RECENT DEVELOPMENTS IN ADMINISTRATIVE LAW

Katherine Cook

Royal Commission into the Child Protection and Youth Detention Systems of the Northern Territory

The Governor-General has issued Letters Patent to establish a Royal Commission into the Child Protection and Youth Detention Systems of the Government of the Northern Territory.

This Royal Commission will be conducted jointly with the Northern Territory Government, which will issue an appointment in identical terms under its *Inquiries Act* (NT).

The Royal Commission is independent from government and is responsible for determining its own processes. It can investigate any matter that falls within its Terms of Reference.

The Royal Commission has been established in a targeted and focused way to enable the swift inquiry into the treatment of children and young persons detained in youth detention facilities administered by the Government of the Northern Territory — in particular, the Don Dale Youth Detention Centre. The Royal Commission is due to report by 31 March 2017.

The Royal Commission will focus on the specific systemic problems identified within the Northern Territory, how those problems arose, the failure to identify and correct them, and appropriate reforms.

Specifically, the Royal Commission has been asked to examine:

- failings in the child protection and youth detention systems of the Government of the Northern Territory;
- the effectiveness of any oversight mechanisms and safeguards to ensure the treatment of detainees was appropriate;
- cultural and management issues that may exist within the Northern Territory youth detention system;
- whether the treatment of detainees breached laws or the detainees' human rights; and
- whether more should have been done by the Government of the Northern Territory to take appropriate measures to prevent the reoccurrence of inappropriate treatment.

The Royal Commission will also make recommendations about legal, cultural, administrative and management reforms to prevent inappropriate treatment of children and young persons in detention, and what improvements can be made to the child protection system.

Many of the recommendations and findings of this Royal Commission are expected to be of use to other jurisdictions when they are considering how their juvenile detention systems can be improved.

The Government thanks the many individuals and organisations, including the Opposition, who have provided constructive input into the development of the Terms of Reference.

https://www.attorneygeneral.gov.au/Mediareleases/Pages/2016/ThirdQuarter/28-July-2016-Royal-Commission-into-the-Child-Protection-and-Youth-Detention-Systems-of-the-Northern-Territory.aspx

Commonwealth Ombudsman publishes report on Tourist Refund Scheme

Acting Commonwealth Ombudsman Richard Glenn has released a report into the Department of Immigration and Border Protection's Tourist Refund Scheme (TRS) and the application of the '30-minute rule'.

The TRS allows Australian and overseas passengers to claim back the Goods and Services Tax (GST) and the Wine Equalisation Tax (WET) on goods purchased in Australia and taken overseas.

The Ombudsman received a number of complaints about the '30-minute rule', which requires passengers who wish to claim a refund of GST to present themselves at the airport's TRS counter at least 30 minutes before their flight's scheduled departure time.

The purpose of the '30-minute rule' is to ensure people claiming a refund allow sufficient time to do so, thus ensuring that flight departures are not delayed.

'We received a number of complaints from people who felt they were unfairly denied a refund of the GST that had been paid on goods purchased in Australia', Mr Glenn said.

In some instances they had arrived at the TRS counter well before the 30-minute cut-off but still were not able to lodge their claim for a refund.

'In our investigation, it became apparent that the "30 minute rule" is not supported by legislation', Mr Glenn said.

'We also found that the ad hoc arrangements intended to be put in place when there was a high volume of passengers to process, were at times not deployed when they should have been', Mr Glenn said. These arrangements include the use of a drop box so that passengers may lodge their claim, which is then processed at a later time.

The Ombudsman made a number of recommendations:

- as an interim measure, the department takes all reasonable steps to ensure that travellers who wish to claim a TRS refund are able to do so in a way that is consistent with the law; and
- the department considers the permanent use of a drop box service at TRS facilities at all international points of departure, and takes all necessary steps to ensure the appropriate regulations are in place to give effect to this arrangement.

Mr Glenn said he was pleased that the department acknowledged problems with the '30-minute rule' and had accepted the recommendations. The department is now considering how changes to their processes at the TRS facilities can be made.

