



Order Paper for a meeting of the

Hearing Panel

To hear an

Appeal against Dangerous Dog Classification Pursuant to the Dog Control Act 1996

to be held on

Tuesday, 17 December 2024

commencing at 3.00pm

In the

Council Chambers, 10 Gorge Road,
Queenstown

9.12 Items of business not on the agenda which cannot be delayed | Ngā take kāore i runga i te rārangi take e kore e taea te whakaroa

A meeting may deal with an item of business that is not on the agenda where the meeting resolves to deal with the item and the Chairperson provides the following information during the public part of the meeting:

- (a) the reason the item is not on the agenda; and*
- (b) (b) the reason why the discussion of the item cannot be delayed until a subsequent meeting.*

s. 46A (7), LGOIMA

Items not on the agenda may be brought before the meeting through a report from either the chief executive or the Chairperson.

Please note that nothing in this standing order removes the requirement to meet the provisions of Part 6, LGA 2002 with regard to consultation and decision-making.

9.13 Discussion of minor matters not on the agenda | Te kōreorero i ngā take iti kāore i runga i te rārangi take

A meeting may discuss an item that is not on the agenda only if it is a minor matter relating to the general business of the meeting and the Chairperson explains at the beginning of the public part of the meeting that the item will be discussed. However, the meeting may not make a resolution, decision or recommendation about the item, except to refer it to a subsequent meeting for further discussion.

REFERENCE:

Queenstown Lakes District Council Standing Orders adopted on 17 November 2022 and revised on 15 February 2024.

Queenstown Lakes District Council

Hearing Panel

Panel to Hear Objection to Classification of a Menacing Dog

Councillor Bartlett

Councillor Ferguson

Councillor Guy

**Hearing Panel to hear appeal under Dog Control Act 1996
17 December 2024**

Agenda for a meeting of a Hearing Panel to hear an appeal against a classification under the Dog Control Act 1996 be held in the Council Chambers, 10 Gorge Road, Queenstown on Tuesday 17 December 2024 commencing at 3.00pm

Item	Page	Report Title
		Election of Chairperson
		Apologies
		Declaration of Conflicts of Interest
		Confirmation of Agenda
1		Objection to Classification as Menacing Dog
	5	Officer report

Hearing Panel

17 December 2024

Department: Assurance, Finance & Risk

Title | Taitara: Objection to classification of Menacing Dog

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is to provide background information to inform the hearing panel's decision to uphold or rescind the classification of Lucy as menacing under the Dog Control Act 1996.

Public Excluded | Ārai te Iwi Whānui

It is recommended that parts of this report is considered while the public is excluded. This recommendation is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as follows:

Section and Grounds	Reason for this recommendation
6(c) to avoid prejudicing the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial	The evidence presented forms part of the Council and appellant's case and to ensure no prejudice to the hearing process and the panel's final decision the supporting evidence is to remain public excluded.

Recommendation | Kā Tūtohuka

That the Dog Control Hearing Panel

1. **Note** the contents of this report; and
either
2. **Uphold** the classification of Lucy as a menacing dog under the Dog Control Act 1996;
Or
2. **Rescind** the classification of Lucy as a menacing dog under the Dog Control Act 1996.

Prepared by:



Name: Hannah Dennison
Title: Senior Animal Control Officer
7 October 2024

Reviewed and authorised by:



Name: Carrie Edgerton
Title: Animal Control Manager
10 October 2024

Context | Horopaki

Dog Ownership Details

Dog details	Owner	Person in charge at the time of incident	Registration Status
Lucy Animal ID: 62093 Black and white Staffordshire Bull Terrier	Immogen Grice	Witness 2	Tag number: 7768 Registration year: 2024/2025
Rue Animal ID: 63353	Witness 1 (victim)	Witness 1 (victim)	Tag number: 008514 Registration year: 2024/2025

Background

1. On Wednesday 7 August 2024, at approximately 17:00, Witness 1 (**victim**) was walking her dog Rue, a female collie (Animal ID 63353) on leash along Barn Road, Jacks Point.
2. Witness 1 (victim) saw a black and white Staffordshire Bull Terrier named Lucy (Animal ID 62093), owned by Ms Immogen GRICE, (**owner**) roaming off-lead.
3. Witness 1 (victim) tried to cross the road to avoid Lucy, but Lucy approached and allegedly attacked her dog Rue. Lucy circled Rue then bit her aggressively, focusing on Rue’s throat.
4. A second dog, Milo (Animal ID 62100), also owned by Ms Grice, was present but did not participate in the incident.
5. Witness 1 (victim) attempted to separate the dogs but was unsuccessful, she sustained a minor injury to her thumb in the process.
6. Witness 2, a family member of Ms Grice’s, arrived shortly after and intervened to try and separate Lucy from Rue, prying Lucy’s jaw off Rue.
7. An unrelated witness, Witness 3, reported seeing Lucy's actions towards Rue and noted Milo's behaviour.

8. Rue the dog sustained injuries to her throat. Witness 1 (victim) took Rue to a veterinarian for a consultation and treatment, including cleaning the wound and medication.
9. Ms Grice has reimbursed Witness 1's insurance excess related to the incident.
10. Two weeks later, Witness 1 reported experiencing anxiety about walking Rue alone. Rue has also exhibited changes in behaviour, appearing more timid.
11. Both Lucy (the attacking dog) and Milo have no prior history of incidents with QLDC and when met by the ACO they were observed to be well behaved.
12. Lucy is legally owned by Immogen Grice (**Owner**) and is the dog that has been classified.

