

Friday, 5 March 2021

Daily Civil Law A Daily Bulletin listing Decisions of Superior Courts of Australia

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CIVIL (Insurance, Banking, Construction & Government)

Executive Summary (1 minute read)

Stern v City of Adelaide (SASCA) - traffic law - criminal law - Magistrate found applicant contravened r194(1) *Australian Road Rules* - no conviction recorded but applicant ordered to pay costs of prosecution - primary judge dismissed applicant's appeal - applicant sought to appeal - leave to appeal refused (I B C G)

Decon Australia Pty Ltd v TFM Epping Land Pty Ltd (No 3) (FCA) - costs - Court dismissed plaintiff's application for relief against 'deed administrators appointed to' first defendant and to second defendant - determination of costs (I B C G)

Hastwell v Health Care Complaints Commission (NSWCA) - administrative law - Health Care Complaints Commission ceased to deal with applicant's complaint against psychiatrist - judicial review application dismissed - leave to appeal refused - summons dismissed (I B C G)

Tropic Asphalts Pty Ltd v Snowy Monaro Regional Council (NSWCCA) - subpoena - environmental law - primary judge refused to set aside subpoena issued to Roads and Maritime Services at respondent's request or to deny respondent access to documents - leave to appeal refused (I B C G)

PB v WorkCover Queensland (QCA) - costs - appeal successful to extent appellant's compensation increased - appeal grounds unsuccessful - no order as to costs (I B C G)

Summaries With Link (Five Minute Read)

Stern v City of Adelaide [2021] SASCA 3

Court of Appeal of South Australia

Kelly P; Doyle & Livesey JJ

Traffic law - criminal law - Magistrate found applicant contravened r194(1) *Australian Road Rules* by stopping vehicle 'within one metre of a fire hydrant' - no conviction recorded but applicant ordered to pay costs of prosecution - primary judge dismissed applicant's appeal - applicant sought to appeal - whether applicant discharged onus to raise 'defence of act of a stranger' - whether 'reasonably arguable' prosecution did not exclude defendant 'beyond reasonable doubt' - held: leave to appeal refused.

[Stern](#) (I B C G)

Decon Australia Pty Ltd v TFM Epping Land Pty Ltd (No 3) [2021] FCA 147

Federal Court of Australia

McKerracher J

Costs - Court dismissed plaintiff's application for relief against 'deed administrators appointed to first defendant and to second defendant - administrators (third and fourth defendants) sought application of 'ordinarily rule' concerning costs - whether reason to depart from ordinary rule - s445D *Corporations Act 2001* (Cth) - held: no order for costs between plaintiff and first and second defendants - plaintiff to pay administrators' costs 'to be assessed if not agreed.

[Decon](#) (I B C G)

Hastwell v Health Care Complaints Commission [2021] NSWCA 22

Court of Appeal of New South Wales

Basten, Leeming & White JJA

Administrative law - applicant complained to Medical Council of New South Wales concerning psychiatrist's conduct - complaint referred to Health Care Complaints Commission - Commission ceased to deal with complaint - applicant sought judicial review - primary judge dismissed summons - applicant sought to appeal - *Australian Courts Act 1828* (Imp) - *Evidence Act 1995* (NSW) - *Health Care Complaints Act 1993* (NSW) - *Supreme Court Act 1970* (NSW) - procedural fairness - constitution of proceedings - 'Hardiman ground' - whether failure 'to give proper, genuine consideration to' complaint's merits - whether failure to identify 'correct issue' - whether misapplication of 'tests of legal unreasonableness or irrationality and illogicality' - held: leave to appeal refused - summons dismissed.

[Hastwell](#) (I B C G)

Tropic Asphalts Pty Ltd v Snowy Monaro Regional Council [2021] NSWCCA 24

Court of Criminal Appeal of New South Wales

Macfarlan JA; Button & Ierace JJ

Subpoena - environmental law - criminal law - subpoena issued to Roads and Maritime Services at respondent's request - primary judge refused to set subpoena aside and declined to deny



respondent access to documents - applicant, under s5F *Criminal Appeal Act 1912* (NSW) sought to appeal - statutory notice - whether abuse of process - legitimate forensic purpose - relevance - subpoena's scope - merits of proposed appeal grounds - *National Employers' Mutual General Association Ltd v Waind and Hill* [1978] 1 NSWLR 372 - held: leave to appeal refused.

[Tropic Asphalts](#) (I B C G)

PB v WorkCover Queensland [2021] QCA 27

Court of Appeal of Queensland

Fraser, Philippides & McMurdo JJA

Costs - appeal successful to extent appellant's compensation increased - appellant unsuccessful on appeal grounds, succeeding only on point in 'written argument' - appellant sought costs - respondent sought no order as to costs - appellant's status as unrepresented litigant - whether appellant entitled to recovery of costs for 'own time' or anyone else's time - held: Court accepted respondent's submission - no order for costs.

[PB](#) (I B C G)

Summaries With Link



'Scaped

By: Stephen Crane

ONCE I knew a fine song,
—It is true, believe me,—
It was all of birds,
And I held them in a basket;
When I opened the wicket, 5
Heavens! they all flew away.
I cried, "Come back, Little Thoughts!"
But they only laughed.
They flew on
Until they were as sand 10
Thrown between me and the sky.

https://en.wikipedia.org/wiki/Stephen_Crane

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