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Federal Court of Australia

Ross v Minister for Immigration and Citizenship [2026] FCA 666 (26 May 2026)

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FEDERAL COURT OF AUSTRALIA

Ross v Minister for Immigration and Citizenship [2026] FCA 666

Review of:	Application for judicial review of Administrative Review Tribunal decision delivered on 6 March 2025 by General Member D Murphy
File number:	QUD 195 of 2025
Judgment of:	**DOWNES J**
Date of judgment:	26 May 2026
Catchwords:	**MIGRATION** – judicial review of decision of Administrative Review Tribunal not to revoke cancellation of visa under s 501CA(4) of the *Migration Act 1958* (Cth) – applicant contended that Tribunal did not comply with *Direction No. 110 - Visa refusal and cancellation under section 501 and revocation of a mandatory cancellation of a visa under section 501CA* – whether Tribunal failed to consider the best interests of applicant's children – whether Tribunal failed to afford procedural fairness to the applicant who was

self-represented – whether Tribunal abrogated privilege against self-incrimination

Legislation:

Migration Act 1958 (Cth) ss 501(3A), 501(6), 501(7), 501CA(4)
Ministerial Direction No. 110 – Visa refusal and cancellation under section 501 and revocation of a mandatory cancellation of a visa under section 501CA cll 8.4(3), 8.4(4)

Cases cited:

Bainbridge v Minister for Immigration, Citizenship and Multicultural Affairs [2024] FCA 1080
FHHM v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs [2022] FCAFC 19
Flightdeck Geelong Pty Ltd v All Options Pty Ltd (2020) 280 FCR 479; [2020] FCAFC 138
GRPN v Minister for Immigration, Citizenship and Multicultural Affairs [2025] FCA 406
JFPT v Minister for Immigration and Multicultural Affairs [2025] FCA 1245
JMNR v Minister for Immigration and Citizenship [2026] FCA 50
Kioa v West (1985) 159 CLR 550
LPDT v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (2024) 280 CLR 321; [2024] HCA 12
Minister for Immigration and Multicultural Affairs v Bhardwaj (2002) 209 CLR 597; [2002] HCA 11
Plaintiff M1/2021 v Minister for Home Affairs (2022) 275 CLR 582; [2022] HCA 17
Puohotaua v Minister for Immigration, Citizenship and Multicultural Affairs (2025) 311 FCR 472; [2025] FCAFC 141
Rangiuia v Minister for Immigration and Citizenship [2025] FCA 920
Snedden v Minister for Justice for the Commonwealth of Australia [2014] FCAFC 156
Wills v Chief Executive Officer of the Australian Skills Quality Authority (2022) 289 FCR 175; [2022] FCAFC 10

Division:	General Division
Registry:	Queensland
National Practice Area:	Administrative and Constitutional Law and Human Rights
Number of paragraphs:	84
Date of hearing:	15 May 2026
Counsel for the Applicant:	Ms S Spottiswood (Pro Bono)
Solicitor for the Applicant:	DWF (Australia) (Pro Bono)
Counsel for the First Respondent:	Mr B McGlade
Solicitor for the First Respondent:	Sparke Helmore
Counsel for the Second Respondent	The second respondent filed a submitting notice, save as to costs

ORDERS

QUD 195 of 2025

BETWEEN:	**JAMES EDWIN ROSS**
	Applicant
AND:	**MINISTER FOR IMMIGRATION AND CITIZENSHIP**
	First Respondent
	ADMINISTRATIVE REVIEW TRIBUNAL
	Second Respondent

ORDER MADE BY: **DOWNES J**

DATE OF ORDER: **26 MAY 2026**

THE COURT ORDERS THAT:

1. A writ of certiorari issue quashing the decision of the second respondent made on 6 March 2025 which affirmed the decision of a delegate of the first respondent pursuant to s 501CA(4) of the *Migration Act 1958* (Cth) not to revoke cancellation of the applicant's Class TY Subclass 444 Special Category (Temporary) visa.
2. A writ of mandamus issue directing the second respondent to re-determine the applicant's application for the review of the delegate's decision according to law.
3. The first respondent pay the applicant's costs as agreed or assessed.

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.

REASONS FOR JUDGMENT

DOWNES J:

SYNOPSIS

1. The applicant seeks judicial review of a decision of the second respondent (**Tribunal**) which affirmed the decision of the first respondent (**Minister**) not to revoke the cancellation of

his Class TY Subclass 444 Special Category (Temporary) visa under s 501CA(4) of the *Migration Act 1958* (Cth).

2. The applicant, a 45-year-old New Zealand citizen, has resided in Australia for over 20 years. Relevantly to his application, he has three minor children namely a 17-year-old son (Darnell), a 14-year-old son (Hemi) and an 11-year-old daughter (Skylah).

3. On 20 April 2022, the applicant was convicted of contravening a domestic violence order and sentenced to 12 months imprisonment, the minimum threshold at which a person is deemed to have a "substantial criminal record" under s 501(7) of the *Migration Act* for the purposes of the character test in s 501(6).

4. Consequently, on 19 August 2022, the Minister decided to cancel the applicant's visa pursuant to s 501(3A) on the basis that he did not pass that test.

5. On 24 April 2023, a delegate of the Minister refused to revoke the cancellation decision.

6. On 19 July 2023, the Tribunal affirmed that non-revocation decision, but on judicial review that decision was set aside and the matter was remitted to the Tribunal for redetermination.

7. On 23-24 December 2024 and 6 January 2025, the Tribunal heard the application on remittal. The applicant was self-represented.

8. On 6 March 2025, the Tribunal decided to affirm the non-revocation decision. It found that, in its consideration of the primary and other considerations set out in *Ministerial Direction No. 110 – Visa refusal and cancellation under section 501 and revocation of a mandatory cancellation of a visa under section 501CA* (**Direction No. 110**), the strength and duration of ties to Australia, the best interests of minor children in Australia, the legal consequences of the decision, the extent of impediments if removed, and the impact on Australian business interests all weighed in favour of revocation. However, the Tribunal concluded that the considerations of the protection of the Australian community, family violence, and the expectations of the Australian community weighed heavily against revocation and ultimately outweighed those considerations in favour, such that it was not satisfied there was another reason to revoke the cancellation decision.

9. On 1 April 2025, the applicant applied for judicial review of the Tribunal's decision.

10. On 14 May 2025, the applicant was referred for legal assistance and subsequently obtained the benefit of pro bono assistance, including from counsel. The Court thanks the applicant's legal representatives for their helpful submissions.

