QUEENSTOWN LAKES DISTRICT COUNCIL

Order Paper for a meeting of the

Dog Control Committee

to be held on

Tuesday, 9 August 2022

commencing at 10.00am

Via

Zoom

9.12 ITEMS OF BUSINESS NOT ON THE AGENDA WHICH CANNOT BE DELAYED

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) 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

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 12 December 2019.

QUEENSTOWN LAKES DISTRICT COUNCIL

DOG CONTROL COMMITTEE

Councillor Clark

Councillor Copland

Councillor Ferguson

Chair of hearing panel to be determined at beginning of hearing.

DOG CONTROL COMMITEE:

Appeal against classification of 'Milo'

Agenda for a meeting of the QLDC Dog Control Committee to be held via Zoom on Tuesday 9 August 2022 beginning at 10.00am

Dog Control Committee
9 August 2022

Department: Finance, Legal & Regulatory

Title | Taitara Objection to classification of Dangerous Dog

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

The purpose of this report is to provide background information to inform the Council's decision to uphold or rescind the classification of Milo as dangerous under the Dog Control Act 1996.

RECOMMENDATION | NGĀ TŪTOHUNGA

That the Dog Control Committee:

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

Either

2 **Uphold** the classification of Milo as a dangerous dog under the Dog Control Act 1996 (the Act);

Or

3 **Rescind** the classification of Milo as a dangerous dog under the Act.

Prepared by:	Reviewed and Authorised by:
Rachel Ramsden	Anthony Hall
Animal Control Officer	Regulatory Manager

CONTEXT | HOROPAKI

Dog Ownership Details

Dog	Owner	Person in charge at the time of incident	Registration Status
Milo Animal ID 59302 American Staffordshire Terrier	Marta Uhlig (legal owner) And Tomas Barta (non-legal Owner)	Thomas Braeuer	Registered 21/22 Tag number 214132
Lincoln Animal ID 59815 Labrador	Nikola Pulpanova Thomas Braeuer (non-legal Owner)	Thomas Braeuer	Registered 21/22 tag number 215762
Max Animal ID 59010 Short Haired Pointer	Douglas Anderson	Mark Mulholland	Registered 21/22 Tag number 217477

Background

1. On 10 January 2022 Mark Mulholland (Mark) was walking Max, (an unneutered 3-year-old German Short Haired pointer) off leash on a designated off leash track below Red Cottage Drive, Lake Hayes.

2. At the same time Thomas Braeuer (Thomas) was walking the same track with two dogs, also off leash. The dogs were Milo, (a neutered, 2 year old Male American Staffordshire terrier) and Lincoln, (an unneutered 2-year-old Labrador).

3. Lincoln and Max were involved in an initial dog on dog attack. The attack was broken up with both Mark and Thomas taking control of the dogs.

4. Milo then entered the scene, and allegedly lunged for Max who was being held by Mark, and inadvertently bit Mark's arm, causing serious injuries that required hospital treatment.

5. Mark received an extensive wound on his wrist and hand, resulting in surgery, and one week in hospital. Mark also reported that the events of the attack resulted in him suffering small panic attacks. (Attachment A).

6. Milo is legally owned by Marta Uhlig (**Owner**) and is the dog that has been classified.

Classification Decision

7. Queenstown Lakes District Council (**QLDC**) received a sworn statement from Mark that detailed the attack on his left forearm.

8. Based on his statement, QLDC officers, acting under delegated authority, decided to classify Milo as a dangerous dog.

9. Officers considered the matter and applied the legal test under s31(1)(b) of the Act before deciding to classify Milo as a dangerous dog.

10. Analysis of the decision is in the Officer's report as follows: *"the territorial authority has, on the basis of sworn evidence attesting to aggressive behaviour by the dog on 1 or more occasions, reasonable grounds to believe that the dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife".* **Attachment B**.

11. QLDC notified the **owner** that Milo had been classified as dangerous on 28 April 2022. The letter and notice sent to the **owner** are attached at **Attachment C** and explain the effects of the classification.

Prosecution

12. QLDC is separately pursuing a prosecution of Thomas under s.58 or 57(1) and 57(2) of the Act. Thomas was the person in control of Milo at the time of the attack. Charging documents were laid on 15 August 2022.

Objection to Classification

13. Section 31(3) of the Act states that "*where any dog is classified as a dangerous dog under s 31(1)(b), 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 is entitled to be heard in support of the objection".*

14. QLDC received an objection from the **owner** to the dangerous classification of **Milo** on 12 May 2022. The Owner wishes to be heard. (**Attachment D)**

15. Section 31(4) of the Act requires that QLDC is required to decide whether to uphold or rescind the classification of Milo following the hearing.

LEGAL CONSIDERATIONS AND STATUTORY RESPONSIBILITIES | KA TURE WHAIWHAKAARO, ME KĀ TAKOHAKA WAETURE

16. The Hearings Panel (Dog Control Committee), with a quorum of three Councillors, whose powers are set out in the Delegations Register, must hear any objections lodged under the Act.

17. Section 31(4) of the Act states:

> *(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.

