

Friday, 18 October 2019

Weekly Government Review A Weekly Bulletin listing Decisions of Superior Courts of Australia covering government

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Executive Summary (1 minute read)

Barkat v Roads and Maritime Services (NSWCA) - land and environment - compulsory acquisition of land - objection to compensation sum - appeal dismissed

Boscolo v NSW Land and Housing Corporation (NSWCA) - leases and tenancies - dismissal of appeal against termination of applicant's residential tenancy agreement - summons for leave to appeal dismissed

Anderson v Commissioner of Highways (SASCFC) - compulsory acquisition of land - compensation - separate question - psychiatric injury outside compensation's scope - appeal dismissed

Kilmaley Investments Pty Ltd v City of Wanneroo (WASCA) - compulsory acquisition of land - two appeals - objection to amount of compensation - objection to costs orders - appeals dismissed

Summaries With Link (Five Minute Read)

Barkat v Roads and Maritime Services [2019] NSWCA 240

Court of Appeal of New South Wales

Leeming JA; Emmett & Simpson AJJA

Land and environment - compulsory acquisition of land - appeal concerned compensation to be paid to appellants' as result of respondent's compulsory acquisition of land - appellants rejected

sum of compensation offered by Valuer-General - appellants, in Land and Environment Court, brought proceedings under s66 *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) - appellants, under s57(1) *Land and Environment Court Act 1979* (NSW), appealed against primary judge's decision - whether erroneous conclusion that land's acquisition was for 'purpose intrinsically connected' with draft Parramatta Road Urban Transformation Strategy - whether failure to adhere to 'proper valuation principles' - whether potential for land's rezoning unreasonably ignored - held: appeal dismissed.

[View Decision](#)

[From Benchmark Tuesday, 15 October 2019]

Boscolo v NSW Land and Housing Corporation [2019] NSWCA 246

Court of Appeal of New South Wales

Meagher JA; Emmett AJA

Leases and tenancies - Appeal Panel of Civil and Administrative Tribunal of New South Wales dismissed applicant's appeal against termination of applicant's residential tenancy agreement under s109 *Residential Tenancies Act 2010* (NSW) (RT Act) - applicant sought to appeal - whether primary judge 'arguably erred' in dismissing application for leave to appeal on basis appeal had 'negligible prospects of success'; - whether denial of procedural fairness - whether erroneous rejection of argument that s109 had no application to tenancy agreement - allegation by applicant that premises 'uninhabitable' due to respondent's breach of tenancy agreement - held: summons seeking leave to appeal dismissed.

[View Decision](#)

[From Benchmark Tuesday, 15 October 2019]

Anderson v Commissioner of Highways [2019] SASCFC 119

Full Court of the Supreme Court of South Australia

Kelly, Blue & Stanley JJ

Compulsory acquisition of land - compensation - separate question - Commissioner of Highways, under *Land Acquisition Act 1969* (SA) (Land Acquisition Act), acquired land in which appellant had interest - appellant contended he was psychiatrically injured due to acquisition and sought compensation - appellant referred question to Court - question was whether psychiatric injury was compensable as loss under s22B Land Acquisition Act qualified by compensation principles in s25 Land Acquisition Act - question answered in the negative - appellant appealed - statutory construction - held: psychiatric injury outside compensation's scope - appeal dismissed.

[Anderson](#)

[From Benchmark Monday, 14 October 2019]

Kilmaley Investments Pty Ltd v City of Wanneroo [2019] WASCA 156

Court of Appeal of Western Australia

Murphy, Beech & Pritchard JJA

Compulsory acquisition of land - two appeals - in one appeal 'Kilmaley', pursuant to s241 *Land*



*Administration Act 1997 (WA) (Land Administration Act), appealed concerning amount of compensation awarded by primary judge in respect of land's compulsory acquisition - Kilmaley contended compensation amount 'should have been higher' ('substantive appeal') - in other appeal 'City' appealed against costs orders ('costs appeal') - whether erroneous findings concerning 'permissible uses' of 'unaffected situation' - valuation of lot 'in unaffected state' - 'severance/injurious affection' claim - 'assignability' of compensation entitlement - statutory construction - s208 Land Administration Act - O24A r10 *Rules of the Supreme Court 1971(WA)* - appeals dismissed.*

[Kilmaley](#)

[From Benchmark Wednesday, 16 October 2019]



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Fairy-Land

BY:EDGAR ALLAN POE

Dim vales—and shadowy floods—
And cloudy-looking woods,
Whose forms we can't discover
For the tears that drip all over:
Huge moons there wax and wane—
Again—again—again—
Every moment of the night—
Forever changing places—
And they put out the star-light
With the breath from their pale faces.
About twelve by the moon-dial,
One more filmy than the rest
(A kind which, upon trial,
They have found to be the best)
Comes down—still down—and down
With its centre on the crown
Of a mountain's eminence,
While its wide circumference
In easy drapery falls
Over hamlets, over halls,
Wherever they may be—
O'er the strange woods—o'er the sea—
Over spirits on the wing—
Over every drowsy thing—
And buries them up quite
In a labyrinth of light—
And then, how, deep! —O, deep,
Is the passion of their sleep.
In the morning they arise,
And their moony covering
Is soaring in the skies,
With the tempests as they toss,
Like—almost any thing—
Or a yellow Albatross.
They use that moon no more
For the same end as before,
Videlicet, a tent—
Which I think extravagant:



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Its atomies, however,
Into a shower dissever,
Of which those butterflies
Of Earth, who seek the skies,
And so come down again
(Never-contented things!)
Have brought a specimen
Upon their quivering wings.

[EDGAR ALLAN POE](#)

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