11. The three grounds of review as contained in the Further Amended Originating Application for Review of a Migration Decision are as follows:

> (1) The Tribunal misconstrued or misapplied cl 8.4(3) of Direction No. 110 by failing to consider the best interests of each of the applicant's children.
>
> (2) The Tribunal failed to afford the applicant procedural fairness.
>
> (3) The Tribunal abrogated the applicant's privilege against self-incrimination.

12. For the following reasons, the applicant has succeeded in establishing ground 1, but failed in relation to grounds 2 and 3. It follows that the relief sought by the applicant should be granted, and costs should follow the event.

GROUND 1

Overview

13. By ground 1, the applicant contends that the Tribunal misconstrued or misapplied cl 8.4(3) of Direction No. 110 by failing to consider the best interests of *each* of Mr Ross's children to the extent that those interests differed and, in doing so, failing to consider the requirements in cl 8.4(4) of Direction No. 110 in relation to each child.
14. Relevantly, cl 8.4 of Direction No. 110 provides:

> (1) Decision-makers must make a determination about whether cancellation or refusal under section 501, or non-revocation under section 501CA is, or is not, in the best interests of a child affected by the decision.
> (2) This consideration applies only if the child is, or would be, under 18 years old at the time when the decision to refuse or cancel the visa, or to not revoke the mandatory cancellation of the visa, is expected to be made.
>
> (3) If there are two or more relevant children, the best interests of each child should be given individual consideration to the extent that their interests may differ.
>
> (4) In considering the best interests of the child, the following factors must be considered where relevant:
>
> > (a) the nature and duration of the relationship between the child and the non-citizen. Less weight should generally be given where the relationship is non-parental, and/or there is no existing relationship and/or there have been long periods of absence, or limited meaningful contact (including whether an existing Court order restricts contact);
> > (b) the extent to which the non-citizen is likely to play a positive parental role in the future, taking into account the length of time until the child turns 18, and including any Court orders relating to parental access and care arrangements;
> >
> > ...
> >
> > > (c) the likely effect that any separation from the non-citizen would have on the child, taking into account the child's or non-citizen's ability to maintain contact in other ways;
> >
> > ...

> (d) any known views of the child (with those views being given due weight in accordance with the age and maturity of the child).

15. When it applies, the considerations in cl 8.4(4) are mandatory relevant considerations.

Relevant legal principles

16. A failure to comply with a Ministerial direction "as to the considerations to be brought into account and the manner in which those considerations were to be weighed in deciding whether to revoke a visa cancellation" is a jurisdictional error: see *FHHM v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2022] FCAFC 19 at [6] (O'Callaghan and Colvin JJ, Derrington J agreeing).

17. In *Rangiuia v Minister for Immigration and Citizenship* [2025] FCA 920, Raper J found that the Tribunal fell into error because it failed to consider the best interests of each of the applicant's three children, and only considered the best interests of the applicant's children collectively. Her Honour observed at [80]:

> [T]he Tribunal was required to give "individual consideration" to the best interests of each child. That consideration required that each of the matters identified in para 8.4(4), but particularly in this case at para 8.4(4)(a), (b) and (d), be considered in respect of each child.

18. Notwithstanding that there was different evidence about each child before the Tribunal in *Rangiuia*, Raper J found at [86] that there was:

> [N]o reference to the underlying evidence or evaluation of the 'nature and duration of the relationship' (para 8.4(4)(a)) noting their different ages, different disabilities, and the different relations they had with their father. Further, there were different factors at play as to the likelihood of Mr Rangiuia's ability to play a positive parental role, given the different lengths of time until each child turned 18. It cannot be inferred from the reasoning that these different factors were considered.

19. In *GRPN v Minister for Immigration, Citizenship and Multicultural Affairs* [2025] FCA 406, which concerned a different Ministerial direction, it was alleged that the Tribunal had failed to separately consider the interests of the applicant's grandson, who had been diagnosed as autistic level 3 and had significant behaviour and communication difficulties in circumstances where the applicant had assumed a de facto parental role over him. Justice Jackson accepted that contention, concluding at [67]–[68] that the Tribunal's "brief and generalised" treatment of the children's best interests supported an inference that it had failed to properly appreciate what was claimed in respect of the grandson and thus failed to meet the minimum standard of consideration required.

20. In *JFPT v Minister for Immigration and Multicultural Affairs* [2025] FCA 1245, Owens J observed at [27] that the Tribunal was not required to address the considerations in cl 8.4 separately in respect of each child in that case where their interests were all "sufficiently similar to be considered together, and the way in which their respective interests were likely to be affected by the decision also did not differ in such a way as to require separate consideration". Such a conclusion follows from the words used in cl 8.4(3) itself, and it begs the question whether, on the facts of any given case, the respective interests of each child could be said to differ such that individual consideration is required. It is that issue which lies at the heart of this ground.

The Tribunal's reasons

21. In the applicant's "Statement of Facts and Contentions" filed in the Tribunal, the following was stated:

> 28. More broadly, there is limited information concerning any of the victims of James's previous actions, with the expectations of his partner Marion Xavier Middleton states that she wholeheartedly forgives James for his past.
>
> Marion Xavier Middleton states that she believes James to be a changed man and should be given a chance to prove that with good support systems in place and wanting to change, it can change for the better. A father should be able to care and raise his children, we need to keep families together, not apart. James should remain in Australia, where he has built his life since 2003 and continue moving forward helping others with his experiences.
>
> 29. The fact that James serious offending is not a reason, in and of itself, to warrant cancellation. A degree of time has passed since the offending, during which James has undertaken, and continues to undertake, significant work to directly address the underlying causes of that offending behaviour.
>
> 30. It is accepted that the nature and seriousness of the conduct weighs against James' application. The position taken by Marion Xavier Middleton to stand by James and his journey has been a massive support, and the work undertaken by James in relation to his offending, should result in the Tribunal applying more limited weight to this consideration of change and support.
>
> ...
>
> 40. James supportive, and loving family all live in Australia. This

includes his mother, partner, his four biological children and step daughter and grandson and family. *James two oldest children and family have provided letters of support for James' application*. Removal would severely limit the capacity of James to continue his relationships with his family. Such discontinuance would have a particularly acute impact on his mother, partner and five children, grandson and family.

41. Given the range of relationships and support that James has demonstrated to the tribunal, and in the circumstances of this case, primary consideration should weigh heavily in support of the human right class towards this application.

