

Issue # 03/11  
August 2011

## WELCOME

Thanks for all the encouraging messages regarding the newsletters. Keep them coming but also do not hold back if I stuff up or if you have any suggestions. I can take it.



**JUST GIVE ME 2 MINUTES. 2 MINUTES IS ALL I NEED AND I WILL BE AS GOOD AS NEW!**

Well here we are at #3 and I must admit that it's not all that easy to keep the flow going. I will soldier on for I know that others have & are doing a lot more. Remember that your association runs on a volunteer basis and many hours are dedicated by the committee to ensure its very existence. In saying this I wish to personally thank all the current and past committee members for their diligence thus far.

**Thanks and welcome to all our new members.** If you or your employer has not already done so, get your registrations in for the:

**2011 WARA Professional Development Conference –  
22nd and 23rd September 2011**

**Hosted at the Esplanade Hotel Fremantle**

*To avoid disappointment book your accommodation now on  
Phone 9432 4000 or  
Visit*

*<http://www.esplanadehotelfremantle.com.au>*

*Visit: [www.warangers.asn.au](http://www.warangers.asn.au) for more info, registration forms, Nomination forms and the latest updates.*

## TEAM OF THE YEAR 2011



I know that there are many hard working Ranger Teams out there. Each day we serve our community, educate, resolve issues and enforce the laws of the land. Often we find ourselves understaffed, under resourced, and underpaid but we pull together under one banner and persevere.

**Nominations closed 01 August 2011.**  
**Good Luck to all nominated teams.**

In every team there is an inspirational individual. Someone who puts in just that little bit more. Someone who you look up to or someone whom you think deserves recognition for their many years of dedicated service.



**Nominations closed 01 August 2011.**  
**Good Luck to all nominees.**

Now let's not forget about us old farts (me included)



Done ten, fifteen or twenty years service as a Local Government Law Enforcement Officer?  
Long Service Medals are available through the association.

**Nominations closed 01 August 2011. If you have missed out this year you can always apply to receive your medals for next year's applications.**

Need a hand with the nominations or anything related to our employment?

Contact: [admin@warangers.asn.au](mailto:admin@warangers.asn.au)

## **WHATS HOT IN THE BOX?**

**Local Government update - Council pays for fatal dog attack: Dylan Kuehne by Tutor Peter Kuehne v Warren Shire Council; Peter Kuehne v Warren Shire Council [2011] NSWDC 30**

A recent NSW District Court decision awarded damages to the father and brother of a four-year-old girl who was fatally mauled by dogs with the judge ruling that the Council had breached its duty of care in failing to declare the dogs "dangerous".

In 2006, Tyra Kuehne, then aged four, found her way into the backyard of a property in Warren in the central west of NSW where she was mauled by one or more of five pig hunting dogs. She was found some hours later and died soon after.

The two plaintiffs were Tyra's father and brother, Peter Kuehne and Dylan Kuehne. They were awarded \$95,330 and \$28,506

respectively for nervous shock and future medical treatment.

The decision rested on the Council's failure to exercise its powers under the *Companion Animals Act 1998* ("CAA") which gives the Council the power to declare a dog dangerous. Section 33 defined a dog as dangerous if it had, without provocation:

*Note: The CAA has since been amended to meet the circumstances of Tyra's death, also known as the 'Tyra Amendments'.*

- attacked or killed a person or animal (other than vermin); or
- repeatedly threatened to attack or repeatedly chased a person or animal (other than vermin).

A declaration that the dogs were dangerous would have required the dogs to be housed in a child-proof enclosure which Tyra could not have entered.

### **Existence of duty of care**

The Judge stated that the CAA provided the Council with the means of preventing residents being exposed to dangerous dogs and they were therefore entitled to assume that it would exercise those powers.

### **Breach of the duty of care**

The Judge made a number of findings including that the Council:

- knew of the presence of pig hunting dogs at the property;
- knew that the dogs often escaped into the neighbourhood (and therefore the property was not secure);
- had dealt with many complaints about the dogs but, despite frequent conversations with the owner and the issuing of infringement notices, the problem continued;
- knew the area was a residential area inhabited by families with young children;
- had, through CAA section 34, a means to regulate the keeping of dogs; and
- owed a duty to the residents to exercise its powers for their protection.

Overall, the Judge found that there had been a clear failure on the part of the Council to exercise its powers under the CAA to declare the dogs dangerous and that this amounted to a breach of its duties.

The burden of declaring the dogs dangerous was small when compared to the possibility of the very serious risk of harm being caused by them. The Council's failure to act was accordingly "so unreasonable that no authority having the special statutory power in question could properly consider the act or omission to be a reasonable exercise of, or failure to exercise, its power".

## Causation

The declaration should have been made as soon as it was established that the owner was keeping unsecured hunting dogs in his backyard. The Judge concluded that if the Council had acted when it should have, the attack on Tyra would have been prevented.

## Implications for Local Governments in Western Australia

In WA, the equivalent provision is section 33E of the *Dog Act 1976* (“the Act”), which gives a Local Government the power to declare a dog to be dangerous if:

- the dog has caused injury or damage by an attack on, or chasing, a person, animal or vehicle;
- the dog has, repeatedly, shown a tendency –
  - to attack, or chase, a person, animal or vehicle even though no injury has been caused by that behaviour; or
  - to threaten to attack; or
- the behaviour of the dog meets other criteria prescribed for the purpose of the section.