18. The Council must consider the matters set out at section 31 of the Act in respect of each objection and must make a decision in respect of the classification of Milo. These differ from the legal test that council officers considered when classifying Milo under section 31(1)(b). The legal test is set out at paragraph [13] above.

19. No further information has been received from the Objector.

20. 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 31(5) of the Act.*

ATTACHMENTS | NGĀ TĀPIRIHANGA

A	Mr Mulholland's Sworn Statement
B	QLDC Officer Report dated 12 April 2022
C	Dangerous classification cover letter and notices dated 28 April 2022
D	Dog Owners' objection dated 12 May 2022

Attachment A: Mr Mulholland's Sworn Statement

Statement of Mark Brian Mulholland

In the matter of Section 31 of the Dog Control Act 1996.

I Mark Brian Mulholland, [redacted], solemnly and sincerely affirm....

1. On 10th January about 5.10pm whilst I was walking my dog Molly (Golden Labrador) and my neighbours dog Max (German Shorthaired Pointer) an incident occurred whilst walking down the track towards the Shotover River on Red Cottage Drive, from Lake Hayes Estate.
2. Both my dogs were off their leads and slightly ahead of me ,I was not concerned as the dogs were within my sight and had stopped to get their ears rubbed by the two boys sitting at the top of the hill. The dogs disappeared from my sight briefly as they went down the track.
3. As I went over the brow of the hill I heard barking and saw that there was a dog fight between a white pit bull and Max.
4. There was another Golden Lab present along with a man who was yelling at me for not having my dogs on a leash. I thought that inappropriate as neither of his dogs were leashed.
5. I did not see the fight start, the dogs broke apart and I grabbed Max by the collar. Thomas was standing there and I expected him to take control of his dog.
6. I was holding Max by the collar with my hand underneath the collar.
7. The Pit bull then attacked my arm and hand while I was holding on to Max.
8. I managed to put the leads on Max and Molly and I sat down in shock.
9. My dog Molly, nor Thomas's Lab were not participating in any of the above .
10. The two boys who were sitting on the rock, and had patted my two dogs , told me that they had seen the whole incident from the rock they were sitting on and that the pit bull had gone for Max and started the fight.
11. There was an ambulance and a fire truck further down towards the river and Thomas went to get some-one to help as I was feeling dizzy and clearly in shock and losing a lot of blood.
12. When my wife arrived to the scene to collect our dog, Thomas told her that the dog who attacked me was the Lab, which it definitely wasn't.
13. Both Thomas's dogs had been removed from the site by the time she got there.
14. I was treated in the ambulance and photos were taken by the police, then I was taken to Lakes District Hospital.
15. The Doctor at Lakes District put temporary stitches in my hand and arm and I was transferred to Invercargill Hospital on 11th to see the specialist surgeons. (Exhibit A)
16. I had surgery that day to mend the damage and was able to go home on Wednesday 12th Jan (Exhibit B)
17. I then was unable to work for seven weeks whilst my hand and arm healed.(Exhibit C)
18. I have been affected by this attack and have had to seek medical help for stress as it was very traumatic. The Surgeons have told me, as did the Doctors at both emergency departments, that I was very lucky not to have permanent damage done and loss of use of my thumb or arm, as the bite narrowly missed a main artery. Had that happened the outcome would have been even more serious. I was extremely lucky that there was an ambulance in close proximity to the incident.
19. I made statements to the police and council over the telephone. The only meeting I had with council was 11/2/22 one month after the incident. She telephoned me afterwards and asked me to email my expected outcome (Exhibit D)

Signed:

Affirmed at Queenstown this 14th day of April 2022

Before me:

Helen Eileen Clarke
Solicitor
QUEENSTOWN

QLDC
14 APR 2022
QUEENSTOWN

Southern District Health Board
Piki Te Ora

Lakes District Hospital
Southern District Health Board
Emergency Medicine
(SDHB Emergency Department Treatment Summary)

To: . Wakatipu Medical CENTRE

MR Mark [redacted] ND
[redacted]

Attended: 10/01/2022 19:01

Discharged On: 10/01/2022 23:31
Ward/Location: Emergency Ward

PRESENTING COMPLAINT
66 year old RHD male presents with L) forearm dog bite - No weakness or numbness
MOI: Bitten by dog on dorsal L) forearm while breaking up dog fit last night

3cm radially based laceration, closed with nylon, tendon sticking out proximal wound
- small puncture over base of 1st MC
Normal sensation SRN + distally
APL/EPL/ECRL/B/EPL/EI 5/5 power
Pain with resisted MCPJ extension and thumb abduction
No pain with IPJ extension EPL palpable, with passive IPJ ROM, proximal to the wound

ACC: ZU39084

HISTORY, EXAMINATION, ASSESSMENT
66 yo M with dog bite to left wrist/hand

BG: COPD
Ex smoker
NKDA
RHD

HPC: Large dog started attacking a dog he was walking - tried to stop the dog and was bitten on left hand/ wrist
Very sore in left hand and wrist
No numbness
Small superficial laceration to right elbow as well
No other injuries

O/E: Left wrist - 6cm laceration Y shaped to radial side of wrist, with exposed radial artery/vein and long 10cm thin tendon with small amount of muscle attached hanging out of wound. Gaping and looks difficult to close.
Another C shaped 5cm lac to dorsal aspect left hand, fascia exposed but not obviously breached. Further small 2 3cm C shaped lac over thenar eminence with muscle exposed.
Good ROM of wrist, full flex/ext/ radial and ulnar deviation.
Can fully extend/flex/abduct/adduct fingers and thumb. Normall opposition (slightly limited but longstanding due to arthritis)
Sensation intact across all fingers, thumb and palmar surface
Cap refill < 2 sec throughout
No pain with passive movement

Exhibit A.

