b>Location:</b>	<b>Council Chamber 107 te Heuheu Street Taupō</b>

# **AGENDA**

## **MEMBERSHIP**

### **Chairperson**

Cr Kevin Taylor

### **Members**

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

### **Quorum**

3

**Gareth Green**  
**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  
Nil
- 5 Ngā Kaupapa Here Me Ngā Whakataunga | Policy and Decision Making
  - 5.1 Menacing Dog Classification Objection - Billy-226820 / BeeZee-226821 .....3
- 6 Ngā Kōrero Tūmataiti | Confidential Business  
Nil

**5.1 MENACING DOG CLASSIFICATION OBJECTION - BILLY-226820 / BEEZEE-226821**

**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 “Billy” and “BeeZee” that has been objected to by the dog owner 6130B – Ms Lesley Ann Purdon.

**WHAKARĀPOPOTOTANGA MATUA | EXECUTIVE SUMMARY**

Section 33A of the Dog Control Act 1996 (“the Act”) (Attachment 1) 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.

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 extending 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:

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

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.

The dogs listed below were classified as menacing on 31 October 2022 (Attachments 2 & 3) after a complaint (Attachment 4) made by a member of the public was investigated (Attachments 5 - 13).

“Billy”, a Greyhound /Cross, White/Tan Male, Tag Number 226820

“BeeZee”, a Terrier/ Bulldog Cross, White/Brown Female, Tag Number 226821

The dogs’ owner, Ms Purdon, was issued an infringement, formal warnings and a direction to fit a lock to the gate on her property where the dogs are known to have exited in order to prevent non-compliance (Attachments 14 - 19).

In accordance with section 33B of the Act, Ms Purdon has objected to the menacing classification (Attachment 20) and the Committee is required to consider the objection to the menacing classification.

Ms Purdon states in her objection that both of her dogs “get on with other dogs”. Ms Purdon believes that the menacing classification placed on “Billy” and “BeeZee” is unfair.

The menacing classification requires that Ms Purdon not allow “Billy” and “BeeZee” to be in any public place or in any private way without being muzzled. The menacing classification also requires Ms Purdon to produce to Council a certificate that “Billy” has been neutered in accordance with the Taupō District Council Dog Control Policy 2021 (BeeZee is already neutered). The menacing classification also gives Council the power to infringe or remove Ms Purdon’s dogs, should she breach the effects of the classification, and withhold return of the dogs until she demonstrates a willingness to comply with the classification.

At the date of preparing this agenda item, Ms Purdon does not appear to be complying with the requirements of the classification. This is evidenced by further incidents reported to Council of her dogs being uncontrolled and aggressive. (Attachments 21 & 22)

#### **NGĀ TŪTOHUNGA | Recommendation(s)**

That the District Dog Control Committee upholds the menacing dog classification for “BeeZee” and “Billy”.

#### **TE WHAKAMAHUKI | BACKGROUND**

The proposal has not been presented previously.

A report was made to Council’s Compliance Team that “Beezee” and “Billy” attacked a dog in a public place where the owner of the victim was exercising their dog on lead at approximately 9.00am on 26 September 2022.

At that time “Beezee” and “Billy” were at large and not confined to their property. The complainant stated that when “BeeZee” and “Billy” sighted his dog, they immediately ran towards it. Both dogs were growling, and both jumped on his dog and bit him multiple times. The complainant had to kick both dogs to get them away. One dog ran back home and the second dog was still roaming around the streets. The complainant went to the dog owner’s house. Nobody appeared to be home, but the gate was wide open.

The complainant stated that their dog has been previously rushed at by “BeeZee” and Billy” while exercising their dogs on 10 October 2021 (this was reported to Council- (Attachment 23). This incident was investigated by Council and resulted in an infringement and a warning (Attachments 24, 25, 26 & 27).

Ms Purdon admits she is aware that multiple complaints have since been made to the Taupō District Council regarding her dogs exiting her property uncontrolled and acting aggressive to other dogs.

Ms Purdon objects to the menacing classification.

#### **NGĀ KŌRERORERO | DISCUSSION**

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

The objects 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 reported 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.

### **Evidence which formed the basis for the Classification – Section 31**

- On 26 September 2022, Council received a complaint that “Billy” and “BeeZee” attacked another dog in a public place in Motuoapa.
- The complainant was able to positively identify that it was “Billy” and “BeeZee” from their Motuoapa home that tried to attack his dog. The complainant knew the dogs from a previous incident with his dog in October of 2021.
- “Billy” and BeeZee” were both able to freely leave their property as the gate was wide open.
- “Billy” and “BeeZee” were both roaming and not under the control of a person.
- Ms Purdon admitted to a Compliance Officer that she and her son were asleep when the incident occurred and that when she woke up and went outside, she found the gate was wide open.
- “Billy” and “BeeZee” had a complaint of roaming and aggressive behaviour towards the complainant’s dog reported to Council prior to this incident.

After completing the investigation, a classification matrix was completed. This is based on the information gained from witness interviews, previous history, and evidence found during the investigation. The matrix forms part of the decision to classify a dog as menacing. The classification matrix scored 26 for both dogs which has a recommended outcome of menacing classification. “Billy” and “BeeZee” were subsequently classified as menacing.

### **Steps taken by the Owner to Prevent any Threat to the Safety of Persons or Animals – Section 33B(2)(b)**

Since the reported incident resulting in the classification, there have been a further two reports to Council in relation to “Billy” and “BeeZee” being uncontrolled and aggressive. The directions and warnings given to Ms Purdon, which she has not followed, demonstrate that Ms Purdon does not take her obligations as a dog owner seriously.