The case illustrates the importance of Local Governments exercising their duty of care under the Act and of the need to take dog complaints seriously. A clear duty is owed to give effect to those powers for the protection of residents.

For more information about this legal update or any other local government matters please contact **Melissa Koo** on **(08) 9321 3755**

*The information published on this website is of a general nature and should not be construed as legal advice. Whilst we aim to provide timely, relevant and accurate information, the law may change and circumstances may differ. You should not therefore act in reliance on it without first obtaining specific legal advice.*



Council Reports of  
Dog Attacks in NSW 2

To view this document visit:

[www.warangers.asn.au](http://www.warangers.asn.au)

## Rangers in dark on Commonwealth Heads of Government Meeting (CHOGM) role



<http://www.inmycommunity.com.au/news-and-views/local-news/Rangers-in-dark-on-CHOGM-role/7595026/>

## Preventing Violence at Work



WorkSafe WA is seeking comment on the draft national *Preventing and responding to violence at work guide*. This guide has been developed by a cross-jurisdictional working group and is designed to help people who run businesses or undertakings to develop work systems to prevent violence at work and to respond to incidents if they occur.

A copy of the Guide is attached for your information. Any comments on the guide would be appreciated including general comments (e.g.: comments about the purpose, scope or structure of the draft guide) and any specific comments (e.g.; comments about particular sections, points or definitions).

A template for providing comments is also attached. To assist the evaluation of your comments, please consider the following points:

specific comments should clearly indicate the page and paragraph number of the subject of the comment.  
1 provide reasons for your

comments; you may refer to supporting evidence such as a real or theoretical situation relevant to the subject matter of the guide (e.g., a particular accident or incident), research or statistical data, or your own employment experiences. Please suggest alternate wording for particular provisions in the draft guide where appropriate

Comments should be emailed or faxed to me.

**The closing date is 5.00 pm, 6 October 2011.**

Regards

Rodney Powell  
Senior Inspector/Scientific Officer (Ergonomics)  
Health Hazards Branch  
WorkSafe WA  
Tel: 9327 8727  
Mbl: 0418 946 404



Draft Guide.pdf

To view this document visit:

[www.warangers.asn.au](http://www.warangers.asn.au)

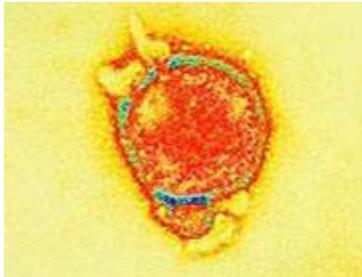


Comment  
Template.doc

To view this document visit:

[www.warangers.asn.au](http://www.warangers.asn.au)

**Dog near Beaudesert, Queensland believed to be the first of species detected with the Hendra virus.**



<http://www.news.com.au/national/dog-near-beaudesert-believed-to-be-the-first-of-species-detected-with-the-hendra-virus/story-e6frkvr-1226102106856>

**CAPTION CAPERS**



**Introducing Caption Capers.**

A competition to see who can write the best caption for the above photo. Please copy the above photo and email it with your caption to: [Valcic@optusnet.com.au](mailto:Valcic@optusnet.com.au)

The selected winner each issue will receive a prize selected by the committee from our merchandise store and your winning entry will be posted in the next newsletter.

**FUNNIES**

**LITTLE LARRY**

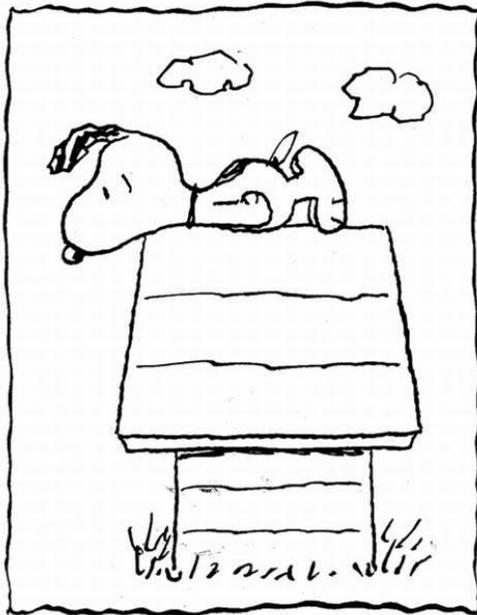
Larry watched, fascinated, as his mother smoothed cold cream on her face. 'Why do you do that, mummy?' he asked. 'To make myself beautiful,' said his mother, who then began removing the cream with a tissue. 'What's the matter, asked Larry 'Giving up?'





# WA Rangers Association

Newsletter



**The Original Plunker**



**Ever wondered why the dishwasher always does a better job?**



Helping 'round the house1.wmv



**Charlie Sheen's dog.**



**Mr, please don't touch**

if you're not buying!..

Demotivation.us

# WARA





TheFlea.wmv

This is a classic

Well that's it for this issue. Hope it brought some insight and fun into your day. Take care.

**Ranger Dave**  
**Rockingham**



WA Rangers Association

Newsletter

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