He also acknowledged the assistance his office received from the department throughout the investigation and report drafting process.

http://www.ombudsman.gov.au/news-and-media/media-releases/media-release-documents/commonwealth-ombudsman/2016/28-july-2016-commonwealth-ombudsman-publishes-report-on-tourist-refund-scheme

Queensland Ombudsman presents report on the management of child safety complaints

The Queensland Ombudsman, Phil Clarke, has presented his report on the management of child safety complaints to the Hon Peter Wellington, Speaker of the Queensland Parliament, for tabling.

The Ombudsman's investigation found that the Department of Communities, Child Safety and Disability Services is not capturing all child safety complaints due to inadequate complaint-recording processes at its Child Safety Service Centres.

It found a significant, unexplained reduction in the number of child safety complaints since the Commission for Children and Young People and Child Guardian (CCYPCG) was disbanded in 2014.

The Ombudsman's report does not address notifications received by the department about harm or risk of harm to a child. These matters are not considered complaints when first received.

The investigation identified the need for greater collaboration between the department and the Office of the Public Guardian (OPG) to ensure that serious issues identified by OPG Community Visitors are handled as child safety complaints by the department.

The investigation also found that the department had failed to publish information about complaints received and resolved, despite a legal requirement to do so under the *Public Service Act 2008* (Qld). The department has since published this data.

The Ombudsman decided to investigate the management of child safety complaints in the wake of significant reforms to Queensland's child safety system stemming from the Queensland Child Protection Commission of Inquiry, led by the Hon Tim Carmody QC.

The inquiry returned oversight of child safety complaints to the department, with oversight by the Queensland Ombudsman.

Mr Clarke launched an investigation in September 2015 to determine whether the Department of Communities, Child Safety and Disability Services had a robust child safety complaints system.

'The public needs to have confidence in the department's ability to investigate complaints to ensure the state's most vulnerable children are protected', Mr Clarke said. 'My investigation revealed serious shortcomings, including a significant number of child safety complaint issues that have seemingly been lost since the CCYPCG ceased operation.'

Mr Clarke has made five recommendations, including that the department improve its complaints management system and develop protocols with the OPG to decide when a matter should be considered under the department's complaints system.

'The number of complaints about child safety issues received in Queensland should not be a controversial topic and should not be open to debate', Mr Clarke said.

'An effective child safety complaints system should be accessible, responsive, objective and fair with transparent and comprehensive reporting.'

'Properly managing complaints helps ensure the integrity and effectiveness of the child safety system in Queensland and allows individual concerns to be resolved.'

'I believe that the recommendations made in this report will lead to a stronger system for managing child safety complaints into the future.'

The Queensland Ombudsman is an independent officer of the Parliament. The Ombudsman ensures public agencies make fair and balanced decisions for Queenslanders by investigating complaints and conducting own-initiative investigations that tackle broader, systemic concerns.

The Ombudsman can investigate complaints about state government departments, local councils and publicly funded universities.

The Ombudsman can make recommendations to rectify unfair or unjust decisions and improve administrative practice.

Management of child safety complaints: An investigation into the current child safety complaints management processes within the Department of Communities, Child Safety and Disability Services was tabled on 19 July and is available at <http://www.ombudsman.qld.gov.au>.

http://www.ombudsman.qld.gov.au/Portals/0/docs/Publications/Media_Releases/Media_release_Child_Safety_Report_FINAL.pdf

NSW Ombudsman report on the consorting law

The Acting NSW Ombudsman, Professor John McMillan, has completed his report on the operation of the New South Wales consorting law. The Attorney-General has tabled the report in Parliament.

The Ombudsman's report recommends the adoption of a statutory and policy framework to ensure police apply the consorting law in a way that is focused on serious crime, closely linked to crime prevention, and is not used in relation to minor offending.

'Proper use of the consorting law requires careful judgement on the part of individual police officers', said Professor McMillan.

'That judgement should be informed by reliable intelligence and controlled by rigorous policy and procedures.'

In 2012, the NSW consorting law was modernised. It is now an offence for a person to continue to communicate or associate with at least two 'convicted offenders' following receipt of a police warning in relation to each offender. 'Convicted offender' is defined broadly and may include a person convicted of a relatively minor offence such as shoplifting. The offence has a maximum penalty of three years' imprisonment and/or a $16 500 fine.

The new consorting law was introduced as part of a suite of changes designed to assist police to tackle organised crime and criminal gangs. The consorting law is intended to disrupt and prevent the building or continuation of criminal networks between people and, in doing so, prevent crime. It is a controversial law. There is no legal requirement for the associations targeted by police for consorting to have any link to planning or undertaking criminal activity.