(4) Best interest of minor children

42. There are 16 minor children affected by this decision, James 3 minor children, one of [whom] is autistic, His partners 2 children and both his brothers and sisters and cousins and his nephews children.

43. Incarceration has limited the degree of involvement James has had in the lives of his children. Nonetheless, he has sought to be a part of their lives to the greatest extent possible, facetiming every day and seeing them in visits when possible.

44. *Merion Xavier Middleton and his family's letters of support details the significant distress that removal of James would have on James' children*. In particular James autistic daughter, Skylah, has a very close relationship with James. *Marion and James family indicate that James plays an integral role in the lives of his children*. His removal would significantly impact those children, by eliminating the capacity for James to be physically present with them, to create and grow their bond with him as their father, and to continue the guidance and support he has offered them.

45. As a result, the evidence before the tribunal is that the interests of 16 minor children would be negatively impacted, should James be removed from Australia. As a result of this, and the absence of any evidence contradicting the expression of those children's feelings towards James, significant weight should be afforded to the consideration, in favour of revocation.

(Emphasis added.)

22. The letters of support referred to in the Statement of Facts and Contentions included the following:

(1) A letter of support from the applicant's sister which stated:

> We as a family are asking for one final opportunity to have our father son, brother here with us. So we can help support him to be a productive member of society. To help him learn new skills & tools that will achieve a positive outcome. For us as a family....
>
> Most importantly his children need him in their lives.... If we look at how many broken families are out there now, we've got to ask the question. How will your decision to permanently separate James from his children effect them in the future?
>
> The impacts of the court's decision will have a long lasting effect on the lives of his FIVE children.... please give him & them the chance to be a family. And not leave broken hearts.... with lasting emotional consequences for all concerned.

(2) a letter of support from the applicant's elder son (Darnell) which stated:

> My dad has always been there for me and my siblings. He would always treat us and take care of us. He would always take us to fun places that have made my childhood and my siblings childhood memories so special. *It has been hard for my little brother and sister because they need their dad.* Especially skylah my little sister because she suffers from autism. She need her dad the most. We all do. And he needs us too. If he dose go away from Australia his family and friends are gonna miss him especially me and my brothers and sisters.
>
> (Emphasis added.)

(3) a letter of support from the applicant's mother which stated:

> I would like to give instances that support the need for my grand children to have there father with them, for their future.

> *I find this a very important need due to their ages and needs*, starting with his youngest, *Skylah, with having been diagnosed with autism she obviously has ongoing issues to her personal growth, she has always been extremely close to her Dad, point of issue being our last visit to see James, after big hugs pretty much her next comment was 'when are you coming home Dad*?' He was in fact the only one she would listen to when she had behavioural issues, she would start screaming at anyone else including her mother, James was the only one she would listen to, and calm down with.
>
> *Darnell suffers from asthma*. He is very close to his Dad, which he can attest too. He doesn't have the extreme medical issues of both Skylah (autism) & Jahvyn (visual impairment). *He and Jahvyn both used to spend over night trips to the hospital, due to asthma*, but Jahvyn seems to have outgrown the asthmatic symptoms. Jahvyn still continues to require on going treatment for his visual impairments. I will go into more detail further into this letter.
>
> *Hemi needs guidance with his temperament*, he can go off the hook at times, but he's a growing normal lad. While James has been incarcerated, he himself is continuing to learn new skills problem solving, which in turn he is passing on to his children.
>
> (Emphasis added.)

(4) a letter of support from the applicant's adult step-daughter which stated:

> James has been by my side since I was 1 years old and I am now 20. James has 5 beautiful kids and 1 grandson that loves him and cares for him especially his youngest daughter Skylah Ross who is 9 years old. Skylah also suffers from Autism and has to attend a special school to help her with her needs. Skylah looks up to James a lot and she constantly asks about him and asks when she's going to see him again. James is a magnificent dad, he always has been. He constantly shows us he loves and cares for us. James loves spending quality

> time with his kids, he takes us on bike rides and beach trips which we love. James has a lot of support here in Australia which will help him get back on track, start working again and rebuild his life once more but the right way this time. His kids, family and friends and here in Australia and it would mean the absolute world to all of us if he could stay and continue to be a great father figure to his children, a great friend and a loving son to his mother and a great role model to everyone he loves and cherishes.

23. At [12] of the reasons, the Tribunal stated to the effect that it was bound to comply with Direction No. 110. At [15], the Tribunal identified that "the best interests of minor children in Australia" was one of five Primary Considerations that the Tribunal must take into account.

24. At [83] to [91] of the reasons, the Tribunal considered the best interests of minor children in Australia.

25. At [83], the Tribunal's reasons acknowledge the requirement imposed by cl 8.4 of Direction No. 110. At [84], the Tribunal set out "a number of factors to take into consideration". Notably, the reasons do not include reference to cl 8.4(3).

26. At [85] to [87], the reasons state:

> The Applicant has 3 minor biological children in Australia, 2 sons and 1 daughter whose best interests the Applicant says are affected by a non-revocation decision. The primary care giver for the 3 children is their mother, who is the Applicant's former partner. The Applicant has a parental role for the 3 minor children, being jointly responsible for long term decisions concerning the children. There is presently a domestic violence and family protection order in place prohibiting the applicant from contacting his former partner until 2026. The Applicant has had regular contact with his 3 minor children because his mother has regularly brought the children to immigration detention to see the Applicant.
>
> I accept that the 3 children enjoy a close relationship with their father, despite having witnessed some of his disturbing behaviour that has constituted the acts of domestic violence for which convictions have been imposed. While the Applicant can continue to have electronic contact via telephone, WhatsApp and Facetime with his children if he is required to return to New Zealand, face to face contact with his 2 minor sons will be limited to visits by the 2 boys travelling to New Zealand. In the case of the Applicant's daughter, she is unlikely to be suitable to travel in a confined space such as an aeroplane for 3 hours at a time, even with a carer. I accept that person to person contact with the Applicant's minor daughter may

> not be possible for a significant time if the Applicant is required to return to New Zealand.
>
> I find that all 3 minor children will be significantly affected by a decision to affirm the revocation decision and that the Applicant's minor daughter will be more significantly impacted than her 2 brothers, because the prospect of person to person contact is unlikely to be possible while his daughter cannot travel in an aeroplane for extended periods of time.

