



PUBLIC SECTOR NEWSLETTER - NEW SOUTH WALES

On 21 November, the NSW *Justice Legislation Amendment Bill (No 3) 2018 (the Bill)* passed through both houses of parliament. The most notable amendment is the clarification of the jurisdiction of the District Court in relation to actions arising out of commercial transactions. The Bill also contains numerous other amendments to assist with the efficient and effective functioning of the NSW Justice System.

<https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=3587>

MEDIA

Attorney-General: Foreign Influence Transparency Scheme to commence December 10

The FITS would enhance transparency across the Australian Government and safeguard the nation's democracy. From Monday, 10 December 2018, any person who undertakes certain activities, on behalf of a foreign principal for the purpose of influencing a political or government process will be required to register under the scheme

<https://www.attorneygeneral.gov.au/Media/Pages/Foreign-Influence-Transparency-Scheme-to-commence-23-nov-2018.aspx>

Law Council criticises Federal Government's anti-terror citizenship laws, arguing overreach

The Federal Government is being challenged on multiple fronts to justify its hardline approach to law and order issues and its haste in seeking changes to national security laws

<https://www.abc.net.au/news/2018-11-23/lawyers-warn-of-risks-to-citizenship-laws/10546372>

NSW: Review of domestic violence and other homicide sentencing

The NSW Government has ordered an independent review of sentencing for murder and manslaughter offences, including those involving domestic and family violence. The Sentencing Council will examine how sentencing decisions affect families of homicide victims and the devastating impact of domestic violence on the community

<https://www.justice.nsw.gov.au/Pages/media-news/media-releases/2018/review-domestic-violence-other-homicide-sentencing.aspx>

"Dolly's Law" - putting cyberbullies on notice

Perpetrators of online bullying could face up to five years' prison time under tough new laws passed by NSW Parliament. "Dolly's Law" is now putting online abusers on notice that if their actions cause people to fear physical or mental harm, they face a maximum penalty of five years imprisonment

<https://www.justice.nsw.gov.au/Pages/media-news/media-releases/2018/dolly-law.aspx>

Safe and fair forensic mental health system for victims

Attorney General Mark Speakman and Minister for Mental Health Tanya Davies announced new laws have passed through NSW Parliament that will ensure balanced consideration of victims' rights after a person is found unfit to be tried or not guilty by reason of mental illness

<https://www.justice.nsw.gov.au/Pages/media-news/media-releases/2018/Safe-fair-forensic-mental-health-system-for-victims.aspx>

Domestic violence reforms pass parliament

The default duration of Apprehended Domestic Violence Orders (ADVOs) will double and police will be able to make urgent changes to strengthen orders to protect victims, under NSW Government legislation passed by Parliament

<https://www.justice.nsw.gov.au/Pages/media-news/media-releases/2018/domestic-violence-reforms.aspx>

New funding for family law services to support women to recover financially after separation

Women will be the major beneficiaries of a major funding boost for family law services and initiatives to help women establish economic security after ending a relationship as part of the Coalition Government's Women's Economic Security Package

<https://www.attorneygeneral.gov.au/Media/Pages/New-funding-for-family-law-services-to-support-women-to-recover-financially-after-separation-20-november-2018.aspx>

Parliament fires up community protection

The NSW Parliament has passed laws that put community safety first, introducing Australia's toughest penalty for bushfire arsonists, strengthening sentences for concealing child abuse and reinforcing NSW's counter terrorism framework

<https://www.justice.nsw.gov.au/Pages/media-news/media-releases/2018/parliament-fires-up-community-protection.aspx>

ABA welcomes new President for the 2018-19 year

The Australian Bar Association is pleased to announce the election of Ms Jennifer Batrouney QC as President for the 2018-19 year

<http://austbar.asn.au/news-media/aba-welcomes-new-president-ms-jennifer-batrouney-qc>

BOSCAR: Reforms increase trial finalisation rates in the NSW District Criminal Court

A new suite of reforms implemented to tackle delays in the NSW District Court in 2016 and 2017 has significantly increased the number of matters being finalised

https://www.bocsar.nsw.gov.au/Pages/bocsar_media_releases/2018/mr-reform-nsw-dcc.aspx

My Health Record privacy measures pass the Senate

The Australian Government has successfully passed important privacy measures relating to My Health Record, through the Senate

<http://www.health.gov.au/internet/ministers/publishing.nsf/Content/health-mediarel-yr2018-hunt154.htm>

Ban on use of drones above prisons

The NSW Government is tightening security at the state's prisons with a ban on the use of drones above prisons and juvenile detention centres. The NSW Parliament has passed a Bill amending the Crimes (Administration Sentences) Act 1999, the Children (Detention Centres Act) 1987 and associated regulations

