



Order Paper for a meeting of the

DOG CONTROL COMMITTEE

To hear an

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

to be held on

Tuesday, 23 April 2024

commencing at 2.00pm

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

Dog Control Committee

Panel to Hear Objection to Classification of Dangerous Dog

Councillor Cocks

Councillor Tucker

Councillor White

Dog Control Committee
23 April 2024

Agenda for a meeting of the Dog Control Committee to be held in the Council Chambers, 10 Gorge Road, Queenstown on Tuesday 23 April 2024 commencing at 2.00pm.

Item	Page	Report Title
		Confirmation of Chairperson
		Apologies
		Declaration of Conflicts of Interest
		Confirmation of Agenda
1		Objection to Classification as Dangerous Dog: Otto (ID: 000961)
	5	Officer recommending report

Dog Control Committee

23 April 2024

Report for Agenda Item | Rīpoata moto e Rāraki take [1]

Department: Assurance, Finance & Risk

Title | Taitara: Objection to classification of Dangerous 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 Dog Control Committee either to uphold or rescind the classification of Otto as Dangerous under the Dog Control Act 1996.

Recommendation | Kā Tūtohuka

That the Hearing Panel:

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

Either

2. **Uphold** the classification of Otto as a Dangerous Dog under the Dog Control Act 1996;

OR

3. **Rescind** the classification of Otto as a Dangerous Dog under the Dog Control Act 1996.

Prepared by:



Name: Hannah Dennison
Title: Senior Animal Control Officer
3 April 2024

Reviewed and Authorised by:



Name: Anthony Hall
Title: Regulatory Manager
9 April 2024

Context | Horopaki

Dog Ownership Details

Dog details	Owner	Person in charge at the time of incident	Registration Status
Otto Animal ID: 5695 Pointer, German x Lagotto Brown	Timothy D Hardley	Witness 2	Tag number: 000961 Registration year: 2023/24

- On 27 October 2023, at 1.08pm Animal Control Officer (**ACO**) Rachel RAMSDEN received a call directly from Witness 1 (**sheep owner**), advising that there had been an attack on his sheep involving two dogs. At the time of the phone call Otto had left the scene and another dog (Alfie) remained in the paddock. Alfie escaped prior to the arrival of the ACO.
- When ACO R RAMSDEN and Animal Control Manager Carrie EDGERTON arrived on site a review of the situation took place. All sheep and lambs in the paddock had obtained injuries and the below was confirmed:
 - 2 ewes confirmed dead.
 - 1 lamb confirmed dead.
 - 1 ewe with injuries to face
 - 1 ewe with a large amount of blood and injuries on abdomen face and back
 - 4 lambs all with injuries to torso
 - 2 lambs confirmed missing as at 2.20pm on 27 October 2023
 - 1 lamb with severe injuries
- Several lambs required the injectable antibiotic, Depocillin, for the treatment of their wounds.
- One ewe subsequently had to be euthanised due to the injuries sustained and five lambs had to become pet lambs due to the death of the ewes.
- Otto is legally owned by Timothy D Hardley (**Owner**) and is the dog that has been classified.

Analysis and Advice | Tatāritaka me kā Tohutohu

Classification Decision

- Council received a sworn statement from Witness 1 that detailed the attack.
- Section 31(1)(b) of the Dog Control Act 1996 (the Act) requires Council to classify a dog as dangerous where it has reasonable grounds to believe, based on sworn evidence, that the dog constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife.

8. Based on Witness 1's sworn statement (**Attachment A**) QLDC officers, acting under delegated authority, classified Otto as a dangerous dog.
9. Officers considered the matter and applied the legal test under s31(1)(b) of the Act in determining to classify Otto as a dangerous dog.
10. Analysis of the decision is outlined in the Officer's Report as follows:

[Witness 1] *"provided sworn evidence attesting to aggressive behaviour of the dog on 1 or more occasions, QLDC has reasonable grounds to believe the dog constitutes a threat to the safety of any person, stock, poultry domestic animal or protected wildlife."*

Notification of Decision

11. QLDC notified the **owner** that Otto had been classified as Dangerous on 7 February 2024. The letter and notice sent to the **owner** explain the effects of the classification.

Objection to Classification

12. Section 31(3) of the Act states that *"If a dog is classified under section 31(1) as a Dangerous 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"*.
13. QLDC received an objection from Mr Timothy Hardley to the dangerous classification of Otto on 15 February 2024. Mr Timothy Hardley wishes to be heard.
14. Section 31(4) of the Act requires that QLDC is required to decide whether to uphold, or rescind, the classification of Otto following the hearing.

Discussion

15. In considering the objection to the classification, Council may either uphold or rescind the classification after having regard to the section 31(4) factors.
16. Section 31(4) of the Act provides that Council may either uphold or rescind the classification. In considering any objection, Council shall have regard to:
 - the evidence which formed the basis for the original classification; and
 - any steps taken by the owner to prevent any threat to the safety of persons and animals; and
 - the matters advanced in support of the objection; and
 - any other relevant matters.

Options

17. In considering the objection to the classification, Council may either uphold or rescind the classification after having regard to the section 31(4) factors.

Option 1: Uphold the classification of Otto as a dangerous dog under the Dog Control Act 1996

Advantages:

- The effects of the original classification will remain in force.
- Otto will be required to be muzzled when outside of the escape proof enclosure which will protect any future stock attacks.
- Council will be discharging its duties under the Dog Control Act 1996 and will be sending a message to all dog owners about dog control where it relates to public safety.
- The requirements of the dangerous dog classification are designed to prevent this type of attack happening again.

Disadvantages:

- There are no disadvantages to Council. Public safety is a priority. However, the dog owner may feel aggrieved, but this is not a reason to rescind a properly considered decision.

Option 2: Rescind the classification of Otto as a Dangerous dog under the Act.

Advantages:

- This option aligns with the outcome sought by the dog owner although this is of little relevance to the Council in its role.

Disadvantages:

- There is a potential for Otto to attack in future, and Council would not have acted in accordance with its duties under the Act.
- Public confidence in the regime could be undermined where a decision, based on evidence, is rescinded, particularly where there are no relevant advantages to Council or the public in rescinding the classification.

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

18. The Dog Control Committee requires a quorum of three Councillors, and powers are set out in the Delegations Register; the Dog Control Committee is delegated to hear any objections lodged under the Dog Control Act 1996.

19. Section 31 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 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.*

20. The Council must consider the matters set out at s 31 of the Act in respect of each objection and must make a decision in respect of the classification of Otto. These differ from the legal test that Council officers considered when classifying Otto under Section 31(1).

21. The Council shall give notice of its decision on any objection, and the reasons for its decision, to the **owner** as soon as practicable in accordance with Section 31(5) of the Act.