27. At [88] and [89] of the reasons, the Tribunal considered other children who the applicant submitted are adversely affected by a decision to affirm the revocation decision, and determined that the adverse impact on these children will be minimal.
28. At [90] of the reasons, the Tribunal expressed a finding that a decision to not revoke the reviewable decision is not in the best interests of all children associated with the applicant, stating that "[t]he most significant impact is upon the Applicant's minor daughter, followed by his 2 sons".
29. At [91] of the reasons, the Tribunal stated:

> Taking into account the best interests of all of the children mentioned above cumulatively, I give this Primary Consideration significant weight in favour of the revocation of the cancellation of the Applicant's visa.

Consideration

Jurisdictional error

30. The Minister submits that the applicant is unable to discharge his onus of establishing a failure to comply with cl 8.4(3) of Direction No. 110 for five reasons.
31. First, the Minister submits that the obligation in cl 8.4(3) of Direction No. 110 is only to "consider" the best interests of an individual child — that is, in other words, "think about" the individual interests of each child — and nothing in cl 8.4(3) circumscribes the way that the Tribunal must *reason* its decision concerning the best interests of minor children. On that basis, the Minister submits that there is nothing in the Tribunal's reasons which supports a contention that the Tribunal did not consider the interests of the three children separately. However, such support exists because it is not apparent and nor can it be inferred from the reasons that the Tribunal *did* consider the extent to which the best interests of the three children (and especially the two sons) differed. For example, it does not appear that the Tribunal took into account the ages of each of the children (for example) which is relevant to, in particular, cl 8.4(4)(b).
32. Second, the Minister submits that the Tribunal's reasons considered the differing impacts on the three children to the extent the Tribunal considered this to be material or significant to its decision. He submits that, in this regard, the Tribunal noted that the applicant's daughter was more significantly affected by the Applicant's removal, and this is consistent with the

Tribunal, in fact, separately considering the interests of the three children. However, while it may be accepted that the Tribunal did, to an extent, give individual consideration to the best interests of Skylah, there is no differentiation between the interests of the two sons, which is noteworthy having regard to the difference in their ages and other facts which were identified in the letters of support.

33. Third, the Minister submits that the applicant's case in respect of the cl 8.4 consideration ultimately advanced a common theme concerning the interests of, and impacts on, the three children and in respect of which there was significant overlap (albeit with an added layer of focus on Skylah's autism and the applicant's particularly close bond with her). The Minister submits that, in those circumstances, it was unsurprising that the Tribunal's reasons responded to the case the applicant advanced and consequently, the Tribunal doing so does not evidence error of the kind asserted. The Minister also submits that, given the common theme to the children's interests and impacts, the obligation in cl 8.4(3) was not engaged. For the reasons given below, I do not accept this submission.

34. Fourth, the Minister makes detailed submissions about the quality of the evidence before the Tribunal, and that the applicant did not place any "material reliance" on aspects of the evidence concerning the individual interests of each child, such that it ought be inferred that the Tribunal considered these matters not to be of any significant weight in the context of its decision. The Minister also submits that, in any event, the relevance of some of the evidence was subsumed into the higher-level findings which were made. For the reasons given below, I do not accept these submissions.

35. Finally, the Minister submits that the obligation to consider a particular consideration in Direction No. 110 can only arise where the applicant makes representations about such a matter that are clearly advanced or clearly arise on the materials, and the Tribunal was not required to discuss every matter raised in Direction No. 110 explicitly in its reasons.

36. The Minister quite properly accepts that, if the applicant had put forward a clearly articulated case identifying materially different interests as between the three children, including how those interests would be advanced if his visa was not cancelled, that may more readily support an inference that those differences were not considered. However, the Minister submits that no such case was advanced but that the relevant part of the applicant's Statement of Facts and Contentions presents the impacts on the children at a level of generality with the only apparent point of distinction being the reference to the applicant's daughter having a particularly close relationship with him.

37. However, to the contrary, the applicant's Statement of Facts and Contentions referred in express terms to the letters of support provided by the applicant's family, which elaborated upon the particular circumstances of each child, including the youngest son, and the ways in which each would be affected. There was therefore no "common theme to the children's interests and impacts" to the extent posited by the Minister, and the obligation in cl 8.4(3) was therefore engaged.

38. In particular, the representations made by the applicant to the Tribunal clearly distinguished the position of the two sons. Accordingly, the Tribunal was obliged to consider those representations.

39. As the applicant submits, the Tribunal was presented with evidence concerning the individual interests of each of the applicant's three minor children, and the manner in which it

could be said that their interests differed. Rather than separately addressing the considerations in cl 8.4 of Direction No. 110 for each child, the Tribunal instead made summary and collective findings about "the 3 children", "the three minor children", "the 2 boys" and "the 2 brothers".

40. By addressing the interests of the children (and especially the two sons) in these collective terms, and having regard to the brevity of the reasons, the Tribunal thereby fell into error in failing to consider the best interests of each child individually to the extent that their interests differed.

41. For these reasons, it is neither apparent nor can it be inferred from the reasons of the Tribunal that:

> (1) individual consideration was given to the best interests of the applicant's sons, Darnell and Hemi, *at all* (misapplying cl 8.4(3));
> (2) consideration was given to the nature and duration of the relationship between *each of* Darnell, Hemi and Skylah and their father (misapplying cl 8.4(4)(a));
>
> (3) consideration was given to the extent to which the applicant was likely to play a positive parental role in the future with *each of* Darnell, Hemi and Skylah, especially in light of their different ages (to which *no* reference is made in the reasons) (misapplying cl 8.4(4)(b));
>
> (4) consideration was given to the likely effect that the separation of the applicant would have on *each* child, instead finding that "all 3 minor children will be significantly affected" (misapplying cl 8.4(4)(d));
>
> (5) consideration was given to any known views of each child in light of their age and maturity (misapplying cl 8.4(4)(f)).

42. It follows that the Tribunal thereby "ignored, overlooked or misunderstood relevant facts or materials": *Plaintiff M1/2021 v Minister for Home Affairs* (2022) 275 CLR 582; [2022] HCA 17 at [27] (Kiefel CJ, Keane, Gordon, and Steward JJ). The Tribunal thereby fell into jurisdictional error.

Materiality

43. The principles relevant to materiality are set out in *LPDT v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* (2024) 280 CLR 321; [2024] HCA 12 at [6]–[8] (Gageler CJ, Gordon, Edelman, Steward, Gleeson and Jagot JJ).

