

Agriculture and Fisheries and Other Legislation Amendment Bill 2023

Submission No: 20
Submitted by: City of Moreton Bay
Publication:
Attachments:
Submitter Comments:

Office of the Mayor

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14 December 2023

Mr Chris Whiting MP
Chair
State Development and Regional Industries Committee

Via email: SDRIC@parliament.qld.gov.au

Dear Chair

CITY OF MORETON BAY SUBMISSION - AGRICULTURE AND FISHERIES AND OTHER LEGISLATION AMENDMENT BILL 2023

Thank you for the opportunity to provide a submission on the Agriculture and Fisheries and other Legislation Amendment Bill 2023 (the Bill).

Whilst the Bill proposes amendments to various State legislation, this submission is only in respect to the proposed amendments to the *Animal Management (Cats and Dogs) Act 2008* (the Act).

I am pleased that the State has progressed proposed amendments to the Act following the consideration of submissions on its “Strong dog laws: Safer Communities” discussion paper released in June 2023.

In Council’s submission to the State’s “Strong dog laws: Safer Communities” discussion paper (copy enclosed), I highlighted that the State Government’s Taskforce, of which I am a member, had developed further policy positions to be considered by the State. It is important that the Committee recognise the further matters previously identified by the Taskforce in formulating its recommendations to the Government. I hope to see a new Bill being introduced in 2024 which also captures those further matters suggested by the Taskforce as amendments required to the Act.

Banning Certain Breeds of Dogs

This Council, soon after commencement of the Act in 2008, prohibited the registration of those dog breeds included in Schedule 1 of the Commonwealth’s *Customs (Prohibited Imports) Regulation 1956*. This was achieved via its animal management local law.

This proposal in the Bill is supported as it provides consistency across Queensland.

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However, Council submits that the Bill:

- Does not establish how such breeds can be identified in the event the owner/s of the dog disputes its breed identification. The onus needs to be on the dog owner to prove their dog is not such a breed. This is required in legislation to support local government in the effective implementation of the Act.
- Does not confirm a significant penalty for the keeping of such breeds of dog. The future legislation needs to incorporate significant penalties to deter the keeping of these breeds of dogs.

State-wide requirement for effective control

New S 192 (1) - Regulated dog - effective control:

Council submits the following are not in the interests of public health and safety for the effective control of a regulated dog:

- The Bill allows a regulated dog to be tethered to a fixed object that is not in its regulated dog enclosure, irrespective of whether a dog is under continuous supervision.

Council's position is that regulated dogs can only be restrained by a leash held by a person who can control the dog. In the case of a dangerous dog, it must be muzzled.

Council submits in this respect that Subsection (1) (a) (iii) (B) be removed.

- The Bill allows a regulated dog to participate in an exhibition or race trial or obedience trial under supervision.

Council submits in this respect that Subsection (1) (c) be removed.

The proposed section in the Bill also continues a current conflict in the Act; Schedule 1 of the Act currently requires:

- All regulated dangerous dogs to be muzzled. This is not reinforced in the definition of effective control.
- All regulated dogs must, unless there is a reasonable excuse, be usually kept in the enclosure for the relevant dog. This is also not reinforced in the definition of effective control.

The proposed Section 192 (1) does not reconfirm these key effective controls. The strict requirements for keeping a regulated dog must be incorporated in all sections of the Act.

New S 192 (2) - Other than a regulated dog - effective control:

The proposed Section 192 (2) is supported in part; however, the following amendments are required:

- Subsection (a) is unclear and contemplates that only one (1) dog may be exercised in a dog off leash area under the voice command by a person. There are many responsible pet owners who can safely exercise more than one (1) dog in a dog off leash area. The City of Moreton Bay has recently amended its animal management local law allowing no more than two (2) dogs in a dog off leash area per responsible person. Council submits it is reasonable that two (2) non-regulated dogs can be effectively controlled in a dog off leash area subject to other effective control measures.