<https://www.justice.nsw.gov.au/Pages/media-news/media-releases/2018/ban-use-drones-above-prisons.aspx>

Securing our safety with stronger terror laws

The NSW Government will further strengthen counter-terrorism laws to better protect the community from terrorists and other dangerous offenders. These important reforms introduce extraordinary powers which can be exercised by the Supreme Court – with appropriate safeguards – to help keep the community safe

<https://www.justice.nsw.gov.au/Pages/media-news/media-releases/2018/securing-our-safety-with-stronger-terror-laws.aspx>

PUBLISHED - ARTICLES, PAPERS, REPORTS

[Guidance on caretaker conventions](#)

Department of the Prime Minister and Cabinet (Australia): 20 November 2018

During the caretaker period, the business of government continues and ordinary matters of administration still need to be addressed

CASES

[Olefines Pty Ltd v Valuer-General of New South Wales \[2018\] NSWCA 265](#)

STATUTORY INTERPRETATION – primacy of text – structure of legislation – construction of provision containing zeugma – no wider context or extrinsic factors to be considered – *Stevens v Kabushiki Kaisha Sony Computer Entertainment* (2005) 224 CLR 193; [2005] HCA 58 applied VALUATION – land value

[Liang v University of Technology Sydney \[2018\] NSWSC 1740](#)

ADMINISTRATIVE LAW – administrative tribunals – where plaintiff sought stay of proceedings before Appeal Panel of NCAT – no grounds for intervention of Supreme Court – stay refused

[Shop, Distributive & Allied Employees' Association v Secretary, NSW Treasury \[2018\] NSWSC 1760](#)

APPEALS – by leave on question of law – leave granted as questions of statutory interpretation arise – benefits of authoritative decision STATUTORY INTERPRETATION – exemption order made under Shops and Industries Act 1962 (NSW) – construction of transitional provisions in Shop Trading Amendment Act 2009 (NSW) STATUTORY INTERPRETATION – right conferred on representative of industrial organisation to apply for review to Civil and Administrative Tribunal – plain meaning of words exclude right of industrial organisation itself to apply

[Mulpha Australia Limited v Central Sydney Planning Committee \[2018\] NSWLEC 179](#)

JUDICIAL REVIEW – integrated development – whether permissible for approval authority Heritage Council to provide comments, rather than general terms of approval, with respect to portion of development application – general terms of approval with respect to development outside curtilage of heritage item required where there is a relevant nexus – relevant nexus apparent from Heritage Council decision – misconstruction of statutory power – jurisdictional error established WORDS AND PHRASES – “land” – definition of land in s 57(1)(e) not restricted to curtilage of item or to lot on which item sits – to be determined on a case by case basis WORDS AND PHRASES – “in relation to” – protective purpose of the Heritage Act 1977 – interpretation promoting that purpose preferred to interpretation not promoting that purpose

[Saeed Dezfouli v NSW Police Force \[2018\] NSWCATAD 264](#)

Administrative Law – Government Information – access application – redaction of names – personal information - whether public interest considerations against disclosure outweigh public interest considerations in favour of disclosure – whether risk of harm or serious harassment or serious intimidation if names disclosed

PRACTICE AND PROCEDURE

[High Court of Australia](#)

High Court of Australia Bulletin [2018] HCAB 09

OAIC: My Health Record opt-out period has been extended to January 2019

The Minister for Health has announced the My Health Record opt-out period has been extended until January 31 2019. Your My Health Record allows doctors, hospitals and other healthcare providers (such as physiotherapists) to view your health information, in accordance with your access controls. For individuals seeking further information on My Health Records, you can read the [Office of the Australian Information Commissioner's opt-out FAQs](#).

NSW

[NCAT Annual Report 2017-2018](#)

The NCAT Annual Report 2017-2018 is now available after it was tabled in NSW Parliament on 21 November 2018

[NCAT: Federal diversity jurisdiction](#)

Do the parties in your matter permanently reside in different States? If so, NCAT may not be able to determine your matter due to federal constitutional law

NSW Courts

[Two new magistrates for the Local Court of NSW](#)

Law & Justice Foundation of NSW - Research Alert

The Law & Justice Foundation of New South Wales has released a research report titled Data Insights in Civil Justice: NSW Supreme Court. To access the Research Alert click [here](#).

[ICAC: Prosecution briefs with the DPP and outcomes](#)

Tables summarising information about briefs that are with the DPP, and prosecution outcomes.

