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COURT-REFERRED ALTERNATIVE DISPUTE RESOLUTION AND JUDICIAL EDUCATION IN AUSTRALIA: PERSPECTIVES FROM THE BENCH

Nicky McWilliam, Jennifer Tridgell and Hannah Bell

Drawing upon a study examining the perspectives of 104 Australian judges (including magistrates), this article explores judges’ perceptions of their understanding and education of Court-Referred Alternative Dispute Resolution (CADR). While CADR is increasingly recognised as part of a judge’s role, levels of formal alternative dispute resolution training are low in Australia. Nevertheless, judges frequently learn about CADR processes in other ways, particularly practical experience in their legal careers before and after their appointment to the Bench. Judicial perspectives on the level of understanding required and the relevance of CADR often vary depending on cultural and other factors, including court level and type of matters. These factors significantly influence judicial engagement with CADR and, consequently, their knowledge and experience of CADR. By listening to judicial perspectives on CADR education, whether its successes or shortfalls, the Australian judicial system can effectively shape CADR policy in the future. 938

BEWARE THE DOUBLE-EDGED SWORD: WHEN PRIVATE REGULATION (BY-LAWS) SEEKS TO LIMIT FREEHOLD LAND RIGHTS (SHORT-TERM HOLIDAY LETTING IN MULTI-OWNED PROPERTIES)

Melissa Pocock

The sharing economy and its impact on multi-owned properties (MOP) is an evolving area of law that directly affects multiple jurisdictions throughout Australia. The MOP sector is a growing industry and liveability for residential properties is fundamental. This article considers four key decisions: *Byrne v Owners of Ceresa River Apartments Strata Plan 55597 (Ceresa)*, *O’Connor (Senior) v Proprietors, Strata Plan No 51 (Pinnacle)*, *Owners Corporation PS 501391P v Balcombe and Body Corporate for Hilton Park CTS 27490 v Colin Robertson (Hilton Park v Robertson)*. Each case dealt with limiting short-term letting of lots through the MOPs’ by-laws. This article considers the Member’s decision in distinguishing *Ceresa* and *Pinnacle* in *Hilton Park v Robertson* and contrasts the positions in New South Wales and Victoria resulting from the Fair Trading Amendment (Short-term Rental Accommodation) Act 2018 (NSW) and Owners Corporations Amendment (Short-stay Accommodation) Act 2018 (Vic), respectively. 951

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