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- Subsection (b) is also unclear and contemplates that only one (1) dog may be on leash in a public place. Again, there are many dog owners who can safely take multiple dogs, on leash, in a public place. A restriction to one (1) does not allow for this. Also, there are many dog owners who have more than one (1) dog. The City of Moreton Bay has recently amended its animal management local law allowing no more than four (4) dogs to be walked at one time, if under effective control. Council submits it is reasonable that four (4) non-regulated dogs can be effectively controlled in a public place subject to other effective control measures.
- The provision for flexible enforcement powers, such as verbal directions, to secure compliance in such matters of a non-regulated dog not being under effective control is absent in the Bill. This is a clear legislative requirement for local government to effectively administer this provision.

Higher penalties for dog attacks including imprisonment

Dog attack offences

The Bill proposes the following new offences with penalty ranges:

- *S 193 - Relevant person must exercise effective control of dog in a public place*
- *S 194 - Relevant person must ensure the dog does not attack or cause fear*
- *S 195 - Prohibition on allowing or encouraging a dog to attack or cause fear.*

Council supports these new offences. Council also supports the following offence categories for each offence, as well as their respective penalty ranges:

- The delineation of the attack:
 - causes the death of a person or grievous bodily harm to a person.
 - causes the death of an animal or maims an animal.
 - causes bodily harm to a person.
 - wounds an animal.

Council also supports the respective sub-criteria for the penalty ranges:

- whether the relevant person has been previously convicted of a serious dog offence.
- if the dog is a regulated dog or not a regulated dog.

However, the following submissions are made:

- The proposed new sections 194 and 195 do not identify a breach where a relevant person allows the dog to “**cause fear**” only. A key principle at Section 89 of the Act, in declaring a dog dangerous or menacing, includes “*or act in a way causes fear to, the person or animal*”. It is unclear in these proposed sections what the offence is where there is no attack but where fear:
 - causes the death of a person or grievous bodily harm to a person.
 - causes the death of an animal or maims an animal.
 - causes bodily harm to a person.
 - wounds an animal.

In this respect “fear” requires its own offence type and penalty criteria.

- The Bill does not include an amendment to the *State Penalties Enforcement Act 1999* or Regulation. It is unclear for these offences if enforcement action can be by penalty infringement notice or if they are only subject to prosecution proceedings. The Bill requires a respective amendment to the *State Penalties Enforcement Act 1999* or Regulation to confirm what the intent of the State is and consultation with local government as part of this.

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- Further to this, the Bill does not confirm if the investigation of alleged offences will be undertaken by the Department of Agriculture and Fisheries or devolved to local government where an attack causes the death of a person or grievous bodily harm to a person. The State's "Strong dog laws: Safer Communities" discussion paper contemplated that "serious attacks" would be investigated by suitably trained persons specifically authorised by the Chief Executive of the Department of Agriculture and Fisheries and heard before a Court. The Act needs to be clear who is responsible for the Sections 193 to 195, per subsection.

Amendment to definition of "seriously attack":

The amendment to the current Section 89 to differentiate between an attack on a person and an attack on an animal is supported.

The further definition on what constitutes an attack in each case is also supported.

Clarifying when to make a destruction order

Power for the Chief Executive to make guidelines:

The new Section 209B providing the Chief Executive the power to make guidelines about matters relating to compliance with the Act, namely, to assist authorised persons in deciding when a destruction order should be made, is supported in principle.

Council submits that these guidelines need to be in place at the time of the assent of the amendments in the Act.

Council also submits that there needs to be genuine engagement with local government in the development of such guidelines. Council further submits the Technical Working Group reporting to the Taskforce is ideal for this process.

Mandatory requirements for a destruction order:

Council only supports part of the amendment to S 127 which makes a mandatory requirement for a destruction order where a dog has:

- attacked a person causing grievous bodily harm or death; or
- attacked an animal and maimed or killed the animal.

Council is of the position that there is risk in requiring a mandatory destruction order where a dog has attacked an animal and maimed or killed the animal. The application of a destruction order in these cases must be based on the individual facts and circumstances as determined by the respective investigation.

In the current Bill, the definition of animal for the purposes of S 191 does not include vermin that are not the property of anyone. Examples of vermin that are someone's property are:

- a pet mouse or guinea pig
- vermin that are protected by the *Nature Conversation Act 1992, part 5, division 3*.

In this respect, where a dog maims or kills an "unowned" rat or mouse, that dog would not be subject to a mandatory destruction order.