Police have significant discretion in deciding who they will warn, who they will give warnings about and whether to bring charges.

The Ombudsman's report outlines use of the consorting law in relation to members of criminal gangs but also in relation to people experiencing homelessness, children and young people and people with no criminal record. In some areas the proportion of use in relation to Aboriginal people was high.

The NSW Police Force Gangs Squad was responsible for the majority of charges under the consorting law and approximately half of all consorting warnings during the three-year review period. The Ombudsman's report outlines qualitative evidence to support the police claim that the consorting law had been effectively used to target high-risk criminal gangs. However, the report discusses some concerns about police use of the consorting law, particularly in commands outside of the NSW Police Force Gangs Squad. These concerns include:

- using the consorting law to address minor or nuisance offending, including less serious summary offences;
- applying the consorting law in a way that effectively deterred vulnerable people (including people experiencing homelessness) from spending time in certain public areas and accessing support services;
- disproportionately high numbers of Aboriginal people being subjected to the consorting law, both as persons receiving official warnings and those about whom official warnings were made; and
- consorting warnings breaching the privacy of convicted offenders by disclosing their convictions to others.

'Worryingly, most of the official warnings that police issued about consorting with a person aged 17 or less were unlawful', said Professor McMillan. The data showed three-quarters of these children and young people did not in fact have an indictable conviction formally recorded in their criminal record.

The Ombudsman's report makes 20 recommendations intended to increase the fairness of the operation of the consorting law and reduce the risk of use that may undermine public confidence in the NSW Police Force. The recommendations include:

- amending the law to include an 'objects' clause that states the purpose of the consorting law is to prevent serious criminal offending;
- expanding the legislated defences to the consorting offence to ensure that it does not prevent people from complying with parole conditions; obtaining emergency accommodation; or seeking welfare or support services, such as counselling or drug and alcohol rehabilitation;
- statutory time limits for issuing warnings and the period the warning remains in effect; and
- amending the law so it cannot be used against persons aged 17 years or less.

'Unless these changes are made it is likely that the consorting law will continue to be used to address policing issues not connected to serious and organised crime in a manner that may impact unfairly on disadvantaged and vulnerable people in our community.'

The Ombudsman's report *The consorting law, Report on the operation of Part 3A, Division 7 of the Crimes Act 1900, April 2016* is available on the website of the NSW Ombudsman: <http://www.ombo.nsw.gov.au>.

https://www.ombo.nsw.gov.au/ data/assets/pdf_file/0015/34710/2016-Media-release-Review-of-consorting-law-20-June-2016.pdf

SA Watchdog appointed to hear complaints against judges and magistrates

Highly respected former Supreme and Federal Court Judge Bruce Lander has been appointed as the inaugural Judicial Conduct Commissioner for South Australia.

The Hon Mr Lander QC, who also is the Independent Commissioner Against Corruption, was appointed by the Executive Council.

The position of Judicial Conduct Commissioner creates a formal independent avenue through which to pursue serious complaints about judicial officers.

The *Judicial Conduct Commissioner Act 2015* (SA) created the position, with an appointment to be made by the Governor after approval by a parliamentary committee. The Act establishes a transparent, formal and independent mechanism for dealing with substantial complaints made against judicial officers, such as judges and magistrates.

Previously, there was no formal, independent system in place to deal with such complaints, with the only option being to write to the head of the jurisdiction of the judicial officer in question.

The Judicial Conduct Commissioner Act provides for an appointment term of up to seven years with possible extensions up to a maximum of 10 years. Mr Lander has chosen to have his appointment coincide with his ICAC term — that is, until 1 September 2020.

The Commissioner is free from any direction by any person and can only be removed by both Houses of Parliament. Complaints received by the Commissioner will be dismissed if they are properly a matter for an appeal, vexatious or without merit – for example, a complaint about losing a case.