44. The Minister submits that, even if the Tribunal failed to treat the interests of the applicant's minor children separately, that error was not material because there is no "realistic possibility that the outcome of the case could have been different had the error not been made" citing *LPDT*. Three reasons are advanced for why this is so.

45. First, that the Tribunal gave "significant weight" to the best interests of the applicant's children but nevertheless concluded that the considerations weighing against him "far outweighed" all considerations in his favour.

46. Second, that there is generally a reasonable degree of overlap between each of the cl 8.4(4) considerations and, in assessing materiality, consideration needs to be given to such a matter.

47. Third, that to the extent that any other cl 8.4(4) factors were not considered, it is not readily apparent how such factors were objectively capable of further showing that the applicant's children's best interests would be significantly affected by his removal to the point where that consideration could somehow be given such weight as to outweigh all the other considerations.

48. Similar submissions were made before, and rejected by, Jackson J in *GRPN*, who dealt with them at [71]–[72]:

> ... The error that has been established has been a failure to appreciate the true claims that were being made in respect of Matthew and a failure to consider whether his special needs meant that his interests should be considered separately to those of his brother Noah, let alone separately to all the other grandchildren of the applicant. It is plain that if the Tribunal had appreciated the claims that were being made in respect of Matthew, there is at least a realistic possibility that it could have put more weight on his interests and might have made a different decision.
>
> Counsel for the Minister further submitted that the weight that the Tribunal gave to the primary considerations in favour of cancellation of the visa — the protection of the Australian community, family violence and the expectations of the Australian community — was such that it was bound to have decided to cancel the visa, even if it had properly appreciated the claims that were being made about Matthew (or James). *With respect, to invite comparison of the weight that was afforded to those considerations with the weight that would have been afforded to Matthew's interests if the claims had been appreciated is to invite the Court to embark on its own weighing exercise, and so to reach a conclusion about the merits of the (hypothetical) decision. That would involve improper speculation as to how the Tribunal might have discharged its evaluative function had it assigned different weight to one of the primary considerations in the mandatory direction*: see *LPDT v Minister for Immigration, Citizenship, Migrant Services & Multicultural Affairs* [2024] HCA 12 at [15], [35]-[36].
>
> (Emphasis added.)

49. Such reasoning is apposite to this case, and I respectfully agree with it and, for the same reasons, reject the Minister's submissions.

50. Further, as the Tribunal misapplied cl 8.4(3) and failed to consider numerous factors in cl 8.4(4), any degree of "overlap" between the factors does not assist the Minister's cause.

51. It follows that the Tribunal's failure to consider the best interests of each of the applicant's minor children in the manner required by cl 8.4 of Direction No. 110 was material in the sense that there is at least a realistic possibility that the Tribunal could have put more weight on those interests and might have made a different decision had it done so. I therefore uphold Ground 1.

GROUNDS 2 AND 3

Overview

52. By ground 2, the applicant contends that the Tribunal failed to afford the applicant procedural fairness by not providing him a meaningful opportunity to decide whether to waive his privilege against self-incrimination. The thrust of his submission is that the Tribunal gave him insufficient time to consider his position and without proper comprehension of the redactions.

53. By ground 3, the applicant contends that the Tribunal erred by abrogating his privilege against self-incrimination in the circumstances described in ground 2.

54. The parties addressed grounds 2 and 3 together, and it is convenient to do the same in these reasons.

55. The alleged procedural unfairness and abrogation of the privilege against self-incrimination are said to arise from the following circumstances:

> (1) The applicant was, at all relevant times, self-represented.
>
> (2) On 19 December 2024, two business days before the hearing, the applicant received a hard copy of the updated remittal bundle which contained redactions that had been applied by the Minister's solicitor over parts of 22 pages. Those redactions were applied to evidence which had been before the Tribunal on the first occasion in relation to which the applicant had not been warned about the privilege against self-incrimination, including allegations of uncharged offences relating to the use of drugs.
>
> (3) The applicant had based his preparation on the original remittal bundle that had been filed in August 2024, which was comprised of over 1300 pages.
>
> (4) On 19 December 2024, the applicant wrote to the Tribunal to express his concerns that the "redaction and removal of relevant facts appear to be unjust and misleading".
>
> (5) Until the first day of the hearing on 23 December 2024, neither the Minister nor the Tribunal explained to the applicant the purpose of the updated remittal bundle or the reason for the redactions.
>
> (6) Early on the first day of the hearing, the Tribunal raised the applicant's concerns with the redactions as referred to in his email of 19 December 2024. The Minister's solicitor then explained, by reference to *Bainbridge v Minister for*

Immigration, Citizenship and Multicultural Affairs [2024] FCA 1080, that the redactions had been made to ensure that the Tribunal did not take into account any evidence from the first Tribunal hearing to which the privilege against self-incrimination applied unless the applicant consented to the Tribunal having regard to that material. The Tribunal also explained the privilege against self-incrimination to the applicant.

(7) The Tribunal gave the applicant a 10-minute adjournment to decide whether he wished to waive his privilege against self-incrimination over the redacted material. The Tribunal did not inform the applicant before the adjournment that he could choose to remove some redactions and not others. It is apparent from the transcript of the hearing that the applicant was unaware that he had this option until he was informed of it immediately after the adjournment. The Tribunal did not grant the applicant a further adjournment (but nor did the applicant request one).

(8) The Tribunal directed the Minister to take the applicant to each redaction and ask whether he wished to waive the privilege in respect of each. The Tribunal permitted the applicant to read the redacted passages aloud. The applicant did not understand what footnotes were or how they operated; did not understand what "italicised" meant; and struggled to pronounce certain words.

(9) The applicant consented to the removal of each redaction.

(10) The Tribunal took some of the redacted material into account in reaching its decision.

56. In these circumstances, the applicant submits that the Tribunal failed to afford him procedural fairness and abrogated his privilege against self-incrimination by making the following three errors:

(1) providing the applicant inadequate time to consider waiving the privilege;
(2) omitting to inform the applicant that material could "selectively be unredacted";

(3) providing inadequate opportunity for the applicant to comprehend the redacted material.