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However, where a dog maims or kills a “pet” rat or mouse, that dog would be subject to a compulsory destruction order.

To put this further into perspective, where a dog maims or kills a chicken or a baby bush turkey, the dog would be subject to a compulsory destruction order.

The proposal in the Bill may impact the number of dogs being subject compulsory destruction orders unfairly. For example, where an animal (as defined in the Bill) enters the property of the dog that attacks it and maims and kills that animal, the victim animal itself may not be under effective control by an irresponsible owner or keeper. This may result in an unfair and compulsory destruction order being placed on the dog. This is the reason there should not be a mandatory destruction order where a dog maims or kills an animal.

In addition to this, there is a high likelihood that QCAT reviews will increase with mandatory destruction orders in cases where a dog has attacked an animal and maimed or killed the animal. The QCAT process and timeframes are already a significant issue for local government.

Limitations on appeals about a destruction order

The proposed introduction of a new Section 190 in the Act to restrict appeals of a QCAT external review decision on destruction orders to only questions of law is supported.

Additional matters

Extensive work by the Taskforce and its Technical Working Group delivered proposed amendments to the State Department of Agriculture and Fisheries over 2022-23. It is important the Committee recognise this and seek an update from the Department of Agriculture and Fisheries on how it will be progressing these matters.

Key amendments that this Council proposed in its submission to the State’s “Strong dog laws: Safer Communities” discussion paper also need to be considered by the Committee, including:

- Amendment of Section 89 of the Act to incorporate the scaling of declarations and destruction of dogs to align to the severity of the bite - The Dunbar Bite Assessment Scale.
- Repeal of Section 90 (Proposal to regulate a dog menacing or dangerous) to reduce timeframes for dog owners, local governments and importantly, persons affected by dog attack incident.

In addition to this, ensuring a fast-track process for all QCAT matters, from the point of a QCAT external review to QCAT appeals, remains a priority. Council submits that:

- The State needs to continue to review the timeframes and process for QCAT in respect to all regulated dog and destruction order appeal processes.
- In view that the Bill has introduced greater rigour in the new offence categories at the proposed Sections 193, 194 and 195, there is now the opportunity for the State to remove review appeal rights where a dog has attacked a person causing grievous bodily harm or death. This is the case in other States, such as with the ACT’s regulator. It is also a primary criterion of the Dunbar Bite Assessment Scale.

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Council submits that the removal of review appeal rights in these circumstances must be included in the amendment at S 127 of the Act.

Again, thank you for the opportunity to make a submission on this Bill.

If you require any further information regarding our submission, please contact Council's Chief External Relations Officer Joshua O'Keefe on [REDACTED].

Yours sincerely

[REDACTED]

PETER FLANNERY
Mayor

Our ref: 68669016

Enc: City of Moreton Bay submission - "Strong Dog Laws: Safer Communities" Discussion Paper

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24 August 2023

Hon Mark Furner MP
Minister for Agricultural Industry Development and Fisheries and Minister for Rural
Communities
GPO Box 46
BRISBANE QLD 4001

Dear Minister

CITY OF MORETON BAY SUBMISSION - "STRONG DOG LAWS: SAFER COMMUNITIES" DISCUSSION PAPER

Thank you for the opportunity to provide a submission on the State's "Strong dog laws: Safer communities" Discussion Paper released in June 2023.

I welcome the release of the discussion paper and the consideration of several legislative reforms.

Council believes the discussion paper does not capture the complete list of policy proposals that were developed by the Taskforce's technical working group.

As such, the second part of our submission confirms the policy positions from the technical working group that need to be considered by the Taskforce and the State Government as a high priority.

Part 1 - Response to the issues raised in the discussion paper

Community education and awareness raising campaign

Community education is always a primary key to success for any regulatory framework.

The discussion paper however does not detail:

- The period for the education program and the level of funding being allocated
- How the evidence-based community education program is being delivered
- How many components / audiences are being targeted in the program

Council is of the view that any community education program should be comprehensive, ongoing and long-term. The program should also encompass all communication mediums as well as becoming part of the State's school-based curriculum.

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The development and implementation of an evidence-based community education campaign for responsible ownership is supported, subject to the provision of this further information.

