



Friday, 28 February 2020

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

 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.

Executive Summary (1 minute read)

Wesco Ventures Pty Ltd v Cecil Developments Pty Limited (NSWSC) - contract - specific performance - order for specific performance of Deed of Release granted to plaintiffs - orders made

Kilpatrick v Head, Transport for Victoria (VSC) - land acquisition and compensation - planning and environment - 'disputed claim' under s37(8) *Land Acquisition and Compensation Act 1986* (Vic) - 'before' value of land - compensation amount determined

Cooper Pedy Roadhouse Pty Ltd v District Council of Cooper Pedy & Ors (SASC) - judicial review - planning and development - plaintiff sought extension of time and leave to bring judicial review action - application granted

Summaries With Link (Five Minute Read)

Wesco Ventures Pty Ltd v Cecil Developments Pty Limited [2020] NSWSC 98

Supreme Court of New South Wales

Ball J

Contract - specific performance - defendants and plaintiffs entered agreement by which defendants obtained interest in 'proposed development' from plaintiffs - under agreement third defendant agreed to pay third plaintiff sum on gazettal of amendment to environmental plan - plaintiffs contended defendants should take 'certain steps' to achieve gazettal and trigger obligation to pay sum - two agreements sued on by plaintiffs: Deed of Release and Voluntary Planning Agreement (VPA) - defendants contended plaintiffs had not established breach of contract, link between VPA's registration and gazettal, or any loss - defendants also contended 'not all parties' to VPA had been joined - defendants also objected to form of order - held: plaintiffs granted order for specific performance of clause of Deed of Release in terms sought with exception that defendants given '28 days to comply' - orders made.

[View Decision](#)

[From Benchmark Monday, 24 February 2020]

Kilpatrick v Head, Transport for Victoria [2020] VSC 53

Supreme Court of Victoria

Garde J

Land acquisition and compensation - planning and environment - part of plaintiff's land was reserved for 'public purpose' under 'Public Acquisition Overlay 5' to planning scheme - plaintiff, under s98(1)(a) *Planning and Environment Act 1987* (Vic) (PE Act), claimed compensation for financial loss, expenses under s101PE Act and interest under s60(1) *Supreme Court Act 1986* (Vic) - claim became 'disputed claim' under s37(8) *Land Acquisition and Compensation Act 1986* (Vic) - determination of claim - parties had agreed on land's 'after' value and 'all other matters' with exception of land's 'before' value of land - determination of 'before' value of land - held: compensation amount determined.

[Kilpatrick](#)

[From Benchmark Tuesday, 25 February 2020]

Coober Pedy Roadhouse Pty Ltd v District Council of Coober Pedy & Ors [2020] SASC 25

Supreme Court of South Australia

Parker J

Judicial review - planning and development - plaintiff, under r 200(2) *Supreme Court Civil Rules 2006* (SA), sought extension of time and leave to bring judicial review action in respect of 'impugned decisions' of first defendant - *Development Act 1993* (SA) - *Local Government Act 1999* (SA) - delay - prospects of success - prejudice - 'important questions of statutory interpretation' - Council's failure to publish notice of approval of development application - held: application granted.

[Coober](#)

Benchmark



AR CONOLLY & COMPANY
L A W Y E R S

[From Benchmark Friday, 28 February 2020]



Benchmark

On an Hour-Glass

By: John Hall (1627–1656)

MY life is measur'd by this glass, this glass
By all those little sands that thorough pass.
See how they press, see how they strive, which shall
With greatest speed and greatest quickness fall.
See how they raise a little mount, and then
With their own weight do level it again.
But when th' have all got thorough, they give o'er
Their nimble sliding down, and move no more.
Just such is man, whose hours still forward run,
Being almost finish'd ere they are begun;
So perfect nothings, such light blasts are we,
That ere we're aught at all, we cease to be.
Do what we will, our hasty minutes fly,
And while we sleep, what do we else but die?
How transient are our joys, how short their day!
They creep on towards us, but fly away.
How stinging are our sorrows! where they gain
But the least footing, there they will remain.
How groundless are our hopes, how they deceive
Our childish thoughts, and only sorrow leave!
How real are our fears! they blast us still,
Still rend us, still with gnawing passions fill;
How senseless are our wishes, yet how great!
With what toil we pursue them, with what sweat!
Yet most times for our hurts, so small we see,
Like children crying for some Mercury.
This gapes for marriage, yet his fickle head
Knows not what cares wait on a marriage bed:
This vows virginity, yet knows not what
Loneness, grief, discontent, attends that state.
Desires of wealth another's wishes hold,
And yet how many have been chok'd with gold?
This only hunts for honour, yet who shall
Ascend the higher, shall more wretched fall.
This thirsts for knowledge, yet how is it bought?
With many a sleepless night, and racking thought.
This needs will travel, yet how dangers lay
Most secret ambuscados in the way?
These triumph in their beauty, though it shall



Benchmark

Like a pluck'd rose or fading lily fall.
Another boasts strong arms: 'las! giants have
By silly dwarfs been dragg'd unto their grave.
These ruffle in rich silk: though ne'er so gay,
A well-plum'd peacock is more gay than they.
Poor man! what art? A tennis-ball of error,
A ship of glass toss'd in a sea of terror;
Issuing in blood and sorrow from the womb,
Crawling in tears and mourning to the tomb:
How slippery are thy paths! How sure thy fall!
How art thou nothing, when th' art most all!

[https://en.wikipedia.org/wiki/John_Hall_\(poet\)](https://en.wikipedia.org/wiki/John_Hall_(poet))

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