Minor matters would usually be dealt with by a senior judicial officer. In very serious matters, the Commissioner can report to Parliament — which has the power to remove a judicial officer — or recommend the Attorney-General appoint a Judicial Conduct Panel to investigate the complaint. The panel would have the powers of a royal commission.

http://www.agd.sa.gov.au/sites/agd.sa.gov.au/files/documents/Media Releases/2016/AUG/20160811-MR-AG-Rau_Judicial_Conduct Commissioner.pdf

Recent decisions

Procedural fairness and data breaches

Minister for Immigration and Border Protection v SZSSJ; Minister for Immigration and Border Protection v SZTZI [2016] HCA 29 (27 July 2016)

The Department of Immigration and Border Protection (the Department) publishes statistical reports on its website. On 10 February 2014, the particular electronic form of the report included embedded information, which disclosed the identities of 9258 applicants for protection visas in immigration detention (the data breach). The document containing the embedded information remained on the website until 24 February 2014.

The information disclosing the identities of the protection visa applicants was information protected from unauthorised access and disclosure by criminal prohibitions in pt 4A of the *Migration Act 1958* (Cth) (the Act).

SZSSJ is a Bangladeshi national. He arrived in Australia on a student visa in 2005. He was taken into immigration detention when his student visa expired in 2012. Shortly afterwards, he applied for a protection visa. At the time of the data breach, his application for the protection visa had been refused and he had exhausted his rights to merits and judicial review under pts 7 and 8 of the Act. He was in immigration detention awaiting removal under s 198 of the Act.

SZTZI is a Chinese national who arrived in Australia as an authorised air arrival on a visitor's visa of three months' duration. That visa expired and she was taken into immigration detention in September 2013. Her application for a protection visa, made the following month, was refused in November 2013. That refusal was affirmed on merits review under pt 7 of the Act in January 2014. Like SZSSJ, she was in immigration detention at the time of the data breach.

The Department retained external consultants KPMG to investigate the data breach. A report was produced by KPMG.

The Department wrote to people affected by the data breach, including SZSSJ and SZTZI, and provided them with an abridged version of the KPMG report.

The abridged version of the report recorded that, during the 14 days in which the document disclosing the identities of the visa applicants had remained on the website, the document had been accessed 123 times and that the access had originated from 104 unique internet protocol (IP) addresses. The abridged version of the KPMG report did not record those IP addresses or give the precise time of access. Rather, the abridged version stated:

> It is not in the interests of detainees affected by this incident to disclose further information in respect of entities [who] have accessed the Document, other than to acknowledge that access originated from a range of sources, including media organisations, various Australian Government agencies, internet proxies, TOR network and web crawlers.

The abridged version went on to record that KPMG had 'not identified any indications that the disclosure of the underlying data was intentional or malicious'.

After being notified of the breach, SZSSJ and SZTZI both requested unabridged copies of the KPMG report. Those requests were refused.

The Department also began to conduct 'International Treaties Obligations Assessments' (ITOAs), through standardised procedures prescribed in a publicly available document (Procedures Advice Manual), to assess the data breach's effect on Australia's non-refoulement obligations to SZSSJ and SZTZI under the *Convention relating to the Status of Refugees*, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* and the *International Covenant on Civil and Political Rights*.

Officers conducting ITOAs were instructed to assume that an affected visa applicant's personal information may have been accessed by authorities in the country in which he or she feared persecution or other relevant harm.

SZSSJ commenced proceedings in the Federal Circuit Court of Australia seeking relief in respect of the data breach before an ITOA had been completed. SZTZI commenced proceedings in that Court after an ITOA concluded that her claims did not engage Australia's non-refoulement obligations. Both of those proceedings were dismissed.

SZSSJ and SZTZI then sought judicial review in the Full Federal Court of Australia.

The Full Court allowed their appeals, holding, among other things, that they were denied procedural fairness by virtue of the Department's failures adequately to explain the ITOA processes and to provide the unabridged KPMG report.

By grants of special leave, the Minister appealed to the High Court, which unanimously allowed the appeals.

The High Court held that, while SZSSJ and SZTZI were owed a duty to be afforded procedural fairness in the ITOA process, they were not denied procedural fairness. SZSSJ and SZTZI were not deprived of any opportunity to submit evidence or to make submissions relevant to the subject-matter of the ITOA process as a result of not having such further information as might be inferred to have been contained in the unabridged version of the KPMG report. Exactly how and why the data breach occurred was not relevant to the question of whether one or more of Australia's non-refoulement obligations were engaged in respect of them. And, irrespective of what the unabridged KPMG report might have to say about the identities of the 104 IP addresses from which the document had been accessed during the 14-day period of the data breach, the fact would remain that, once the document was downloaded, the personal information of SZSSJ and SZTZI could have been accessed by anyone. Even if the unabridged KPMG report might have allowed SZSSJ and SZTZI to prove by reference to the report that one or more of those IP addresses were associated with persons or entities from whom they feared harm, that proof would advance their cases for engagement of Australia's non-refoulement obligations no further than the assumption already made in their favour.