However, to be clear, any short-term and one-off community education program would not be acceptable as this does not deliver a continuing benefit for the community.

Banning restricted dogs in Queensland

This is a long-standing policy position of the City of Moreton Bay.

Dog breeds that are restricted under Commonwealth legislation, the *Customs (Prohibited Imports) Regulations 1956*, are prohibited from being registered in this local government area. Other councils in Queensland have also adopted this policy position.

This proposal is supported subject to clarification on how the legislative provisions will clearly capture the identification of such breeds and support local government in this endeavour.

A new State-wide requirement for dogs to be effectively controlled in public places

Council's local laws have clear provisions requiring dogs not to be in a public place unless they are under effective control. I am advised this to be the case for most local government local laws in Queensland.

This proposal is supported, however, to be effective the State legislation must have a high penalty unit for such offence, such as fifty (50) penalty units. Currently Council has twenty (20) penalty units.

Reviewing penalties for offences relating to regulated dogs

The review and increase of penalties for offences relating to dog attacks and regulated dog offences is supported by Council.

The jurisdictional comparative in Appendix 1 of the discussion paper, provides a good basis to formulate the increased penalties. In this respect, the review can be undertaken in a timely manner.

A new offence including imprisonment as a maximum penalty for more serious attacks

The proposal is supported in principle. I note the proposal contemplates the offence would be a summary offence investigated by suitably trained persons specifically authorised by the Chief Executive of the Department of Agriculture and Fisheries and heard before a Court. This is supported in principle by the City of Moreton Bay.

For Council to support this proposal in full, the following detailed information must be confirmed with the technical working group and endorsed by the Taskforce:

- Clarification on any change in provisions for dealing with dogs that cause grievous bodily harm or death to a person. I am advised that the technical working group has submitted that the Dunbar Bite Scale, see Appendix 1, is a reputable and established framework for dogs proven to have caused grievous bodily harm or death to a person to be immediately euthanised.

- The process for the authorised person of the Department of Agriculture and Fisheries investigating such matters being clarified with local government.
 - Does this State Officer lead such investigations from the start or receive reports from local government?
 - Assurance the State appropriately resources the Department for such actions.

Clarifying when a destruction order may be made

Council supports this proposal. As indicated above, the Government should accept the technical working group's recommendation to apply the Dunbar Bite Scale as a reputable and established framework for dogs proven to have caused grievous bodily harm or death to a person, to be immediately euthanised. There is a clear community expectation for this.

There needs to be a clear message for dog owners that such incidents are not accepted in our community and euthanasia of such dogs is the result of their own failure as a responsible pet owner.

Streamlining review processes

Council supports amending the Act to make it clear when a destruction order can and must be made.

However, again the technical working group has submitted the policy proposal for the Dunbar Bite Scale to be the established framework for managing dogs proven to have caused grievous bodily harm or death to a person. In the case of level 5 and 6 assessments, the respective dog is to be immediately euthanised.

The immediate destruction of offending dogs, under the Dunbar Bite Scale, will not be subject to appeal or review. Such provision will certainly reduce QCAT time and deliver strong public interest outcomes.

In addition to this, Council is eagerly awaiting the direction of the State Government in respect to the review of the QCAT Act. Chapter 6 of the *Animal Management (Cats and Dogs) Act* has been excluded from the current review, however, needs to be activated in conjunction with the Attorney General's review of the QCAT Act.

Part 2 - Additional policy positions to be urgently considered in the review of Chapter 4

Amendment of Section 89 of the Act to incorporate the scaling of declarations and destruction of dogs to align to the severity of the bite.

It is important to measure objectively the severity of a dog bite or attack. Dr Ian Dunbar is a veterinarian, dog trainer and animal behaviourist trained at the Royal Veterinary College at London University. He specialised in the development of social hierarchies and aggression in domestic dogs and went on to establish the American Veterinary Society of Animal Behaviour. Dr Dunbar developed the Dunbar Dog Bite Assessment Scale which the ACT regulator Domestic Animal Services (ACT-DAS) applies. The Dunbar dog bite scale is a tool for assessing whether an attacking or harassing dog is a danger to the community.

The ACT's independent expert review recommended the use of the Dunbar Dog Bite Assessment by the ACT-DAS as a consistent approach to clarify an incident and assist in decision making. Standard operating procedures provide further detail on assessing animal behaviour.

