

Friday, 20 November 2020

## 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)

**Prahauser v Administrative Appeals Tribunal** (FCA) - administrative law - rejection of claim for Disability Support Pension - appeal dismissed (I B C G)

**Aussie Skips Recycling Pty Ltd v Strathfield Municipal Council** (NSWCA) - easements - refusal of application for imposition of easements - appeal dismissed (B C I)

**Re Deegan** (VSC) - wills and estates - informal will - plaintiff sought grant of probate of 'unsigned informal document' - application granted (B)

**TEC Hedland Pty Ltd v The Pilbara Infrastructure Pty Ltd** (WASC) - discovery - legal professional privilege - defendant's privilege claim over certain documents not established - plaintiff's application otherwise dismissed (I B C G)

#### Summaries With Link (Five Minute Read)

##### **Prahauser v Administrative Appeals Tribunal [2020] FCA 1658**

Federal Court of Australia

White J

Administrative law - applicant made claim for Disability Support Pension - Authorised Review

Officer (ARO) affirmed rejection of claim - Social Services and Child Support Division of Tribunal ('AAT 1') affirmed ARO's decision - Administrative Appeals Tribunal affirmed AAT1's decision - applicant appealed - s44 *Administrative Appeals Tribunal Act 1975* (Cth) - *Social Security Act 1991* (Cth) - held: appeal dismissed.

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

## **Aussie Skips Recycling Pty Ltd v Strathfield Municipal Council [2020] NSWCA 292**

Court of Appeal of New South Wales

Basten & Gleeson JJA; Preston CJ of LEC

Easements - second appellant owned land bordering 'drainage channel' - first appellant was lessee which operated waste recycling business on land - respondent owned land between appellants' land and drainage channel - appellants sought that easements be imposed over 'that part of the Council land which they were using for their business' - application was refused - appellants appealed - "reasonably necessary for the effective use or development" - s88K(1) *Conveyancing Act 1919* (NSW) - 'community land' - s46 *Local Government Act 1933* (NSW) - held: appeal dismissed.

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

## **Re Deegan [2020] VSC 763**

Supreme Court of Victoria

McMillan J

Wills and estates - plaintiff sought grant of probate of 'unsigned informal document' ('informal will') - plaintiff sought informal will's admission to probate under s9 *Wills Act 1997* (Vic) - testamentary capacity - whether document expressed deceased's testamentary intentions - whether deceased intended document 'to operate as his will upon his death' - held: application granted.

[Re Deegan](#) (B)

## **TEC Hedland Pty Ltd v The Pilbara Infrastructure Pty Ltd [2020] WASC 364**

Supreme Court of Western Australia

Hill J

Discovery - legal professional privilege - plaintiff sought discovery of 'Disputed Documents' by defendant - Court required that defendant 'produce 61 documents' for Court's inspection - inspection was to determine whether documents were properly subject of legal professional privilege - held: defendant's privilege claim over 6 documents not established - plaintiff's application otherwise dismissed.

[TEC Hedland](#) (I B C G)

## Summaries With Link



## **A Light in a Distant Window among Mountains**

**By:** William Wordsworth

EVEN as a dragon's eye that feels the stress  
Of a bedimmed sleep, or as a lamp  
Suddenly glaring through sepulchral damp,  
So burns yon Taper 'mid a black recess  
Of mountains, silent, dreary, motionless;                      5  
The Lake below reflects it not; the sky,  
Muffled in clouds, affords no company  
To mitigate and cheer its loneliness.  
Yet, round the body of that joyless Thing  
Which sends so far its melancholy light,                      10  
Perhaps are seated in domestic ring  
A gay society, with faces bright,  
Conversing, reading, laughing;—or they sing,  
While hearts and voices in the song unite.

[https://en.wikipedia.org/wiki/William\\_Wordsworth](https://en.wikipedia.org/wiki/William_Wordsworth)

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