

Friday, 17 September 2021

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

 Follow @Benchmark_Legal

Search Engine

[Click here](#) to access our search engine facility to search legal issues, case names, courts and judges. Simply type in a keyword or phrase and all relevant cases that we have reported in Benchmark since its inception in June 2007 will be available with links to each case.

CIVIL (Insurance, Banking, Construction & Government)

Executive Summary (1 minute read)

Getakate Pty Ltd v Beniki Finance Pty Ltd (formerly LSP Finance Pty Ltd) (FCA) - contract - personal property securities - applicant sought that Registrar of Personal Property Securities be required to register "financing change statement" amending security interest's registration - orders granted (I B)

KEPCO Bylong Australia Pty Ltd v Bylong Valley Protection Alliance Inc (NSWCA) - administrative law - judicial review - environment and planning - Independent Planning Commission refused to grant appellant development consent for 'new coal mine' - primary judge dismissed judicial review proceeding - appellant appealed - appeal dismissed (I B C G)

A40 Construction and Maintenance Group Pty Ltd v Smith & Anor (VSC) - stay - building and construction - defendants sought stay of proceeding on basis Victorian Civil and Administrative Tribunal could hearing proceeding - application dismissed (I B C G)

McCorry v Lorimer (WASC) - real property - caveat - plaintiff sought extension of caveat's operation - 'triable issue' - balance of convenience - application granted (B)

Hutchison v Horan (TASSC) - traffic law - negligence - applicant sought review of order of Magistrate in proceeding in which applicant was found guilty of offence against s32(2A) *Traffic Act 1925* (Tas) - review application dismissed (I B)

Summaries With Link (Five Minute Read)

Getakate Pty Ltd v Beniki Finance Pty Ltd (formerly LSP Finance Pty Ltd) [2021] FCA 1118

Federal Court of Australia

Greenwood J

Contract - personal property securities - proceedings concerned application under s182

Personal Property Securities Act 2009 (Cth) (PPSA) - applicant had given first respondent

"amendment demand" under s178 PPSA - applicant sought that Registrar of Personal Property Securities be required to register "financing change statement" amending security interest's registration - "security interest" - s182(4)(a) PPSA - whether to make 'proposed orders' - held: orders granted.

[Getakate](#) (I B)

KEPCO Bylong Australia Pty Ltd v Bylong Valley Protection Alliance Inc [2021] NSWCA 216

Court of Appeal of New South Wales

Basten & Payne JJA; Preston CJ of LEC

Administrative law - judicial review - environment and planning - Independent Planning

Commission refused to grant appellant development consent for 'new coal mine' - primary judge dismissed judicial review proceeding - appellant appealed, contending Commission's decision 'was invalidated by legal error' - whether misconstruction of cl 14 *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* (NSW) - whether error concerning 'groundwater resources' - 'applicable policies' - 'alternative sources ignored' - 'no evidence ground' - held: appeal dismissed.

[View Decision](#) (I B C G)

A40 Construction and Maintenance Group Pty Ltd v Smith & Anor [2021] VSC 575

Supreme Court of Victoria

Ierodiaconou AsJ

Stay - building and construction - defendants, by summons, sought stay of proceeding on basis Victorian Civil and Administrative Tribunal could hearing proceeding - s57(2) *Domestic Building Contracts Act 1995* (Vic) - whether action arising 'wholly or predominantly from the domestic building dispute' - relief 'pleaded on a number of bases' - held: application dismissed.

[A40 Construction and Maintenance](#) (I B C G)

McCorry v Lorimer [2021] WASC 31

Supreme Court of Western Australia

Acting Master Strk

Real property - caveat - first defendants were property's registered proprietors - plaintiff claimed interest in property as purchaser of fee simple - plaintiff sought extension of caveat's operation - s138C *Transfer of Land Act 1893* (WA) - whether to extend Master's interim order extending

caveat's operation - *Bride v Registrar of Titles* [2015] WASC 11 - whether 'triable issue' - balance of convenience - held: application granted.

[McCorry](#) (B)

Hutchison v Horan [2021] TASSC 36

Supreme Court of Tasmania

Marshall AJ

Traffic law - negligence - applicant sought review of order of Magistrate in proceeding in which applicant was found guilty of offence against s32(2A) *Traffic Act 1925* (Tas) - whether a 'reasonable person would not have arrived at' same conclusions as Magistrate - whether Magistrate entitled to not take into account reasons attempting to explain why applicant 'did not see' deceased - 'proper lookout' - 'blind spot' - 'beyond reasonable doubt' - whether misinterpretation of Magistrate's reasons concerning blind spots - *Shi v Wilkie* [2021] TASFC 1 - held: review application dismissed.

[Hutchison](#) (I B)

Summaries With Link

Benchmark

Star-Magic

By: Richard Butler Glaenzer

THOUGH your beauty be a flower
Of unimagined loveliness,
It cannot lure me tonight;
For I am all spirit.

As in the billowy oleander, 5
Full-bloomed,
Each blossom is all but lost
In the next—
One flame in a glow
Of green-veined rhodonite; 10
So is heaven a crystal magnificence
Of stars
Powdered lightly with blue.

For this one night
My spirit has turned honey-moth 15
And has made of the stars
Its flowers.

So all uncountable are the stars
That heaven shimmers as a web,
Bursting with light 20
From beyond,
A light exquisite,
Immeasurable!

For this one night
My spirit has dared, and been caught 25
In the web of the stars.

Though your beauty were a net
Of unimagined power,
It could not hold me tonight;
For I am all spirit.

https://en.wikisource.org/wiki/Author:Richard_Butler_Glaenz

Benchmark



AR CONOLLY & COMPANY
L A W Y E R S

[er](#)

[Click Here to access our Benchmark Search Engine](#)