Superficial 3cm lac to right elbow

INVS: X ray - no obvious fracture

IMP: Dog bite wound to left wrist involving tendon damage, exposed artery/vein and possibly continuous with wrist joint

Discussed with KEW Ortho and accepted for transfer tomorrow - for OT tomorrow morning

INT: Given IV Augmentin and Metronidazole
Washed out by RN Pam
Lidocaine + adrenaline 5mL infiltrated to wounds and tac sutures applied + steristrips

PLAN: 1/ Backslab for comfort as per Ortho2
2/ NBM 0200
3/ Regular NV limb checks
4/ Pain relief
5/ Aim transfer to Ortho KEW in the morning - either by private vehicle aiming to arrive at KEW at 0730 or ambulance

ADDIT: Boostrix given
Pt reported feeling quite dizzy while sat upright - laid flat, BP was 100/60. Other obs normal afebrile. No change in sensation of hand, sensation intact, cap refill 3 sec, moving fingers freely without pain.
No fluid for several hours
No chest pain

IMP: Presyncope with low BP likely related to dehydration/interventions/pain

Was given 1L normal saline with good effect - feeling better, went to ward

PAST HISTORY
COPD
Hyperlipidaemia

SOCIAL
Ex-smoker
Owns stone maisonary company
Right hand dominant

KNOWN ALLERGIES
NKDA

INVESTIGATIONS
· Tetanus Booster Given: No

WORKING DIAGNOSES
Primary Diagnosis
· Complex dog bite to left wrist

SMOKING CESSATION
· Is the patient a smoker?: No
· Has Smoking Cessation been offered?: No

Clinician: Sara Gordon (Medical Specialist) **Date:** 12/01/2022 17:13
For Consultant: Susan Weggery

Southern District Health Board
Piki Te Ora

Southland Hospital
Southern District Health Board
Orthopaedics
(SDHB Discharge Summary)

To: . Wakatipu Medical CENTRE
Discharged To: Home

MR Mark Brian MULHOLLAND
[redacted]
New Zealand
[redacted]

Admitted: 11/01/2022 10:08

Ward/Location: Surgical Ward
Discharge Method: Routine

DISCHARGE DIAGNOSIS
Primary Diagnosis
· Complex dog bite to left wrist

PRESENTING COMPLAINT
66 year old RHD male presents with L) forearm dog bite - No weakness or numbness
MOI: Bitten by dog on dorsal L) forearm while breaking up dog fit last night

3cm radially based laceration, closed with nylon, tendon sticking out proximal wound
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Pain with resisted MCPJ extension and thumb abduction
No pain with IPJ extension EPL palpable, with passive IPJ ROM, proximal to the wound

ACC: ZU39084

PAST MEDICAL HISTORY
COPD
Hyperlipidaemia

SOCIAL
Ex-smoker
Owns stone maisonary company
Right hand dominant

MEDICATION CHANGES including reasons for change
Nil changes to regular medications
Script for augmentin course and anlagesia

ALLERGIES / ADVERSE DRUG REACTIONS
NKDA

CLINICAL MANAGEMENT
Admitted to Orthopaedics under Mr Vidakovic

Started on IV augmentin

Proceeded to theatre 11/01:

Exhibit B

Operation: Exploration + Washout of dog bite and right wrist
Surgeon: Dr Buckley and Dr Forbes
Findings: 10% ABL loss. All other structures intact.

Monitored post-operatively with nil concerns.
Switched to PO augmentin for total 7 days.

DISCHARGE PLAN:
1. Discharge home
2. Augmentin 1 tab TDS for 7 days
3. Please arrange to see your GP for a wound check in 5 days
4. Removal of stitches in 10-14 days
5. Seek medical attention if worsening pain/ fevers/ vomiting/ otherwise concerned.

Referrals Follow Up

· Future Appointments:

Date	Clinic	Clinician
Jan 26 2022 9:30AM	PFTs (DTGPFT)	. Diagnostic Testing

· Patient to be notified: No

SMOKING CESSATION

· Is the patient a smoker?: No
· Has Smoking Cessation been offered?: Not Applicable

A FURTHER DETAILED DISCHARGE LETTER WILL BE SENT

· No

Medchart Medications

2022-01-12 00:00:00.0|2022-01-18 00:00:00.0|amoxicillin 500mg + clavulanic acid 125mg tablet|Take 1 Oral Three Times Daily (For 20 doses. As per op note)|
2022-01-12 00:00:00.0| |paracetamol tablet|Take 1000 mg Oral PRN (Minimum dose interval 4 hour(s). Maximum 4000mg per 24 hour(s).)|
2022-01-12 00:00:00.0| |docusate sodium 50mg + sennoside B 8mg tablet|Take 1 - 2 Oral PRN (Minimum dose interval 8 hour(s). Maximum 2 doses per 1 day(s).)|
2022-01-12 00:00:00.0| |tramadol capsule|Take 50 mg - 100 mg Oral PRN (Minimum dose interval 4 hour(s). Maximum 4 doses per 24 hour(s).)|

Will this discharge summary be sent to the GPs Healthlink mailbox?