Under the Dunbar Bite Scale, Level 5 and 6 offences result in the immediate euthanasia of the dog. The Dunbar Bite Scale is contained at Appendix 1.

Repeal of Section 90 (Proposal to regulate a dog menacing or dangerous) of the Animal Management (Cats and Dogs) Act 2008 allows for a more efficient and effective administration of the purposes of Chapter 4.

Section 90 of the *Animal Management (Cats and Dogs) Act 2008* requires local government to issue the owner of the dog a 'proposed declaration notice' which outlines the reasons for the proposed declaration and provides the dog owner 14 days to provide written representations as to why the proposed declaration should not be made.

Section 91 removes limitations of other powers for authorised officers relating to Chapter 5 Investigations, monitoring and enforcement and under regulations. Section 92 allows local government to withdraw a proposed declaration by notice. Section 93 imposes conditions on owners and responsible persons of a proposed declared dog to ensure the dog is muzzled and under effective control unless it is at a 'relevant place' being the place at which it is registered. Sections 91 to 93 are not required if section 90 is repealed.

A Repeal of Section 90 of the *Animal Management (Cats and Dogs) Act 2008* allows for a more efficient and effective administration of the purposes of Chapter 4 by removing the burden on Local Government and on dog owners (keepers) of an additional process step which is not necessary and is confusing.

It is important to note that a Member from the Queensland Civil and Administrative Tribunal (QCAT) believed that the Proposed Declaration Notice is not required as outlined in [Brisbane City Council v Roy \[2020\] QCATA 147](#) .

This process also presents the opportunity to progress the following amendments:

- Introduce provisions for local governments to seek orders via the Magistrate's Court for the immediate forfeiture of dogs and the prohibition of keeping of dogs from and by proven offenders.
- Include a mandatory condition for the keeping of regulated dogs to be always registered. Currently, the requirement for registration of a regulated dog is not a mandatory condition for the keeping of a regulated dog. This will provide greater weighting to the non-compliance with keeping a regulated dog as opposed to the standard registration requirement at Chapter 3 of the Act. This enhancement will allow for the ability to seize the regulated dog for not being registered.

Again, thank you for the opportunity to make a submission on the State Government's proposals.

I look forward to the Taskforce being reconvened to discuss the submissions received and confirmation of the next steps in progressing the legislative changes to implement these reforms.

If you require any further information regarding our proposal, please contact Council's Local Laws Manager, Mr Shane Mansfield on [REDACTED].

Yours sincerely

A large black rectangular redaction box covering the signature area.

PETER FLANNERY
Mayor

Our ref: 67680271

Appendix 1 - Dunbar Bite Scale Table 2011

Severity Rating	Assessment of the Severity of Biting Problems Based on an Objective Evaluation of Wound Pathology		Insights about the Epidemiology of Dog Bites in a Canadian City Using a Dog Aggression Scale and Administrative Data. 1	Dr. Ian Dunbar's Dog Bite Scale (Official Authorized Version) ²
Low severity incident (Rush/Non-Contact)	Level 1 Control Order	Dog growls, lunges, snarls-no teeth touch skin. Mostly intimidation / threatening behaviour	A level 1 (pre-bite) occurs when a dog snaps or air bites but makes no contact with a person or another animal. Such behaviour indicates that the dog was anxious or fearful in the moments preceding the incident.	Dunbar describes a level 1 & 2 incidents as: <ul style="list-style-type: none"> ▪ comprise well over 99% of dog incidents. ▪ dog is certainly not dangerous and more likely to be fearful, rambunctious. ▪ Wonderful prognosis. Quickly resolve the problem with basic training (control) e.g. <ul style="list-style-type: none"> ○ Classical Conditioning, ○ Numerous repetitive Retreat n' Treat, Come/Sit/Food Reward ○ Backup/Approach/Food Reward sequences, progressive desensitization handling exercises, ○ Numerous bite-inhibition exercises and games. ○ Hand feed only until resolved; do NOT waste potential food rewards by feeding from a bowl.
Low-Medium severity incident	Level 2 Menacing	Teeth touch skin but no puncture. May have red mark/minor bruise from dog's head or snout, may have minor scratches from paws/nails. Minor surface abrasions or lacerations	A level 2 incident represents a near-bite or a highly inhibited bite. At this level, a dog will snap and make tooth contact without puncturing the skin. It can be preceded by lunging or charging behaviour. The force of the bite is inhibited at this level. However, bruising may occur at the point of contact.	
Medium severity incident	Level 3 Dangerous	Punctures one to three holes, single bite. No tearing or slashes. Victim not shaken side to side. Bruising.	At level 3 on the assessment scale, a dog bites once and punctures the skin with one to three holes, with the puncture shallower than the length of the canine tooth. At level 3 there is no tearing or slashes, and the victim has not been shaken from side to side.	Dunbar describes a level 3 incidents as: <ul style="list-style-type: none"> ▪ Prognosis is fair to good provided you have a compliant owner. ▪ However, treatment is both time-consuming and not without danger. ▪ Rigorous bite-inhibition exercises are essential.
	Level 3.5 Dangerous	Multiple level 3 bites	At level 3.5 , the dog bites multiple times at the severity of a level 3 bite. At this level, the dog is highly aroused and reacting without thinking between bites.	