57. As to the first alleged error, the applicant submits that, in light of the fundamental nature of the privilege against self-incrimination, and given that the applicant's criminal history and risk of reoffending were central to the Tribunal's assessment of whether the cancellation decision should be revoked, it was essential that any waiver of the privilege be made only after proper consideration and with a clear and informed understanding of the consequences. He submits that the 10-minute adjournment did not provide an adequate opportunity for such proper and informed consideration, as it required a review of redactions scattered throughout a remittal bundle exceeding 1,000 pages, comparison between the updated and original bundles, careful reading and comprehension of each passage, and the making of a forensic

decision as to whether to unredact 22 passages, some spanning entire pages. He argues that this task would have been impossible for a lawyer, let alone a self-represented litigant.

58. In support of this submission, the applicant deposed to the following facts:

> During the break:
>
> (a) I went into a separate room. I felt overwhelmed.
>
> (b) I didn't understand what was been asked of me.
>
> (c) I tried to call my sister who is a school teacher because she is clever and sometimes helps me with things like this but I couldn't get through to her.
> (d) I had to ask the SERCO staff to please be quiet so that I could concentrate.
>
> (e) I did not have time to call anyone else.
>
> (f) I was panicking.
>
> (g) I only had time to look through the redactions briefly.
>
> (h) I was only thinking about whether I wanted to removal all of the redactions or not.
>
> (i) I did not have time to consider each redaction separately.
>
> (j) I did not have time to understand what each redaction meant.
>
> (k) I did not know it was an option to pick only some redactions to remove and to keep others.
>
> (i) I did not understand what a footnote was.

59. As to the second alleged error, the applicant submits that the Tribunal's failure to inform him, prior to the adjournment, that he could selectively unredact individual sentences, paragraphs or pages caused him to approach the task of considering the redactions in a global manner, rather than undertaking a discrete assessment of each redaction. In this regard, reliance was placed on the applicant's statement to the Tribunal upon returning from the adjournment that he "didn't know that [he] could pick ... [and] didn't know that was an option". The applicant submits that the global approach that he adopted involved a materially different risk profile in respect of the privilege against self-incrimination, as he was confronted

with what he perceived to be an all-or-nothing choice to maintain or remove the redactions. In that circumstance, he submits that the risk was that, by removing the redactions globally, he would disclose material tending to incriminate him that might otherwise have remained protected had a discrete assessment been undertaken.

60. As to the third alleged error, the applicant submits that, in addition to, and compounding, the effect of the limited time afforded to him, and having regard to his self-represented status, the Tribunal failed to afford him a reasonable opportunity to understand the redacted passages.

61. The applicant further submits that these errors are material because there is a realistic chance that the Tribunal could have made a different decision if he had been afforded a proper opportunity to consider the redactions, as he would have left many of the passages redacted, in which case the Tribunal would not have taken into account those passages in its decision.

Relevant legal principles

62. The applicant relies on the discussion of the principles that apply to procedural fairness and the privilege against self-incrimination in *Puohotaua v Minister for Immigration, Citizenship and Multicultural Affairs* (2025) 311 FCR 472; [2025] FCAFC 141 at [36]–[42] (Downes J, with whom Charlesworth and O'Sullivan JJ agreed).

63. The applicant also relies upon Colvin J's discussion of the applicable principles in *JMNR v Minister for Immigration and Citizenship* [2026] FCA 50, in which his Honour stated at [18]:

> ... the Tribunal had to ensure that the explanation of the privilege given to the applicant was given in a way that had due regard to the evident capacity of the applicant to understand the explanation. Further, it must be given in circumstances that allowed the applicant to avail himself of the privilege if he chose to do so. There is no fairness in a procedure which gives a warning which, in the circumstances, when viewed objectively by any reasonable person in the position of the Tribunal duly discharging its responsibilities, is empty of effectiveness as a warning. To take an extreme example, an explanation given to a person who required the assistance of an interpreter to understand the Tribunal proceedings in circumstances where the explanation was not interpreted would not be a fair procedure.

64. Procedural fairness is concerned with whether a party has been given a reasonable opportunity, but not every opportunity, to present their case: see *Minister for Immigration and Multicultural Affairs v Bhardwaj* (2002) 209 CLR 597; [2002] HCA 11 at [40] (Gaudron and Gummow JJ); *Wills v Chief Executive Officer of the Australian Skills Quality Authority* (2022) 289 FCR 175; [2022] FCAFC 10 at [120] (Perry J, with whom Logan and Griffiths JJ agreed). In *Snedden v Minister for Justice for the Commonwealth of Australia* [2014] FCAFC 156, Middleton and Wigney JJ set out what procedural fairness requires at [177]:

> The rules of procedural fairness do not have an immutably fixed content: *Assistant Commissioner Condon v Pompano Pty Ltd* (2013) 295 ALR 638 at [156]. There are no concrete rules as to what procedures a decision-maker must employ to provide procedural fairness in any particular case. What will be both sufficient and necessary to ensure a fair hearing in any given case will depend on, and vary with, the context in which a decision-maker acts, including any statutory or regulatory requirements or considerations: *SZBEL v Minister for Immigration and Multicultural and Indigenous Affairs* (2006) 228 CLR 152 (*SZBEL*) at [26], [29]; *Saeed v Minister for Immigration and Citizenship* (2010) 241 CLR 252 (*Saeed*) at [19]–[20]; *SZQHH* at [26]; see too *Re [Minister] for Immigration and Multicultural Affairs; Ex Parte Miah* (2001) 206 CLR 57 at [30]–[32]. The content of procedural fairness is flexible and adaptable to the circumstances of the particular case (*Saeed* at [18]) and must be approached on the basis of what is reasonable (*Kioa* at 627) and necessary to avoid "practical injustice": *Lam* at [37]–[38].
>
> (Original emphasis omitted.)

65. It is also important to keep in front of mind that, in assessing what procedural fairness requires, the Court's concern is with what was known by or reasonably apparent to the decision-maker: *Kioa v West* (1985) 159 CLR 550 at 627 (Brennan J). This was recognised by Colvin J in *JMNR*, who noted at [19] that:

> ... the issue for determination is whether the explanations of the privilege that were given to the applicant, when viewed objectively in the context of the known circumstances, *including what was evident to the Tribunal about the likely ability of the applicant to comprehend the explanation*, would effectively communicate both the availability of the privilege and the consequence if incriminating answers are given by the applicant, namely that the answers may be used against the applicant. ...
>
> (Emphasis added.)

66. Finally, it is important to recognise the limits of the Tribunal's obligations in dealing with a self-represented applicant: see, generally, *Flightdeck Geelong Pty Ltd v All Options Pty Ltd* (2020) 280 FCR 479; [2020] FCAFC 138 at [51]–[57] (Markovic, Derrington and Anastassiou JJ).