The High Court held that SZSSJ and SZTZI were squarely put on notice of the nature and purpose of the ITOAs and of the issues to be considered. The instruction given to officers conducting ITOAs to assume that SZSSJ's and SZTZI's personal information may have been accessed by authorities in the countries in which they feared persecution or other relevant harm meant that not providing the unabridged KPMG report did not constitute a denial of procedural fairness.

Statutory information-gathering powers and tribunals

Australian Institute of Professional Education Pty Ltd v Australian Skills Quality Authority [2016] FCA 814 (13 July 2016)

The Australian Institute of Professional Education (the Applicant), until December 2015, was a registered training organisation under the *National Vocational Education and Training Regulator Act 2011* (Cth) (the NVR Act). The Australian Skills Quality Authority (the Authority) is a public authority which has regulatory responsibilities in respect of the NVR Act and the *Education Services for Overseas Students Act 2000* (Cth) (the ESOS Act).

On 17 December 2015, pursuant to s 39 of the NVR Act, the Authority cancelled the Applicant's registration as a national vocational and training registered organisation on grounds that it had not complied with particular statutory standards. At the same time, the Authority rejected an application by the Applicant to change the scope of its registration under the NVR Act. Also on that day, the Authority cancelled the Applicant's registration under the ESOS Act as an approved provider of vocational education and training courses to overseas students.

On 23 December 2015, the Applicant sought merits review of the Authority's decision. The proceedings in the Administrative Appeals Tribunal (AAT) have yet to be concluded.

On 3 May 2016, the Authority issued a further notice under s 26 of the NVR Act requiring the Applicant to produce certain student information by 10 May 2016 and other information by 23 May 2016.

On 5 May 2016, by its solicitor, the Applicant put to the Authority that the notice was not validly issued and, further, that it would not be able to comply with the requirements of the notice within the times specified.

On 10 May 2016, the Applicant instituted judicial review proceedings under both the *Administrative Decisions (Judicial Review) Act 1977* (Cth) (the AD(JR) Act) and s 39B of the *Judiciary Act 1903* (Cth) seeking review of the Authority's decision to issue the s 26 notice on 3 May 2016. The Applicant contended, among other things, that the notice was invalid or, alternatively, that the decision to issue the notice was an improper exercise of the power conferred by s 26 of the NVR Act or was otherwise contrary to law, because the decision to issue the notice:

(1) constitutes a contempt of the AAT; or

(2) was for the substantial purpose of obtaining evidence for the AAT proceeding, and there is a real risk that obtaining the evidence in that way either gives the Authority advantages which the rules of procedure of the AAT otherwise deny it or otherwise usurps the function of the AAT to decide the matter according to law.

The Court held that, while a statutory information-gathering power was exhausted and could not be used in aid of judicial proceedings (*Brambles Holdings Ltd v Trade Practices Commission (No 2)* (1980) 44 FLR 182), this did not mean such powers could not be used during merits review. The merit review procedures of the AAT differ greatly from court proceedings. For example, there is no provision for the filing of pleadings or for discovery or inspection of documents, and the AAT is not bound by the rules of evidence. Provision is made for there to be 'parties' to the proceedings (s 30), but the parties are not adversaries in the strict sense. The decision of the AAT is not in the nature of a judgment for or against a particular party.

The Court found that it was apparent enough that the notice was issued for multiple purposes, one of which included using the information gathered for the purposes of the pending proceedings in the AAT. That was not in any way an improper purpose. To the contrary: it was a permissible purpose once the nature of administrative review is understood — that is, it was to assist the Tribunal.

The Court held that it is quite permissible for the Authority to obtain material pursuant to its powers under the NVR Act for the purpose of placing such material before the AAT. In so doing, the Authority is not in contempt of the AAT.

Oral reasons versus written reasons — can there be any difference?