¹ 2019 | Insights Dog Bites Using Dog Aggression Scale @ [\[2.1. Introduction\]](#)

² 2011 | [Dr. Ian Dunbar's Dog Bite Scale \(Official Authorized Version\)](#)

Severity Rating	Assessment of the Severity of Biting Problems Based on an Objective Evaluation of Wound Pathology	Insights about the Epidemiology of Dog Bites in a Canadian City Using a Dog Aggression Scale and Administrative Data.1	Dr. Ian Dunbar's Dog Bite Scale (Official Authorized Version)2
High severity incident	<p>Level 4</p> <p>Dangerous</p>	<p>Two to four holes from a single bite, typically contact/punctures from more than canines, considerable bruising. Black bruising, tears and/or slashing wounds. Dog clamped down and held and/or shook head from side to side</p> <p>A level 4 consists of two to four holes from a single. The punctures are deeper than the length of a canine, indicating that the dog bites and clamps down.</p> <p>The bite may also produce slashes in both directions indicating that the dog shook its head.</p> <p>A level 4 bite indicates that the dog has not shown any inhibition in bite strength, therefore a dog that bites at this level could be considered a dangerous animal.</p>	<p>Dunbar describes a level 4 incidents as:</p> <ul style="list-style-type: none"> ▪ The dog has insufficient bite inhibition and is very dangerous. ▪ Prognosis is poor because of the difficulty and danger of trying to teach bite inhibition to an adult hard-biting dog and because absolute owner-compliance is rare. Only work with the dog in exceptional circumstances, e.g., the owner is a dog professional and has sworn 100% compliance. ▪ Make sure the owner signs a form in triplicate stating that they understand and take full responsibility that: <ul style="list-style-type: none"> ○ The dog is a Level 4 biter and is likely to cause an equivalent amount of damage WHEN it bites again (which it most probably will) and should therefore, be always confined to the home and only allowed contact with adult owners. ○ Whenever, children or guests visit the house, the dog should: <ul style="list-style-type: none"> ○ be confined to a single locked room or ○ a roofed, chain-link run with the only keys kept on a chain around the neck of each adult owner (to prevent children or guests entering the dog's confinement area.) ○ The dog is muzzled before leaving the house and only leaves the house for visits to a veterinary clinic. ○ The incidents have all been reported to the relevant authorities — animal control or police. Give the owners one copy, keep one copy for your files and give one copy to the dog's veterinarian.
Very High severity incident	<p>Level 5</p> <p>Euthanasia</p> <p>NO APPEAL</p>	<p>Multiple bites at Level 4 or above. A concerted, repeated attack causing severe injury.</p> <p>A level 5 occurs when the dog gives multiple level 4 bites with deep punctures and/or slashing wounds.</p>	<p>Dunbar describes a level 5 & 6 incidents as:</p> <ul style="list-style-type: none"> ▪ The dog is extremely dangerous and mutilates. ▪ The dog is simply not safe around people. Recommend euthanasia because the quality of life is so poor for dogs that must live-out their lives in solitary confinement.