Analysis and Advice | Tatāritaka me kā Tohutohu

Classification Decision

13. Queenstown Lakes District Council (**QLDC**) received a statement from Witness 1 (victim) that detailed the attack.
14. Based on Witness 1 statement [REDACTED] QLDC officers, acting under delegated authority, classified Lucy as a menacing dog.
15. Officers considered the matter and applied the legal test under S33A (1)(b) of the Act in determining to classify Lucy as a menacing dog. Section 33A(1) provides that a territorial authority may classify a dog as menacing if it considers the dog may pose a threat to any person, stock, poultry, domestic animal or protected wildlife because of "any observed or reported behaviour of the dog" or "any characteristics typically associated with the dog's breed or type".
16. Analysis of the decision is outlined in the Officer's Report as follows:
The territorial authority considers Lucy "may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife".
17. The Dog Control Act 1996 imposes obligations on all dog owners to ensure that their dogs are kept under control and makes Council responsible for ensuring public safety by classifying dogs as menacing where there is a risk of harm of this type occurring in future. In this case, officers are satisfied that this dog poses a threat to the community due to observed behaviour of the dog.

Notification of decision

18. QLDC notified the **owner** that Lucy had been classified as Menacing on the 16th of September 2024. The letter and notice sent to the **owner** [REDACTED] explains the effects of the classification.

Objection to Classification

19. Section 33B of the Act states that *“If a dog is classified under section 33A as a Menacing dog, the owner may, within 14 days of the receipt of the notice of that classification, object to the classification in writing to the territorial authority and has the right to be heard in support of the objection”*.
20. QLDC received an objection from the **owner** to the menacing classification of Lucy on 29th September 2024. Ms Grice wishes to be heard [REDACTED].
21. Section 33D (3) of the Act requires that QLDC is required to decide whether to uphold, or rescind, the classification of Lucy following the hearing.

Discussion

22. In considering the objection to the classification, Council may either uphold or rescind the classification after having regard to the section 33B (2) factors.
23. These factors are listed in section 33B (2) of the Act, which provides that Council may either uphold or rescind the classification and that in considering any objection, Council 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.

Options

24. In considering the objection to the classification, Council may either uphold or rescind the classification after having regard to the section 33B (2) factors.
25. Option 1: **Uphold** the classification of Lucy as a menacing dog under the Dog Control Act 1996

Advantages:

- The effects of the menacing classification will remain in effect
- Lucy must wear a muzzle whenever she is off the property, which will protect any future attacks
- While wearing a muzzle, Lucy will be unable to attack, which will reduce the risk of harm
- Council will be discharging its obligations to ensure public safety as it is obliged to do under the Dog Control Act 1996. This will also communicate to the public the importance of dog control in relation to public safety. It is important that Council promotes a sense of

responsibility in dog owners through using its powers appropriately, reflecting society's views and reinforcing community standards of responsible pet ownership.

- Officers are concerned about the number of recent reports involving dog poor behaviour throughout New Zealand. This is contrary to the community's expectations that they should be safe from harm. Imposing a classification will enhance public confidence in the animal control regime and ensure that the public feel confident that they (and their pets) will be safe from harm. The regulations for menacing dog classification aim to prevent the risk of attacks from occurring in the future.
- The victim will be satisfied with the outcome

Disadvantages:

- There are no disadvantages for the Council, as public safety is the top priority. While the dog owner may feel dissatisfied, this does not justify overturning a well-considered decision. It is important that Council uses its powers to reduce the risk of harm by dogs and to provide the community with some security and safety.

26. Option 2: **Rescind** the classification of Lucy as a Menacing dog under the Act.

Advantages:

- The dog owner may be pleased with the outcome; however, this is of little significance to the Council in fulfilling its role.

Disadvantages:

- There is a potential for Lucy to attack in future without the classification.
- There is a risk that public confidence in the animal control system could be compromised if the decision to impose a classification to reduce the threat of harm based on reported behaviour of the dog is reversed, especially when there are no clear benefits to the Council or the public in doing so. Council is obliged to promote the purposes of the Act, and impose classifications where there is a risk of harm. In this case, officers are satisfied that this dog poses a threat to the public and other animals due to the incident and reported behaviour of the dog.
- Former victims are likely to be dissatisfied with the outcome

Legal Considerations and Statutory Responsibilities | Ka Ture Whaiwhakaaro me kā Takohaka Waeture

27. The Hearings Panel, with a quorum of three Councillors, whose powers are set out in the Delegations Register, must hear any objections lodged under the Act.

28. Section 33D of the Act states:

(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 advanced in support of the objection; and*
- (c) any other relevant matters.*

29. The Council must consider the matters set out at s33 of the Act in respect of each objection and must make a decision in respect of the classification of Lucy. These differ from the legal test that council officers considered when classifying Lucy under s 33A(1)(b).

30. The Council shall give notice of its decision on any objection, and the reasons for its decision, to the **owner** as soon as practicable: *Section 33D (4) of the Act.*