Yes

Clinician: Nikita Brazil (House Officer)
For Consultant: Hrvoje Vidakovic

Date: 12/01/2022 10:30

Walk at your Medical
8:30 Nurse
+ Vax

2022 01 12 10:30:55AM

Southern District Health Board
Piki Te Ora

Emergency Department
Southland Hospital
Kew Road, Invercargill
New Zealand
Telephone: +64 3 218 1949
Facsimile: +64 3 218 6890

12/01/2022

Doctors at Wakatipu Medical Centre
11 McBride Street
Queenstown
New Zealand

Mark Mulholland
[redacted]

Dear Doctors at Wakatipu Medical Centre

Mark Mulholland arrived at the Emergency Department at 08:28 on 11/01/2022. When Mark first presented to ED his presenting problem was noted as **"skin - laceration caused by dog last night. was walking about 1720. has large y shaped laceration t left wrist. tetanuus and ivab. for ot today"**.

The Primary Diagnosis given to Mark's condition was **Hand Wound Complicated - Hand & Finger Wounds/ Non Venomous Bites**.

Clinical Notes

11/01/2022 09:39 Dr Tim Barclay

66 m / left suscpected epl lacreration from dog bite yesterday. / for exloration and repair today in ot. / pmhx- copd / hypercholesterolemia / osteoarthritis / meds- diclofenac. / breoelipta. / statin. / plan / book mark consent by dr tomoko-barnes / pre op bloods. / ecg please. /

11/01/2022 10:05 Dr Ortho .

ortho reg. shea timoko-barnes (mr vidakovic on call) 66 year old rhd male presents with l) forearm dog bite background / - copd / - hyperlipidaemia / nkda / ex-smoker / owns stone maisonary company hpc / breaking up dog fit last night / bitten by dog on dorsal l) forearm / no weakness or numbness o/e / 3cm radially based laceration, closed with nylon, tendon sticking out proximal wound / - extends to listers but no further / -small puncture over base of 1st mc / normal sensation srn + distally / apl/epl/ecrl/b/epl/ei 5/5 power / pain with resited mcpj extension and thumb abduction / no pain with ipj extension epl palpable, with passive ipj rom, proximal to the wound imp- 1st dorsal compartment tendon laceration plan / 1) remain nbm / 2) day surgery under mr vidakovic / 3) bmc for exploration +/- repair / 4) ivabs as charted / 5) re-dress wound

Mark Mulholland was discharged from ED at **14:00** on **11/01/2022**. On discharge Mark's disposition was noted as **Discharge** and his departure destination was recorded as **Day Surgery to Day Surgery**.

Changes to payments

Mark Mulholland
[redacted]
Queenstown 9304

QLDC
14 APR 2022
QUEENSTOWN

ACC Reference
10054332890

Date
10 February 2022

Your payment changes

We've extended your payments until 1-Mar-22.

If you are returning to work, please let us know.

Your last payment and upcoming payments

Your payments are detailed here, based on the information provided to us.
Visit acc.co.nz/wc to find out more about your calculation.
We will let you know if there are any changes.

Period	Gross	Deductions*		Payment	Pay Date
Your last payment					
31-Jan-22 to 06-Feb-22 (7 days)	$961.54	PAYEDD:	$167.59	$793.95	08-Feb 22
Your upcoming payments					
07-Feb-22 to 13-Feb-22 (7 days)	$961.54	PAYEDD:	$167.59	$793.95	15-Feb-22
14-Feb-22 to 20-Feb-22 (7 days)	$961.54	PAYEDD:	$167.59	$793.95	22-Feb-22
21-Feb-22 to 27-Feb-22 (7 days)	$961.54	PAYEDD:	$167.59	$793.95	01-Mar-22
28-Feb-22 to 01-Mar-22 (2 days)	$384.62	PAYEDD:	$53.80	$330.82	08-Mar-22

* PAYEDD = PAYE Deduction

Key weekly compensation information

Contact us if any of this information needs to be changed.

CoverPlus Extra policy

Your agreed annual amount $50,000.00

Exhibit C

Please turn over

Payment Notification

Mark Mulholland
[redacted]
Queenstown 9304

ACC Reference
10054332890

Date
26 January 2022

Your payment details

You qualify for weekly compensation for a claim we've accepted. This means you'll still get paid while you recover.

If you are returning to work, please let us know.

S000071-Q01

Your upcoming payments

Your upcoming payments are detailed here, based on the information provided to us.
Visit acc.co.nz/wc to find out more about your calculation.
We will let you know if there are any changes.