Consideration

67. In this case, it is not in dispute that the applicant was aware of his entitlement to claim the privilege against self-incrimination and, accordingly, this is not a case in which procedural

unfairness arose from an ineffective warning. Rather, the substance of the complaint advanced by grounds two and three is of a different character: namely, it is said that that the way in which the hearing was conducted did not afford the applicant an opportunity to consider, in a practical and meaningful way, the risks attendant upon waiving the privilege against self-incrimination in respect of each redaction.

68. In particular, the applicant complains that the hearing was procedurally unfair on the basis that he ought to have been afforded more time to consider his position. That submission is rejected for the following reasons.

69. At the commencement of the hearing below, the Tribunal asked the applicant to address his concerns in relation to the redactions made to the updated remittal bundle that he had raised via email on 19 December 2024. As part of this exchange, the applicant stated that upon receiving the updated bundle he "went through [it] ... and highlighted the old one so I knew exactly what I was going to be talking about". Further, after both the Tribunal and Minister explained the privilege against self-incrimination to the applicant, he stated that "I went through the new pages and I highlighted all the redactable parts, so I read most of the redactable parts". It is noteworthy that the applicant did not express any difficulty in comprehending the redactions at this stage. Accordingly, from the Tribunal's perspective, it would have appeared that the applicant was familiar with, and was prepared to address, the redactions.

70. Further, at the start of the hearing, the Tribunal noted that "we've got plenty of time to hear this matter, today and tomorrow, so please let me know if you're not following something that's occurring and please let me know if you need a break at any time". Additionally, immediately before the 10-minute adjournment, the Tribunal reminded the applicant that "if you need a break at any time let me know, and you can ask for a break at any time to refresh your memory or collect your thoughts".

71. The applicant accepts that the Tribunal informed him that he could request a break; however, he submits that, because he was not reminded again after the adjournment and given that he was self-represented, he did not appreciate that he could request a break. He relied on his affidavit filed in this proceeding in which he deposed that:

> When I read each passage aloud, I did not have time to reflect on what the passage conveyed before I said to the Tribunal that I wanted to unredact the passage.
>
> I felt pressure to make a decision straight away. I did not have enough time to consider each redaction separately during the break.
>
> Because I am not a lawyer and I could not afford a lawyer, I did not think to ask for another break to reflect on each redaction.

72. However, the Tribunal informed the applicant that he could request a break (twice) and of his right to claim the privilege against self-incrimination. It gave the applicant a break to consider his position following the giving of the warning, and after the break advised him to

the effect that he could agree to the removal the redactions over part only of the redacted content.

73. Following this, the applicant requested additional time to consider his answers or to read the redacted material on three separate occasions, and on each occasion the Tribunal granted that request. The Tribunal also allowed the applicant to read each redaction, save for the first, aloud.

74. At no point — other than the three occasions when he requested and was granted further time — did the applicant indicate to the Tribunal that the exercise of going through the redactions did not afford him sufficient time to consider his position. Again, therefore, from the perspective of the Tribunal, it would have appeared that, by this process, the applicant was being afforded sufficient time, especially in light of his statements to the Tribunal concerning his review of the redacted material before the hearing. The fact that the applicant subsequently deposes to the contrary does not assist him.

75. In all of these circumstances, the Tribunal was not required to advise the applicant (again) that he could request a break or as to how or when he ought to request a further break or how he ought to exercise the privilege. The Tribunal's obligation is to strike a balance between assisting a self-represented litigant and maintaining its role as an impartial decision-maker: *Flightdeck Geelong Pty Ltd* at [51]–[57]. While the Tribunal must take reasonable steps to alleviate the disadvantages ordinarily faced by a self-represented litigant, it is not required to provide strategic guidance or to counsel the litigant on how best to conduct his case.

76. The applicant also complains that the hearing was procedurally unfair because he was required to make decisions "on the fly" without proper comprehension of the redacted material. First, the applicant submits that his request to read the redacted material aloud should have alerted the Tribunal to the fact that he had not properly comprehended the earlier redactions that he had accepted could be removed. As to this, he relies on his affidavit in which he states that "he found it difficult to read the redactions [himself]" and therefore "asked the Tribunal if [he] could read them aloud". Second, the applicant submits that his difficulty with comprehending the redacted material more generally means that the decisions he made in respect of the redactions cannot properly be regarded as informed or meaningful.

77. With respect to the first submission, the transcript of the hearing from the point at which the first redaction was considered to the point at which the applicant requested to read the material aloud presents a more complete picture:

> Member: Actually, I might go through the redaction exercise now. So we'll go through each of the pages which have redactions on them now?
>
> Mr Ross: Okay.
>
> Member: Can you turn to page 1020, please. I was going to go sequentially by page numbers.
>
> Mr Ross: Yes.

Member: Do you want to have a read of – in the version that you've got, the unredacted version, as to whether you would like the tribunal to see that information on page 1020?

Mr Ross: Is this – Member, is this the part now where I get to pick if I want the redacted parts to be put in?

Member: Yes?

Mr Ross: Okay. Yes, I've read it.

Mr Kyranis: Did you want the tribunal to see the redacted portions of page 1020?

Mr Ross: Do you mind if I take a moment to answer this? Because it continues on into page 21. So I –

Mr Kyranis: If you want, you can read 1021 as well and think about that at the same time?

Mr Ross: Thank you.

Member: It looks like it's basically paragraphs 35, 36, 37, and 28 of – I take it this is Senior Member Tavoularis' decision.

Mr Kyranis: Yes, it is. Would you like the tribunal to see those paragraphs?

Mr Ross: Yes, please.

Mr Kyranis: So, we'll unredact the redactions on page 1020 and 1021. Can you turn to page 1024, please?

Mr Ross: Yes.

Mr Kyranis: Would you like the tribunal to see the unredacted version of the three bullet points on paragraph 48?

Mr Ross: Is it all right if I quickly read through them.

Mr Kyranis: Yes?

Mr Ross Thank you.

> Member: I'm assuming that you're looking at both. Have you got an unredacted and a redacted copy?
>
> Mr Ross: Yes.
>
> Member: This is your decision to make. None of us can help you?
>
> Mr Ross: Yes.
>
> Member: You're deciding whether you think I should see this material even though it may incriminate you?
>
> Mr Ross: Member, is it all right if I read out loud?

