

APA Conference

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REACTING TO THE HUMAN

A Year in Review

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EVIL GENIUS

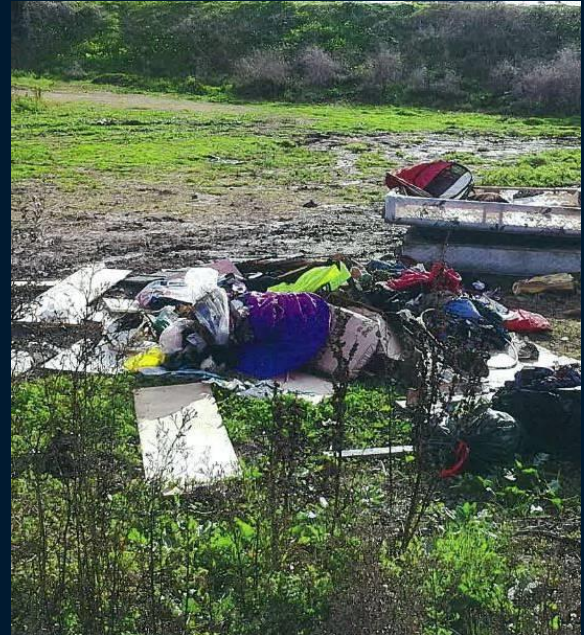
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Onkaparinga V Stuart

Illegal Dumping

- case involved two separate illegal dumping incidents on State Government and Council land of 50 litres or more of general litter;
- the Council was able to identify the defendant by analysing contents of waste and utilising CCTV footage;
- court found defendant guilty of offence but also found that there were mitigating circumstances.
- 30% discount on penalty for early guilty plea resulted in total penalty of \$4,500 – a significant penalty for a defendant with limited means



Playford v Schroeter

Cigarette Disposal

- defendant observed by authorised officers in the act of disposing of a live cigarette butt out of a vehicle onto a public road;
- defendant elected to be prosecuted rather than expiate offence;
- defendant never showed up to any of the court hearings;
- court determined the matter in defendant's absence;
- court imposed a total penalty of \$1,500, triple the amount of the \$500 expiation fee.



City of Tea Tree Gully v Fisk **Dog Prosecution**

- Substantive history of Dog and Cat Management Offences
- Control (Menacing Dog), Destruction Order and Prohibition Order by City of Tea Tree Gully
- Destruction Order and Prohibition Order appeals in the District Court of South Australia
- Prosecution by City of Salisbury (x2) in the Magistrates Court of South Australia
- Court Ordered Prohibition Order made by the Magistrates Court of South Australia

City of Tea Tree Gully v Fisk

Dog Prosecution

- defendant has a history of non-compliance in relation to dog ownership and management;
- defendant was subject to a court order pursuant to Section 47(3) of the *Dog and Cat Management Act* prohibiting her from being responsible for the control of dogs;
- this case involved the defendant breaching the control order by walking a number of dogs on various occasions – a dog was also involved in a harassment;
- authorised officers attempted to seize two of her dogs in April 2017 but the defendant was extremely uncooperative and refused to acknowledge them – **difficult customer to deal with!**;
- matter progressed all the way to trial until defendant decided to plead guilty to all charges



Fisk Cont...

- court imposed total penalty of \$4,950;
- + \$1,760 for Victims of Crime Levy; and
- \$700 for the Council's costs.



Playford v McDougall

Parking Prosecution

- case involving a defendant who parked a vehicle on a nature strip contrary to the *Australian Road Rules*;
- council issued an expiation for the offence but the defendant elected to be prosecuted;
- defendant claimed that the Council was not a 'legal entity' capable of issuing expiation notices;
- defendant then sought to argue that the Council's establishment under the *Local Government Act 1999* contravened Section 109 of the Constitution;
- defendant was raising a complex constitutional issue - **'IT'S AGAINST THE VIBE' – Dennis Denuto from the Castle**



McDougall Cont...

- ultimately, the matter went to the Supreme Court of SA – *McDougall v City of Playford* [2017] SASC 169;
- the Supreme Court made it very clear that:
 - “*the establishment of local government in South Australia... Is undoubtedly within the legislative competence of the Parliament of South Australia*”



City of Tea Tree Gully v Majchrak - **Dog Control Order**

- defendant's dog attacked another dog resulting in death;
- council issued defendant with a destruction order in 2017;
- defendant was associated with criminal identities;
- the Council had a difficult time communicating with the defendant;
- matter was delayed for over a year;
- court ultimately upheld the destruction order and awarded costs.



Murray Bridge v Storey

Barking Dog

- defendant has a history of non-compliance in relation to dog ownership and management;
- defendant was the subject of a control (barking dog) order;
- defendant's German Shepherd continued to bark in contravention of provisions of the barking dog order and the *Dog and Cat Management Act 1995*;
- October 2017 proceedings in Magistrates Court
 - Convicted of 6 counts
 - Fines and costs totalling \$1,790
 - Ordered to take positive steps to keep dog from barking
 - Magistrate warns dog may be removed in future

Storey Cont...

- Further complaints recieved;
- Matter again proceeded to court on multiple charges;
- defendant sought to have dog remain in her ownership
- on first Court appearance, defendant agreed to plead guilty in exchange for Council withdrawing some charges;
- Court ordered pursuant to Section 47 of the *Dog and Cat Management Act 1995*:
 - defendant's dog be disposed of to the German Shepherd Dog Rescue SA Incorporation;
 - dog not to be returned to the defendant;
 - conviction recorded without penalty;

Q & A



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