Period	Gross	Deductions*		Payment	Pay Date
Your upcoming payments					
18-Jan-22 to 23-Jan-22 (6 days)	$769.23	PAYEDD:	$126.45	$642.78	25-Jan-22
24-Jan-22 to 30-Jan-22 (7 days)	$961.54	PAYEDD:	$167.59	$793.95	01 Feb-22
31-Jan-22 to 06-Feb-22 (7 days)	$961.54	PAYEDD:	$167.59	$793.95	08-Feb-22
07-Feb-22 to 08-Feb-22 (2 days)	$384.62	PAYEDD:	$53.80	$330.82	15-Feb-22

* PAYEDD = PAYE Deduction

Key weekly compensation information

Contact us if any of this information needs to be changed.

CoverPlus Extra policy

Your agreed annual amount: $50,000.00

QLDC
14 APR 2022
QUEENSTOWN

Ex

Please turn over

Subject: re dog attack
From: [redacted]
Date: 24/02/2022, 2:15 pm
To: Rachel.ramsden@qldc.govt.nz

Hi Rachel,

Further to our conversation about the dog attack, can you confirm that the dog does live with the owners of the dog.

The fact that Thomas didn't tell the owner's of the severity of the damage to me is a worry . Thomas lied about which dog attacked me then lied by omission about the amount off damage done.

I would have grave concerns if Thomas is allowed to walk or have control of the dog in the future going on his history so far.

As I said to you today Rachel a dog that learns it can attack a person and there is no punishment is more than likely to do it again,

particularly if the "owner" is yelling at the other person who is now holding the dog that was biting back at the attacking dog.

Have attached the Emergency Department Treatment Summary for you files and if you want to pass this on to the owners of the dog maybe they will consider putting the dog down

so there is no possibility of it attacking anyone else.

Even if the dog is supposed to have a muzzle there is always the possibility of human error.

Another thing that concerns me is that if a dog attacks live stock, i.e. sheep the dog can be shot by the farmer.

In this case I was attacked, had two nights in hospital, surgery for injuries, and seven weeks off work, so cannot see any justification for the dog not being put down.

The surgeons have told me, as did doctors at both emergency departments in Lakes District and Southland hospital that I was very lucky not to have permanent damage done and loss of use of my thumb.

The bites narrowly missed a main artery, had that happened the outcome may have been more serious. I was extremely lucky there happened to be an ambulance in close proximity.

Regards

Mark

Attachments:

IMG_20220224_0002.pdf	513 kB
IMG_20220224_0001.pdf	654 kB

Exhibit D

Private Bag 50072, Queenstown 9348, New Zealand
QUEENSTOWN, 10 Gorge Road, Phone +643 441 0499, Fax +643 450 2223
WANAKA, 47 Ardmore Street, Phone +643 4430024, Fax +643 450 2223

QUEENSTOWN LAKES DISTRICT COUNCIL

www.qldc.govt.nz

DOG Vs PERSON ATTACK - INVESTIGATING OFFICER REPORT

SUBMITTED BY: ACO R Ramsden

REPORT DATED: 12 April 2022

DOG ATTACK TOOK PLACE ON: 10 January 2022

EXECUTIVE SUMMARY

Dog details	Owner	Person in charge at the time of incident	Registration Status
Milo Animal ID 59302 American Staffordshire Terrier	Marta Uhlig (legal owner) And Thomas Barta (non-legal Owner)	Tomas Braeuer	Registered 21/22 Tag number 214132
Lincoln Animal ID 59815 Labrador	Nikola Pulpanova Tomas Braeuer (non-legal Owner)	Tomas Braeuer	Registered 21/22 tag number 215762
Max Animal ID 59010 Short Haired Pointer	Douglas Anderson	Mark Mulholland	Registered 21/22 Tag number 217477

On the 10th of January Mr Mark Mulholland was walking Max, (An unneutered 3-year-old German Short Haired pointer) off leash on a designated off leash track below Red Cottage Drive, Lake Hayes.

At the same time Mr Tomas Braeuer was walking the same off leash track with two dogs off leash, Milo, (A neutered, 2year old Male American Staffordshire terrier) and Lincoln, (An unneutered 2-year-old Labrador).

It is alleged that Lincoln and Max were involved an initial dog on dog attack, where Lincoln received minor injuries requiring minor vet treatment from Max. It is outlined in Mr Braeuer's statement that Max allegedly initiated the attack on Lincoln.

The attack was broken up with Mr Mulholland and Mr Braeuer taking control of the dogs, shortly after Milo entered the scene and allegedly lunged for Max who was being held by Mr Mulholland and inadvertently bit Mr Mulholland's arm, causing serious injuries requiring hospital treatment.

On the 15 January at 12:04pm Emily Olsen from Queenstown Police raised a Request or Service (RFS) ID AC22/0093 to discuss the dog on person attack.

On the 17 January at 11:33am Sandy Mulholland raised a RFS ID AC22/0101 on behalf of the victim, Mark Mulholland for a dog on person attack on the track by Red Cottage Drive, Lake Hayes.

On the 10 February at 9:00am a police report from the date of the attack was received from A/Sgt Wood on behalf of the victim, the victim has been identified as Mark Mulholland, who was in possession of a Max at the time of the incident.

Mark Mulholland received an extensive wound on his wrist and hand, resulting in a week's hospital stay and surgery. The events of the attack have also resulted in Mark suffering small panic attacks.