[ICAC: Operation Skyline public enquiry](#)

The Operation Skyline hearing has been stood over to Friday 8 February 2019 at 10:00 am for further directions. Operation Skyline is an investigation into allegations concerning the Awabakal Local Aboriginal Land Council. Click on the link above to access public inquiry information including transcripts and exhibits

[ICAC: Public inquiry into allegations concerning the former Canterbury City Council adjourned](#)

The ICAC Operation Dasha public inquiry into allegations concerning the former Canterbury City Council will resume on Monday 10 December

Updates to NSW Police Force website

The NSW Police Force has updated their public website to include a "legal" page that provides information on how to contact the different legal teams, or how & who to serve various court documents in a range of legal proceedings (criminal & civil). For more information visit the NSW Police Force website [here](#)

LEGISLATION

Commonwealth

Legislation

[My Health Records \(National Application\) Amendment \(Extension of Opt-out Period No.2\) Rules 2018](#)

14/11/2018 - This instrument amends the My Health Records (National Application) Rules 2017 to extend the opt-out period to provide that people will have until 31 January 2019 to opt-out of having a My Health Record.

NSW

[Regulations and other miscellaneous instruments](#)

Parliamentary Remuneration Amendment (Deputy Leader of the Opposition) Regulation 2018 (2018-651) – published LW 21 November 2018

Bills passed by both Houses of Parliament – 16 November 2018

[Crimes \(Administration of Sentences\) Legislation Amendment Bill 2018](#)

Bills passed by both Houses of Parliament – 23 November

[Children and Young Persons \(Care and Protection\) Amendment Bill 2018](#)

[Community Protection Legislation Amendment Bill 2018](#)

[Crimes \(Domestic and Personal Violence\) Amendment Bill 2018](#)

[Crimes Legislation Amendment \(Victims\) Bill 2018](#)

[Crimes Legislation Amendment Bill 2018](#)

[Government Information \(Public Access\) Amendment Bill 2018](#)

[Justice Legislation Amendment Bill \(No 3\) 2018](#)

[Road Transport Amendment \(National Facial Biometric Matching Capability\) Bill 2018](#)

[Surveillance Devices Amendment \(Statutory Review\) Bill 2018](#)

[Terrorism \(Police Powers\) Amendment \(Statutory Review\) Bill 2018](#)

[Victims Rights and Support Amendment \(Motor Vehicles\) Bill 2018](#)

Bills assented to

Crimes (Administration of Sentences) Legislation Amendment Act 2018 No 74 – Assented to 22 November 2018

For the full text of Bills, and details on the passage of Bills, see [Bills](#).

KEY CONTACTS

PANEL RELATIONSHIP CONTACTS

Your contacts responsible for navigating our firm, connecting you with the appropriate expertise and achieving maximum efficiency.

Instructions may be emailed to nswgovtlegal@tglaw.com.au at anytime.



[Mark Feetham](#)

Partner
+61 2 8248 5847
+61 414 908 225



[Loretta Reynolds](#)

Partner, Markets
+61 3 8080 3705
+61 403 069 819

If you would like to receive a Contact Card with full list of contacts please email us.

NEWSLETTER EDITOR



[Sylvia Fernandez](#)

Partner
+61 2 8248 3499
+61 418 340 118

LIBRARY RESOURCE



[Adeline Tran](#)

Lawyer
+61 2 9020 5709
resourcecentre@tglaw.com.au

SUBSCRIBE TO NEWSLETTER

To subscribe please email nswgovtlegal@tglaw.com.au

HELP DESK SERVICES

Thomson Geer is delighted to offer access to NSW Government to its Legal Help Desk on our usual terms of engagement and as set out below.

Scope

We are pleased to be able to work collaboratively with NSW Government to offer the following services (at no charge):

- advice regarding discrete and non-complex legal queries – up to 30 minute teleconference with a Partner, Special Counsel or relevant Senior Associate or, short written advice (max. 1 page);
- the opportunity to 'brainstorm' or discuss topical and complex legal issues with industry specialists – up to 30 minute teleconference with a Partner, Special Counsel or relevant Senior Associate; and
- advice regarding potential transactions – up to 30 minute

teleconference with a Partner, Special Counsel or relevant Senior Associate.

(Help Desk Services)

Please note that the Help Desk Services are only available in respect of any matter which is currently unallocated i.e. to this firm or any other firm.

Key Contact and Help Desk Process

You can access the Help Desk by:

- (a) Calling 02 8248 5810; or
- (b) Emailing legalhelpdesk@tglaw.com.au

Once relevant details are received from you (whether that be by email or over the phone) it will be directed to the appropriate Thomson Geer Partner, Special Counsel or Senior Associate. The Help Desk number and

SUB-PANEL APPOINTMENTS

Thomson Geer are appointed to the following NSW Government sub-panels:

1(c) Major commercial matters (incl. ICT)

2(a) Commercial and contractual matters

4(a) Employment and industrial relations law

4(f) Discrimination

6(b) General litigation and dispute resolution

6(c) Debt recovery