### **Matters Relied Upon in Support of the Objection – Section 33B(2)(c)**

Ms Purdon has objected to the menacing classification. Ms Purdon made the following points within her objection letter:

- *Both of these dogs get on with other dogs*
- *We own chickens and they have never harmed or injured them.*
- *The only issue we have had is when one of our neighbours walks his dogs up Kiko Road off leads. They run up to our fence aggressively and intimidate our dogs.*
- *Our dogs are normally well-behaved dogs. We have lived here for 5 years and never had issues with BeeZee. Billy is a young dog in training but is certainly not aggressive.*

### **Other Relevant Matters – Section 33B(2)(d)**

Given the subjective nature of dog attacks and the process of classifying a dog, each incident although seemingly similar will vary, as will the enforcement action/options. The outcome is based on evidence that has been presented, the likelihood of reoccurrence, history of the dog, negligence on the part of the person in control of the dog at the time, and ensuring the safety of our community from further harm.

In this case the classification matrix used by Council calculated to show a menacing classification. The score mainly represented the lack of control of the dogs and their history rather than the seriousness of the event itself. Therefore, the Compliance Team Leader opted to classify “Billy” and “BeeZee” as menacing rather than dangerous.

In this case the factors that reinforced the Compliance Teams decision to classify were:

- There was a previous complaint regarding aggression by “Billy” and “BeeZee” to the complainant’s dog and a further two since the dogs were classified.

- Both dogs have been able to roam from the property where they are kept on more than one occasion.
- Both dogs were not under the control of a person at the time of the incident.
- The complainant was required to use force in order to get both dogs to stop the attack.

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

1. Rescind the menacing classification; or
2. Uphold the menacing classification.

**NGĀ KŌWHIRINGA | OPTIONS**

1. 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, 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 and or other animals.</li> </ul>

Option 2, Uphold the menacing classification

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• The menacing classification ensures that the dogs are muzzled when in public to reduce the chance of further harm or injury.</li> <li>• A muzzle should not be seen as an undue burden on owner or dog, it is a simple, safe way to protect the public.</li> <li>• “Billy” would be required to be neutered within 1 month (28 days) of the menacing classification being upheld.</li> <li>• Further breaches of the menacing classification give Council the power to remove the dogs from Ms Purdon and not return the dogs unless she demonstrates a willingness to comply with the classification.</li> <li>• Council is seen to take any incident seriously when it comes to uncontrolled dogs or owners not taking their obligations under the Act seriously.</li> </ul>	<ul style="list-style-type: none"> <li>• Council’s response might be seen as excessive in relation to a dog that shows normal characteristics.</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 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):

(3) Where any dog is classified as a menacing dog under subsection (1)(b), the owner may, within 14 days of the receipt of notice of that classification under subsection (2), object to the classification in writing to the territorial authority and shall be entitled to be heard in support of his or her objection.

(4) In considering any objection under this section, the territorial authority shall have regard to—

- (a) the evidence which formed the basis for the original classification; and
- (b) any steps taken by the owner to prevent any threat to the safety of persons and animals; and
- (c) the matters advanced in support of the objection; and
- (d) any other relevant matters—

and may uphold or rescind the classification.

**Ngā Hiraunga 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 “Billy” and “BeeZee” were 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

Direct communication will be carried out with affected parties but no wider communication is considered necessary.

## WHAKAKAPINGA | CONCLUSION

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

This incident is a direct result of "Billy" and "BeeZee" being aggressive toward other dogs and not being controlled or confined in a manner that would have prevented them coming into physical contact with the victim dog.

The position of the Compliance Team on behalf of the Council is that the evidence substantiates the classification of "Billy" and "BeeZee" as menacing dogs and the classification will reduce any future risk posed to the community by requiring "Billy" and "BeeZee" to be muzzled when in a public place or private way and for "Billy" to be neutered in accordance with Council's Dog Control Policy 2021.

If Ms Purdon complies with these requirements, there appears to be a reduced risk of future harm from "Billy" and "BeeZee" and the objective of the Act has been achieved. Should Ms Purdon not comply, then the ability to impose financial penalties (through infringements), seizure and impounding of the dogs, and further classification remains available to Council.

## NGĀ TĀPIRIHANGA | ATTACHMENTS

1. A1 Dog Control Act 1996
2. A2 "Billy" Menacing Classification
3. A3 "BeeZee" Menacing Classification
4. A4 Service Request 2216896
5. A5 Complainant Interview
6. A6 Witness Interview
7. A7 Scene Diagram - CONFIDENTIAL
8. A8 "Billy" Classification Matrix
9. A9 "BeeZee" Classification Matrix
10. A10 PURDON Gate Photos
11. A11 Officer Notes
12. A12 Sworn Statement of Location of Dogs
13. A13 PURDON Owner File
14. A14 "Billy" Infringement 805021 (2022)
15. A15 "BeeZee" Infringement 805020 (2022)
16. A16 "Billy" Dog Incident Warning (2022)
17. A17 "BeeZee" Dog Incident Warning (2022)
18. A18 Direction to Fit Padlock
19. A19 Statement of Service of Menacing Classification, Dog Incident Warning, Infringements and Direction to Fit Padlock
20. A20 Objection to Menacing Classification for "Billy" and "BeeZee"
21. A21 Service Request 2219209
22. A22 Service Request 2220027
23. A23 Service Request 2115236
24. A24 Dog Incident Warning for "Billy" (2021)
25. A25 Dog Incident Warning for "BeeZee" (2021)
26. A26 Infringement 804809 for "Billy" (2021)
27. A27 Infringement 804048 for "BeeZee" (2021)