

APA Conference

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A Year in Review

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Adelaide Plains Council v Carter

Illegal Burning Activities

- case involved a fire on the road reserve;
- General Inspector noticed the plume of smoke and attended the scene;
- the defendant was present and told the GI he could burn as it was out of fire danger season;
- he became increasingly frustrated when asked for his name and used abusive language towards the GI;
- prosecution proceedings were issued for a number of offences.



Adelaide Plains Council v Carter

Illegal Burning Activities

- a conviction was recorded;
- Her Honour Judge Cole considered the defendant's circumstances:
 - a pensioner; and
 - hardship occasioned by the floods;
- no penalty was imposed (costs awarded to the Council);
- the defendant was ordered to write an apology to the General Inspector;
- the ownership of the land was clarified and it was made clear to the defendant that a repeat of the offence will result in significant financial penalty.

Howden v Northern Areas Council

Destruction Order Appeal

- the dog was being examined and treated by its vet after recently giving birth to three pups;
- the vet administered various injections and then allowed the dog to feed her pups;
- the vet, having control of the dog, attempted to secure the dog below the table when the dog savagely attacked;
- a Destruction Order was issued by the Council;
- the appellant appealed the Destruction Order to the District Court of South Australia.

Howden v Northern Areas Council

Destruction Order Appeal

Did the dog attack in circumstances which would constitute an offence against the Dog and Cat Management Act 1995?

Howden v Northern Areas Council

Destruction Order Appeal

- the Court found the dog to be 'unduly dangerous' in the circumstances of the case;
- general defences do not provide a defence to Control Orders where the circumstances of the attack constitute an offence under the Act;
- the Court could not find cogent reasons to depart from the original decision;
- the appeal was dismissed.

V Nguyen v The City of Port Adelaide Enfield

Destruction Order Appeal

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- appellant displayed non-compliance in relation to dog ownership and management;
- dog escaped the premises on a number of occasions;
- on one date, the dog attacked two people;
- the Council issued a Destruction Order;
- CCTV footage was obtained during the hearing;
- shows the dog lunging and jumping at the victims in unprovoked attacks.



V Nguyen v The City of Port Adelaide Enfield

Destruction Order Appeal

- appellant showed no empathy for the victims – did not want to accept responsibility for what had happened;
- the Court considered the impact the dog's loss would have on the appellant's family;
- the dog was determined to be of such an aggressive nature that there was a very substantial likelihood of harm to others in the future;
- the Court found the dog was 'unduly dangerous';
- the appellant could not show any cogent to depart from the original decision;
- the appeal was dismissed and a date set for the destruction order to be given effect.

Q & A



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