Negri v Secretary, Department of Social Services [2016] FCA 879 (5 August 2016)

On 16 October 2012, the Applicant, Ms Negri, claimed a Disability Support Pension (DSP) under the *Social Security Act 1991* (Cth) (the SS Act) on the basis that she suffered from, among other things, fibromyalgia and depression. On 22 November 2012, a Centrelink officer rejected that claim. Ms Negri was unsuccessful on internal review. She applied to the Social Security Appeals Tribunal (SSAT) and was again unsuccessful. On 2 April 2014, Ms Negri sought merits review of the SSAT's decision in the Administrative Appeals Tribunal (the AAT).

The AAT heard the application on 26 February 2015. The AAT affirmed the SSAT's decision and gave *ex tempore* oral reasons. Ms Negri requested written reasons under s 43(2A) of the *Administrative Appeals Tribunal Act 1975* (Cth) (the AAT Act).

On 26 March 2015, Ms Negri filed a Notice of Appeal in the Federal Court of Australia. The AAT delivered its written reasons later that day.

Ms Negri contended, among other things, that the AAT's written reasons substantially departed from its oral reasons and that the Court was to have regard only to the latter. The respondent (the Secretary) contested both propositions.

The Court noted that, pursuant to s 43(1) of the AAT Act, the AAT's 'decision' must be one affirming, varying or setting aside the decision under review. The reasons for decision are not themselves the 'decision'. This distinction is familiar in that it is similar to the distinction between a judgment and reasons for judgment (compare *R v Ireland* (1970) 126 CLR 321 at 330 (Barwick CJ)). Here, the AAT's decision, made on 26 February 2015, was to affirm the decision under review under s 43(1)(a) of the AAT Act. Pursuant to s 43(2), the AAT was required to give reasons for that decision either orally or in writing. It gave them orally. Pursuant to s 43(2A), where (as in this case) the AAT had not given reasons in writing for its decision, a party was entitled to request 'a statement in writing of the reasons of the Tribunal for its decision' — that is, the decision to affirm, made on 26 February — and the AAT was obliged to provide 'such a statement'.

Based only on the words of s 43, the Court considered that the section does not prevent the AAT from giving reasons in writing that it did not give orally, as long as they are 'reasons for [the AAT's] decision'. The AAT is permitted to elaborate upon its oral reasons and to improve their expression.

The Court opined that the AAT's written reasons may be different from those given orally. Differences in the written and oral reasons are not necessarily demonstrative of different reasoning. As long as the reasoning remains consistent, there can be no objection to the provision of a more elaborate exposition of the same reasoning that was orally explained.

However, what is not permissible is altered or new reasoning. The AAT is not permitted to substantially divert from the reasoning upon which its decision was made but is permitted to explain that reasoning differently. Whether a statement of reasons passes from permissible elaboration to impermissible departure is a question of degree.

The Court found the AAT's written reasons were expressed very differently from those given orally. First, in the oral reasons the AAT referred to the dictionary definitions of 'frequent' and 'usual', and it opined that 'usual' meant 90 per cent of the time or more. The reasons continued to the effect that, as Ms Negri experienced symptoms less than 50 per cent of the time, she did not 'usually' experience them. Those reasons did not appear in the written reasons. Instead (and this is the second difference), the AAT referred to Job Capacity Assessment reports (JCA reports) and reasoned that they were more reliable because they were prepared contemporaneously. There is no express reference to the JCA reports in the oral reasons on this question.

The Court held that the correlation between what a tribunal says orally and what it later says in writing (albeit with elaboration) should generally be quite clear. Here, however, the correlation was not clear. On a first reading of the written reasons, one is left with the impression that the AAT viewed the written reasons as an opportunity to start again. And the absence of any express reference to the JCA reports in the oral reasons sits poorly with the decisive weight of those reports in the written reasons. The AAT in this case flirted dangerously with impermissible alteration to its reasoning. Certainly the kind of extensive rewriting in which it engaged is not to be encouraged.

However, ultimately, the Court took the view that the two sets of reasons can stand consistently together. Put in another way, the reasoning process disclosed by the written reasons does not substantially depart from that disclosed by the oral reasons, even though there are dissimilarities between the oral and written reasons.

As such, the Court approached Ms Negri's grounds of appeal on the basis that the AAT's written reasons are its reasons, except that it would look to the oral reasons for the purposes of clarification where required.