Lincoln received treatment from the Vets for:

- Traumatic soft tissue injury to L Stifle
- Bruising/ abrasions to skin on neck

INVESTIGATION (Timeline of Events)

10/01/22 17:30	Police in attendance for dog on person attack.
15/01/22 12:05	RFS for dog on person attack received and contact with Emily Olsen from Queenstown Police via phone call on the 17/01/22
17/01/22 11:33	RFS for dog on person attack received and contact with Sandy Mulholland made via phone call.
19/01/22 9:52	Official request for information submitted to Queenstown Police for report containing statements and photos. Animal Control Officer (ACO) R Ramsden has on going contact from here with victim Mark Mulholland via phone calls.
28/01/21 8:15	**ACO** R Ramsden contacted Tomas Braeuer. At this time neither Tomas Braeuer nor Mark Mulholland wished to give statements until the police report had been received.
10/02/22 9:00	Police file 220111/2716 and photograph of injury received.
11/02/22 10:30	Victim Statement taken from Mark Mulholland, in person by ACO R Ramsden.
11/02/22 16:30	Statement taken from Tomas Braeuer by ACO R Ramsden at home address and met with dog Lincoln to assess temperament. Vet report for Lincolns injuries sustained in the attack received.
16/02/22 10:35	ACO R Ramsden contacted Tomas Braeuer to clarify registration details for Milo. Thomas Barta's details were provided who is the Joint owner of Milo, the alleged attacking dog.

SUMMARY OF INVESTIGATION

- Mr Mulholland was walking Max (Animal ID 59010, Owner Douglas Anderson) off leash on an off leash designated track
- Mr Braeuer was walking both Milo (Animal ID 59302, Owner Marta Uhlig) and Lincoln (Animal ID 59815, Owner Nikola Pulpanova) off leash on an off leash designated track.
- All dogs involved in the incident were off lead (permitted)
- Lincoln suffered minor abrasions on neck and vet care was sought. No injuries have been reported for Max.
- Tomas Braeuer arrived at the scene first after witnessing Max start the attack, however, did not intervene in the fight as he had heard you should not separate dogs fighting.
- Victim Mark Mulholland did not see the start of the fight as the dog was ahead of him. Once arrived at the scene managed to separate the two dogs, grabbing Max under the collar and moving the dog away to place on lead.
- From the statement of Mr Mullholland, it is believed that Milo appeared a few moments later and lunged at Max and Mr Mulholland, who at this time was still holding Max's collar. It appears that Milo was lunging for Max and inadvertently bit Mr Mulholland.
- Witness statements from the Police report and Mr Mulholland's own account confirm that it was Milo who bit Mr Mulholland, however Mr Braeuer could not confirm which dog it was.

- Mr Mulholland could not say whether he believed that the attacking dog; Milo was going for him or the dog he had held of; Max.
- Mr Braeuer's partner removed both dogs from the scene immediately while Mr Braeuer remained at the scene.
- Mr Mulholland sought immediate medical attention from an ambulance that was already on site attending a separate medical incident.
- Police statements were taken from the witnesses and Mr Braeuer however no details on attacking dog could be clarified at the time of the event.
- ACO R Ramsden visited Lincoln on 12 February, the dog was not aggressive towards ACO R Ramsden. Mr Braeuer was with the ACO at the visit.
- Registration details of attacking dog, Milo were only provided 15 February by Tomas Braeuer.
- ACO R Ramsden visited Mr Barta and Milo on 23rd February. Milo was on lead outside the property during the visit. ACO R Ramsden did not notice any concerning behaviour and Milo was relaxed and calm during the visit.

SOLICITORS REVIEW CONCLUSION

The evidential test and public interest test for prosecution are met for both ss 57 and 58 Dog Control Act 1996.

Given the severity of the injuries sustained to the victim are serious, it would be appropriate that any charges brought reflects this.

Accordingly, in this case the following prosecution recommendation is made:

RECOMMEND PROSECUTION of Tomas Braeuer under

Section 58 Dog Control Act 1996 – Dogs Causing Serious Injury; and in the alternative

Section 57(2) Dog Control Act 1996 – Dogs attacking persons or animals.

OPTIONS

- Issue a written warning for Mr Anderson who owns Max outlining the incident has taken place and that a record will be on file for Max.
- Issue a warning letter to Mr Braeuer under s.53 of the Dog control Act 1996 **(DCA)**
- Issue a warning letter to Mr Mulholland under s.53 of the Dog control Act 1996 **(DCA)**
- Infringe Mr Mulholland under s.53 of the DCA for not having Max effectively controlled. Infringement fee $200.
- Infringe Mr Braeuer under s.53 of the DCA for not having Lincoln and Milo effectively controlled. Infringement fee $200 each.
- Classify Milo as a Menacing dog by Action under s.33A of the DCA.
- Classify Milo as a Dangerous dog by Action under s.31 of the DCA.
- Prosecute Tomas Braeuer under s.58 of the DCA.
- Prosecute Marta Uhlig under s.58 of the DCA.
- A combination of the above

RECOMMENDATION

- Prosecute Tomas Braeuer under s.58 (must be filed at court within 6 months of the attack)
- Classify Milo as Dangerous Dog by Behaviour – s.31.
- Written warning for Mr Mulholland who was in charge of Max involved in the dog on dog attack
- Written warning for Mr Braeuer who was in charge of Lincoln involved in the dog on dog attack.

