



Friday, 1 November 2024

Weekly Environmental Law A Weekly Bulletin listing Decisions of Superior Courts of Australia covering Environmental Law

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Executive Summary (One Minute Read)

Hobart City Council v Rich Tapestry Pty Ltd (ACN 667 999 055) (TASSC) - Court affirmed a decision of the Tribunal that planning permission to use a unit as visitor accommodation be granted

HABEAS CANEM

Pig, Dog and Bougainvillea



Summaries With Link (Five Minute Read)

Hobart City Council v Rich Tapestry Pty Ltd (ACN 667 999 055) [2024] TASSC 54

Supreme Court of Tasmania

Marshall AJ

Planning law - Rich Tapestry owned a unit in an inner suburb of Hobart - it applied for planning permission from Hobart City Council to alter the use of the unit to enable it to be used as visitor accommodation - under the *Hobart Interim Planning Scheme*, this was to be decided under *Planning Directive 6 Exemption and Standards for Visitor Accommodation in Planning Schemes* (PD6), which set out the requirements for grant of a planning permit for visitor accommodation - Council rejected the application - the Tasmanian Civil and Administrative Tribunal set aside Council's decision and directed Council to issue a permit with conditions agreed between the parties - Council appealed to the Supreme Court on questions of law under s136 of the *Tasmanian Civil and Administrative Tribunal Act 2020* (Tas) - held: the appeal was by way of a rehearing in reliance on evidence that was before the Tribunal - there was nothing in the reasons of the Tribunal to indicate that it misconstrued the meaning of "residential function of the strata scheme" in clause 2 of PD6 - residential amenity is not the same concept as residential function, and residential amenity must be understood as something which is a quality, condition or factor that makes the residence harmonious, pleasant, or enjoyable - the residential function of the scheme means the function of providing a place for residents such as where the residents live and sleep as well as the quality of life there - Council did not identify before the Tribunal any unreasonable loss of amenity which would have followed from the grant of a permit - the grant of the right to use the unit for visitor accommodation would not cause a loss of residential amenity to the remaining long-term resident or residents of other units in the strata scheme - the Tribunal had made no errors of law - although Rich Tapestry had now contracted to sell the unit and did not wish to pursue the planning permit, the right to use the permit would continue with the ownership of the property, and so the appeal was not moot - decision of Tribunal affirmed.

[Hobart City Council](#)

[From Benchmark Wednesday, 30 October 2024]

Benchmark

INTERNATIONAL LAW

Executive Summary and (One Minute Read)

Case of Kobaliya v Russia (EUHRTS) - European Court of Justice found that, in its overly broad definition of 'foreign agents', Russia committed multiple violations of the *European Convention on Human Rights*

Summaries With Link (Five Minute Read)

Case of Kobaliya v Russia, No 39446/16

European Court of Human Rights

Pastor Vilanova P, Schukking, Serghides, Roosma, Ktistakis, Mjöll Arnardóttir, & Kovatcheva JJ
Prior to its exclusion from the Council of Europe in 2022, Russia was bound by the *European Convention on Human Rights* and subject to the jurisdiction of the European Court of Human Rights. Here the activity in question occurred between 2012 and 2022 and related to fundamental rights to freedom of expression and assembly as guaranteed by the Convention. Under Russian law, non-governmental organisations (NGOs), media organisations, and individuals who received any foreign support were required to register as 'foreign agents' and conform to restrictions placed on persons so designated. The complainants alleged that the statutory definition was so overly broad as to impinge on rights to freedom of expression and freedom of assembly guaranteed by Articles 10 and 11 of the *European Convention*. The European Court found that the Russian legislation was unlawful because it was overly broad and employed the stigmatising term 'foreign agent' to a very wide universe of parties that could not all be lumped together as 'foreign agents'. Under Russian law, once designated as a foreign agent, substantial regulatory legislation attached curtailing the political rights of the parties so classified. By casting such a wide net, the term 'foreign agent' was used to circumvent basic *European Convention* rights.

[Case of Kobaliya](#)



Poem for Friday

Echo

By Christina Rossetti (1830-1894)

Come to me in the silence of the night;
Come in the speaking silence of a dream;
Come with soft rounded cheeks and eyes as bright
As sunlight on a stream;
Come back in tears,
O memory, hope, love of finished years.

Oh dream how sweet, too sweet, too bitter sweet,
Whose waking should have been in Paradise,
Where souls brimfull of love abide and meet;
Where thirsting longing eyes
Watch the slow door
That opening, letting in, lets out no more.

Yet come to me in dreams, that I may live
My very life again tho' cold in death:
Come back to me in dreams, that I may give
Pulse for pulse, breath for breath:
Speak low, lean low,
As long ago, my love, how long ago.

Christina Georgina Rossetti, born on 5 December, 1830, was one of the foremost poets of her era. Her father, Gabrielle, was an Italian Poet, and later chair of Italian at King's College, in London. Her mother Frances Polidor, an Anglo-Italian, home schooled her children in a climate of intellectual excellence. From 1845 Christina, by then a prolific poet, suffered an illness, that some consider was at least influenced by mental illness. She continued to have bouts of serious illness throughout her life. Rossetti's poetry, included the collections *Goblin Market and other Poems* (1862), *The Prince's Progress* (1866), *A Pageant* (1881), and *The Face of the Deep* (1882). Christina Rossetti died on 29 December, 1894.

Stanford Chamber Chorale, conductor, Stephen M Sano, with Laura Dahl, pianist, sing Norman Dello Joio's **Come to Me, My Love**, a setting of Christina Rossetti's "Echo"

<https://www.youtube.com/watch?v=NyJs5oqyygs>



Reading by **Patricia Conolly**. With seven decades experience as a professional actress in three continents, Patricia Conolly has credits from most of the western world's leading theatrical centres. She has worked extensively in her native Australia, in London's West End, at The Royal Shakespeare Company, on Broadway, off Broadway, and widely in the USA and Canada. Her professional life includes noted productions with some of the greatest names in English speaking theatre, a partial list would include: Sir Peter Hall, Peter Brook, Sir Laurence Olivier, Dame Maggie Smith, Rex Harrison, Dame Judi Dench, Tennessee Williams, Lauren Bacall, Rosemary Harris, Tony Randall, Marthe Keller, Wal Cherry, Alan Seymour, and Michael Blakemore.

She has played some 16 Shakespearean leading roles, including both Merry Wives, both Viola and Olivia, Regan (with Sir Peter Ustinov as Lear), and The Fool (with Hal Holbrook as Lear), a partial list of other classical work includes: various works of Moliere, Sheridan, Congreve, Farquar, Ibsen, and Shaw, as well as roles such as, Jocasta in Oedipus, The Princess of France in Love's Labour's Lost, and Yelena in Uncle Vanya (directed by Sir Tyrone Guthrie), not to mention three Blanche du Bois and one Stella in A Streetcar Named Desire.

Patricia has also made a significant contribution as a guest speaker, teacher and director, she has taught at The Julliard School of the Arts, Boston University, Florida Atlantic University, The North Carolina School of the Arts, University of Southern California, University of San Diego, and been a guest speaker at NIDA, and the Delaware MFA program.

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