78. At no point during this exchange did the applicant indicate that he had been unable to comprehend the material which had been the subject of the first redaction without reading it aloud. Nor did he seek to revisit the issue of the removal of the first redaction. In those circumstances, the applicant's request to read the redacted material aloud would not have appeared to the Tribunal to reflect any lack of comprehension of material which had been the subject of the first redaction. For these reasons, I reject the first submission.

79. With respect to the second submission, the applicant placed particular emphasis on his inability to understand the significance of footnotes and italicisation, being something which he says that the Tribunal would have observed. In this regard, he relies upon an audio recording of the hearing, corresponding to the transcript extract set out below:

> Mr Kyranis: Did you want the tribunal to see an unredacted version of those three bullet points?
>
> Mr Ross: Yes, I do. I have the transcripts where it says below. Because those are the other redacted sections. I haven't had the opportunity to read those. But I'm guessing that these — so this, with that redacted parts here. But these parts that are redacted at the bottom. they're actually transcripts that I haven't read yet.
>
> Mr Kyranis: Well, the portions that are redacted are the primary source of what's the transcript references down the bottom. We're getting to the transcripts — raising the matter of Tavoularis is just not going — we're coming to the transcripts?
>
> Mr Ross: Okay. Okay, I think.
>
> Mr Kyranis: But if you want the first three bullet points unredacted, then we'll unredact the transcript references as well at the bottom?

Mr Ross: But then, I'm not sure. I'm not clear, I mean, though.

Member: Perhaps it might be easier — you know where there is a reference, if we go to the page of whatever that reference is?---

Mr Ross: It has a transcript page, 51.

Member: Because what you're redacting from is that's the decision of Senior Member Tavoularis. His role — he finds the evidence where it is in the various documents. So it's likely that that footnote is going to be a reference to another document where you have said — it's probably a reference to the transcript, where you have said something during the hearing?

Mr Ross: Okay. Okay. Yes, so I haven't read any of those. I don't so in that — well, from what I understand what you're saying, basically it's just these 3 points here from 40 that are redacted, are they either like the short version of the transcripts that are down at the bottom, or?

Member: It's a bit hard for me. I haven't seen any of this material so I couldn't tell you what it says?

Mr Ross: I haven't seen them either, but

Mr Kyranis: Well, you have, because it's the transcripts. You've got a copy there where the three footnotes that have been redacted at the bottom of the page refer to page 51 and 52 of the transcripts, and you've got a copy of the transcripts because it's in the remittal bundle, and it includes portions that we've previously redacted.

Member: So I suppose we'll end up getting to that part.

Mr Kyranis: We're getting to that, yes.

Member: So we will get to the transcripts eventually, once — we're going through the initial pages. This is the judgment of Senior Member Tavoularis. After the judgment of Senior Member Tavoularis are the transcripts. And then there will be specific portions in the transcript which I presume have also been redacted. So we'll go through that?

Mr Ross: Okay. Okay. So I don't — I'm not sure if I've read those

transcript, but

Member: We'll get to those pages. So at the moment, we're going through Senior Member Tavoularis' decision, then we'll go to the transcripts. So we'll go through the same process; you can read them. Because it's important you read each part and say 'Yes, I'm happy for that to go in'?

Mr Ross: Okay. So what he's — the question he's asking me now, Member, is do I wish to go ahead with these three points here? If I say, 'Yes. These three points here', that adds to all these transcripts that I haven't read yet.

Member: No, but we'll get to those transcripts later?

Mr Ross: Okay. There is different parts.

Member: Just at the moment, look at what the dot points are?

Mr Ross: Yes.

Member: Then, Mr Kyranis, we will go through the transcripts as well, for where the matching part has been redacted?

Mr Ross: Okay. I understand. Thank you.

Mr Kyranis: When we get to the transcript, I'll tell you, 'We're at the transcript, which we were talking about earlier'?

Mr Ross: I understand.

Mr Kyranis: Can you turn to page 1025, please? And so there's a bullet point at the bottom of page 1025. And then see over the page, on page 1026, what Senior Member Tavoularis has done is extracted parts of the transcript in his decision — the italicised portion on the following page?

Mr Ross: What does the 'italicised' mean?

Mr Kyranis: The font is slightly tilted towards the right.

Member: It looks different from the rest of the — I can't see it because I don't have it, but it looks different. Normally, you know, typewritten, they're straight up. This one, it's slightly on an edge. It's

> slanting to the right?
>
> Mr Ross: Which means, again?
>
> Member: Just have a look at the page. So it's page 125 and then it goes over to one there?
>
> Mr Ross: I have.
>
> Member: And read all those. Can you see the part that's been redacted? And then two specific compare it to your copy which is unredacted and read that.
>
> Mr Ross: Okay. Thank you.

80. While it may be accepted that the applicant did not understand the significance of footnotes or italicisation, at least initially, the transcript demonstrates that those matters were explained to him by both the Tribunal and the Minister. On each such occasion, the applicant indicated his understanding of the explanation, responding with statements such as "okay" or "I understand". The audio recording of this exchange reveals that the Tribunal and the Minister engaged with the applicant in a patient and facilitative manner, providing explanations directed to ensuring his comprehension. Their approach is commendable.

81. In those circumstances and as the applicant's initial lack of understanding was recognised and addressed to the applicant's apparent satisfaction, it does not support a contention that it was or ought to have been apparent to the Tribunal that the applicant was unable to make informed decisions, and nor does it disclose any denial of procedural fairness.

82. This was not an isolated example. When viewed as a whole, the transcript reveals that the Tribunal and the Minister were consistently supportive of the applicant, providing assistance whenever matters of comprehension were flagged by the applicant. For instance, upon being asked for assistance, the Minister helped the applicant pronounce the word "longitudinal", and the Tribunal explained to the applicant that "DSVPA" stands for the *Domestic Violence Protection Act 2012* (Qld).

83. The applicant deposes in his affidavit that he did not understand the meaning of certain words, including "militates", "insurmountable", "postulated" and "contemporaneous". He did not, however, seek any assistance from the Minister or Tribunal in relation to those terms during the hearing. For this reason, this evidence does not assist the applicant.

84. For these reasons, procedural unfairness has not been shown and the applicant's privilege against self-incrimination was not abrogated. Accordingly, grounds 2 and 3 must fail.

I certify that the preceding eighty-four (84) numbered paragraphs are a true copy of the Reasons for Judgment of the Honourable Justice Downes.

Associate:

Dated: 26 May 2026