- Written warning for Mr Anderson who owns Max outlining the incident has taken place and that a record will be on file for Max.

REASONS FOR RECOMMENDATION

- An offence has been committed by Milo against S53 and S57 of the DCA
- Mr Braeuer was in charge of Milo at the time of the offence making him the owner under the DCA.
- Sworn Evidence has been submitted to Council from Mr Mulholland attesting to aggressive behaviour by the dog on 1 or more occasions, and gives reasonable grounds to believe that the dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife.
- Max and Lincoln were permitted to be off leash and the attack was minor in nature and resulted in minor injuries to Lincoln.
- There has been injuries to Mr Mulholland that have been serious and due to this situation council believes this dog may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of observed or reported behaviour of the dogs. Whilst this attack was serious in nature, it is unclear if Milo intentionally went for Mr Mulholland's arm. It is probable Milo was aiming for Max who was being held by Mr Mulholland.
- No compensation has been offered for either victims.
- Without classification of Milo there is potential for future incidents due to the aggressive actions of Milo that have taken place
- In accordance with the Council's Enforcement Strategy and Prosecution Policy, the Council is to make a decision to prosecute after referral to a prosecutor for their recommendation.
- A recommendation to Prosecute has been determined by Council's prosecution team.
- A dangerous classification will ensure the public safety is maintained whilst the prosecution is taking place.

- **ATTACHMENTS:**
- A Solicitors Review
- B Photo evidence of injuries to victim
- C RFS from Ms Olsen
- D RFS from Mrs Mulholland
- E Witness statement from Mr Mulholland
- F Witness statement from Mr Braeuer
- G Vet report for Lincoln
- H Police report
- I Enforcement Strategy and Prosecution Policy
- J Sworn evidence from Mr Mulholland

SIGN OFF

Report Prepared by:

R Ramsden **Date: 25/02/2022**

Animal Control Officer

Reviewed by:

Date: 22/4/2022

Carrie Edgerton
Team Leader – Animal Control

RECOMMENDATION APPROVED

Anthony Hall **Date: 22/4/2022**

Manager Regulatory

Endorsed by:

Stewart Burns Date: 26/4/2022

General Manager Regulatory, Legal and Finance

Delegation for Prosecution sign off:

Delegation for prosecution under the Dog Control Act sits with the CEO as per section 3 of the Delegations register.

3. The Council's power to bring or withdraw prosecution or infringement proceedings for any offence, including but not limited to:
   - Resource Management Act 1991;
   - Building Act 2004;
   - Local Government Act 2002;
   - any Queenstown Lakes District Council Bylaw.

Signature: Mike Theelen Date:

Private Bag 50072, Queenstown 9348, New Zealand
QUEENSTOWN, 10 Gorge Road, Phone +64 3 441 0499, Fax +64 3 450 2223
WANAKA, 47 Ardmore Street, Phone +64 3 443 0024, Fax +64 3 450 2223

QUEENSTOWN LAKES DISTRICT COUNCIL

www.qldc.govt.nz

In reply please quote
File Ref: AC22/0101

26th April 2022

Marta Uhlig
[redacted]
Queenstown
9304

Dear Miss Uhlig,

DANGEROUS DOG CLASSIFICATION

I am writing to you following an alleged dog-on-person attack on 10 January 2022, at the Red Cottage Drive walking track, involving your dog Milo, registration number 215762.

Following an investigation into this incident, Council has determined that Milo attacked a person. Council has on the basis of sworn evidence, reasonable grounds to believe Milo constitutes a threat to the safety of any person, stock, poultry, domestic animal or protected wildlife.

Consequently, Milo has been classified as Dangerous. Please refer to the attached notice of classification.

Conditions of these Classifications are that you must ensure Milo;

- **Is muzzled at all times when in public places**
- **Is de-sexed within 1 month of the receipt of this notice**
- **Is controlled on a leash when in public places or any private way (except in a dog exercise area specified in a bylaw)**
- **is secured in a separate fully fenced portion of the owner's property that is not necessary to enter to obtain access to at least 1 door of any dwelling on the property**

While a dangerous dog classification requires a dog to be neutered, the Council understands that Milo has already been de-sexed, however we require a veterinary certificate to put on file for Milo to meet the obligations of the Act. Please send this through to services@qldc.govt.nz, attention Rachel.

Please ensure that you comply with the requirements of the dangerous dog classification and the Dog Control Act 1996 at all times, as failing to do so may result in further enforcement action.

If you have any queries regarding this matter, please do not hesitate to contact Queenstown Lakes District Council on email services@qldc.govt.nz or phone 03 441 0499.

