

Hearing Panel

12 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 Council's decision to uphold or rescind the classification of Jazz and Baxter as Menacing under the Dog Control Act 1996.

Public Excluded | Ārai te Iwi Whānui

It is recommended that 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 is to remain public excluded.

Recommendation | Kā Tūtohuka

That the Hearing Panel:

1. **Note** the contents of this report; and

Either

2. **Uphold** the classification of Jazz and Baxter as Menacing dogs under the Dog Control Act 1996

Or

2. **Rescind** the classification of Jazz and Baxter as Menacing dogs under the Dog Control Act 1996.

Prepared by:



Name: Leona Price
Title: Animal Control Officer
4 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
Jazz (Attacking dog) Staffordshire Bull Terrier Animal ID: 59907	Paul Bartlett	Joanna Bartlett	Registered 2024/25 Tag number 642 Certified as Desexed
Baxter (Attacking dog) Staffordshire Bull Terrier Animal ID: 60440	Paul Bartlett	Joanna Bartlett	Registered 2024/25 Tag number:1452 Entire Dog
Evee (Victim) Siberian Husky Animal ID: 57451	Witness 1 (Victim)	Witness 1 (Victim)	Registered 2024/2025 Tag number 4142 Uncertified as Desexed

Background


1. On 5 August 2024, at around 5:00pm, Witness 1 (victim) was walking her dog Evee, a female Husky with Animal ID 57451 on leash on the footpath walking into De Parelle Park, Arrowtown.
2. Witness 1 has provided a statement confirming that she noticed two dogs, identified by their owner as Jazz (Animal ID 59907), and Baxter (Animal ID 60440) entering into the park from Adamson Drive, off leash. The witness identified both dogs as tan coloured “staffy cross” dogs that look very similar.
3. Paul Bartlett is the owner of Jazz and Baxter.
4. Witness 1 states that the first dog (who the owner confirms as Baxter) rushed towards and latched onto Evee. The second dog (identified as Jazz) followed and latched onto Evee and both dogs continued to allegedly attack, shake and bite Evee repeatedly. Witness 1 says that she held Evee up by her harness but that the dogs were still latched on and hanging off Evee.

5. Witness 1 states the dogs were unresponsive to verbal commands and did not obey the owner's Mrs Bartlett's attempts to call them back.
6. Witness 1 (Victim) says she tried to kick the dogs off and that Mrs Bartlett struck the dogs with a stick; both were unable to make either dog release Eevee.
7. Eevee sustained an injury and swelling to her left elbow during the attack, along with multiple wounds around her armpit and left front shoulder as well as wounds to the right hand side of her neck and grazes on her stomach.
8. Remarkable Vets also reported that Eevee seemed to have some level of skin separation suspected from shaking.
9. An unrelated witness, witness 2, states that he heard the incident and looked over to see the two dogs circling Witness 1 (Victim) and her Husky. He ran over and as he got close he could see the "staffy dogs trying to bite the husky". He says he grabbed one by the collar and the other one ran away towards its owner.
10. Jazz and Baxter are legally owned by Mr Barlett, however, Mrs Bartlett was the person in charge at the time of incident. Her statement confirms she witnessed the incident; that Baxter ran up to the dog first, and that Jazz followed.



Analysis and Advice | Tatāritaka me kā Tohutohu

Classification Decision

11. Queenstown Lakes District Council (QLDC) received a statement from Witness 1 (Victim) along with other witnesses that detailed the incident.
12. Based on Witness 1's statement  QLDC officers, acting under delegated authority, classified Jazz and Baxter as menacing dogs.
13. Officers considered the matter and applied the legal test under S33A (1)(b) of the Act in determining to classify Jazz and Baxter as menacing dogs. 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".
14. Analysis of the decision is outlined in the Officer's Report as follows:

The territorial authority considers that Jazz and Baxter "may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife".

Notification of decision

15. QLDC notified the owner, Paul Bartlett that Jazz and Baxter had been classified as Menacing on 20 September 2024. The letter and notice sent to Paul Bartlett [REDACTED] explains the effects of the classification.

Objection to Classification

16. 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”.
17. QLDC received an objection from Mr Paul BARTLETT to the menacing classification of Jazz and Baxter on 26th September 2024. Mr Bartlett to be heard on 12th December 2024 – **Attachment O -Bundle**
18. Section 33D (3) of the Act requires that QLDC is required to decide whether to uphold, or rescind, the classification of Jazz and Baxter following the hearing.

Discussion

19. In considering the objection to the classification, Council may either uphold or rescind the classification after having regard to the section 33B (2) factors.
20. 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

21. In considering the objection to the classification, Council may either uphold or rescind the classification after having regard to the section 33B (2) factors.
22. Option 1: **Uphold** the classification of Jazz and Baxter as menacing dogs under the Dog Control Act 1996

Advantages:

- The effects of the menacing classifications will remain in effect.
- Jazz and Baxter must wear a muzzle whenever they are off their property, which will protect against the risk of any future attacks.
- While wearing a muzzle, Jazz and Baxter will be unable to attack, which will reduce the risk of harm to the community.
- The victim will be satisfied with the outcome.
- 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 poor dog behaviour throughout New Zealand. This is contrary to the community's expectations that domestic pets 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 harm from occurring in the future.

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.

23. **Option 2: Rescind** the classification of Jazz and Baxter as Menacing dogs 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 Jazz and Baxter 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 dogs 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, including by imposing obligations on owners designed to ensure that dogs do not cause harm, where there is a risk of harm. In this case, officers are satisfied that this dog poses a threat to other domestic animals due to the incident and reported behaviour of the dogs.
- Former victims are likely to be dissatisfied with the outcome.

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

24. 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.

25. 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) the matters advanced in support of the objection; and

(d) any other relevant matters.

26. 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 Jazz and Baxter. These differ from the legal test that council officers considered when classifying Jazz and Baxter under s33A(1)(b).

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