Yours sincerely

R Ramsden

Rachel Ramsden
ANIMAL CONTROL OFFICER

Private Bag 50072, Queenstown 9348, New Zealand
QUEENSTOWN, 10 Gorge Road, Phone +64 3 441 0499, Fax +64 3 450 2223
WANAKA, 47 Ardmore Street, Phone +64 3 443 0024, Fax +64 3 450 2223

QUEENSTOWN LAKES DISTRICT COUNCIL

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Queenstown Lakes District Council

NOTICE OF CLASSIFICATION OF DOG AS A DANGEROUS DOG

Section 31, Dog Control Act 1996

To Ms Marta Uhlig

Address [redacted]

Dog: Milo, 215762

This is to notify you* Marta Uhlig that the above dog has been classified as a dangerous dog under section 31(1)(b) of the Dog Control Act 1996.

This is because the Council has, on the basis of sworn evidence attesting to aggressive behaviour by the dog on 1 or more occasions, reasonable grounds to believe that the dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife (refer s 31(1)(b).”

A summary of the effect of the classification and your right to object is provided below.

Regulatory Manager Date

***For the purpose of the Dog Control Act 1996, you are the owner of a dog if –**

* You own the dog; or

* You have the dog in your possession (otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, or damage, or distress, or for the sole purpose of restoring a lost dog to its owner); or

* You are the parent or guardian of a person under the age of 16 who is the owner of the dog and who is a member of your household living with you and dependent on you

Effect of Classification as a Dangerous Dog

Section 32, Dog Control Act 1996

You are required, -

(a) Within one month after receipt of this notice, to ensure that the dog is kept within a securely fenced portion of your property which it is not necessary to enter to obtain access to at least one door of any dwelling on the property; and

(b) must not allow the dog to be at large or in any public place or in any private way, except when confined completely within a vehicle or cage, without being—
(i) muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; and
(ii) controlled on a leash (except when in a dog exercise area specified in a bylaw made under section 20(1)(d)); and

(c) To produce to the Queenstown Lakes District Council, within one month after receipt of this notice, a certificate issued by a registered veterinary surgeon and certifying---

(i) That the dog is or has been neutered; or

(ii) That for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and

(d) Where a certificate under paragraph (c) (ii) is produced to the Queenstown Lakes District Council, to produce to the Queenstown Lakes District Council, within one month after the date specified in that certificate, a further certificate under paragraph (c); and

(e) In respect of every registration year commencing after receipt of this notice, to pay dog control fees for that dog at 150% of the level that would apply if the dog were not classified as a dangerous dog; and

(f) Not to dispose of the dog to any other person, without the written consent of the Queenstown Lakes District Council in whose district the dog is to be kept. You will commit an offence and be liable on conviction to a fine not exceeding $3,000 if you fail to comply with all of the matters in paragraphs (a) to (f) above. In addition, on conviction the court must order the destruction of the dog unless satisfied that the circumstances of the offence were exceptional and do not justify the destruction of the dog. A dog control officer or dog ranger may seize and remove the dog from you if you fail to comply with all of the matters in paragraphs (a) to (f) above. The ranger or officer may keep the dog until you demonstrate that you are willing to comply with paragraphs (a) to (f).You will also commit an offence and be liable on conviction to a fine not exceeding $3,000 if you sell or otherwise transfer the dog, or offer to do so, to any other person without disclosing that the dog is classified as a dangerous dog .As from 1 July 2006, you are also required, for the purpose of providing permanent identification of the dog, to arrange for the dog to be implanted with a functioning microchip transponder. This must be confirmed by making the dog available to the Queenstown Lakes District Council in accordance with the reasonable instructions of the Queenstown Lakes District Council for verification that the dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location. You will commit an offence and be liable on conviction to a fine not exceeding $3,000 if you fail to comply with this requirement—

- within 2 months from 1 July 2006 if your dog is classified as dangerous on or after 1 December 2003 but before 1 July 2006; or
- Within 2 months after the dog is classified as dangerous if your dog is classified as dangerous after 1 July 2006.

If the dog is in the possession of another person for a period not exceeding 72 hours, you must advise that person of the requirement to not allow the dog to be at large or in any public place or in any private way (other

than when confined completely within a vehicle or cage) without the dog being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction. You will commit an offence and be liable on conviction to a fine not exceeding $500 if you fail to comply with this requirement.
Full details of the effect of classification as a dangerous dog are provided in the Dog Control Act 1996.

Right of Objection to Classification Section 31 (3), Dog Control Act 1996

If the dog is classified as a dangerous dog because it is believed to constitute a threat to public safety, you may object to the classification by lodging with the Queenstown Lakes District Council a written notice within 14 days of receipt of this notice setting out the grounds on which you object. You are entitled to be heard in support of your objection and will be notified of the time and place when your objection will be heard.

Attachment D: Objection to classification

-----Original Message-----
From: [redacted]
Sent: Thursday, 12 May 2022 10:04:48 AM
To: services@qldc.govt.nz
Subject: Objection against dangerous dog classification file ref:AC22/0101
Good morning Rachel

I would like to object the classification of dangerous dog against our dog Milo (215762) ref: Ac22/0101 and to present numerous evidence against this classification.

The letter I've received from you dated on the 28th of April and it states that I have 14 days to object.
Could you please advise that I have to present all my evidences by end of today or I will have the opportunity to be heard in person where I need to present my evidences?

Im looking forward to hearing back from You

Many thanks

Kind regards

Thomas Barta & Marta Uhlig