

10 SEPTEMBER 2019

ISSUE 73



PUBLIC SECTOR NEWSLETTER - NEW SOUTH WALES

NSW corruption watchdog begins public probe of Labor donations

ICAC begins a six-week probe into donations of close to \$100,000 pledged to the ALP at a fundraising dinner in 2015, investigating whether Labor was receiving cash from illegal sources. <https://www.abc.net.au/news/2019-08-26/icac-inquiry-into-alp-fundraising-donations-begins-in-sydney/11443558>

MEDIA

Audit call to revisit advertising rules

An audit of Government advertising between 2015 and April of this year has prompted the Auditor-General to recommend that the safeguards against it being used for political purposes be revisited. <https://www.anao.gov.au/work/performance-audit/government-advertising-june-2015-to-april-2019>

Human element a key factor in data breaches

National figures on data breaches show about one in three data breaches last quarter were caused by compromised credentials, with log in and password information used to gain unauthorised access to personal information. <https://www.oaic.gov.au/updates/news-and-media/human-element-a-key-factor-in-data-breaches/>

Judge tells John Setka his proposed expulsion from Labor 'not within the court's jurisdiction'

The Supreme Court of Victoria dismisses a bid by union boss John Setka to stop a vote to have him expelled from the Australian Labor Party, with the court ruling it does not have the jurisdiction to decide the matter. <https://www.abc.net.au/news/2019-08-27/john-setka-fails-in-supreme-court-bid-to-stop-labor-expulsion/11451838>

Census planners to test privacy risks

Specialist research and advisory consultant, Galaxia has been selected by the Australian Bureau of Statistics (ABS) to undertake a privacy impact assessment on plans for the 2021 Census of Population and Housing. <https://www.abc.net.au/news/2016-03-15/berg-census-privacy-threat/7244744>

Australia Post delivers on ID checks

A new, streamlined system for verifying an employee's identity, police and visa checks has been launched by Australia Post. Workforce Verification aims to make the increasing need for background employment screens such as police checks, more efficient. https://auspost.com.au/content/dam/auspost_corp/media/documents/workforce-verification-brochure.pdf

LCA: Medevac could cost taxpayers less, better aligns with international obligations

The Medevac law provides an efficient and cost-effective transfer process for refugees requiring medical assistance that better complies with Australia's legal obligations, says the Law Council of Australia. The Law Council also suggested several technical amendments that could close perceived legislative 'loopholes'. <https://www.lawcouncil.asn.au/media/media-releases/medevac-could-cost-taxpayers-less-better-aligns-with-international-obligations-says-law-council>

Reappointment of Australian Electoral Commissioner

The Government has reappointed Mr Tom Rogers as the independent Australian Electoral Commissioner for a further five years. Mr Rogers' reappointment will ensure continued organisational stability for the Australian Electoral Commission over the period to the end of 2024. <https://www.financeminister.gov.au/media-release/2019/08/23/reappointment-australian-electoral-commissioner>

Government investment set to boost support for domestic violence survivors

Bonnie's Legal Outreach Service will be operated in partnership with Women's Legal Service (WLS) staff. New funding will increase the number of women and children we can empower so they may assert their legal rights and live a life free from violence. <https://www.justice.nsw.gov.au/Pages/media-news/media-releases/2019/government-investment-set-to-boost-support-for-domestic-violence-survivors.aspx>

PM sets up APS guideposts for the future

The Prime Minister has outlined six ‘guideposts’ he expects the Australian Public Service (APS) to follow if it is to support his Government’s priorities for the future. <https://www.apsc.gov.au/prime-ministers-six-guideposts-public-service>

PUBLISHED - ARTICLES, PAPERS, REPORT

[Discussion paper: a model for positive human rights reform](#)

Australian Human Rights Commission: 29 August 2019
This paper outlines what our current system of human rights protections looks like, how it is and isn’t effective in ensuring that government respects, protects and fulfils our human rights, why reforming the current system is critical, and options for reform Discussion paper: a model for positive human rights reform

[Australia's implementation of the OECD Anti-Bribery Convention](#)

Cat Barker, Foreign Affairs, Defence and Security: 28 August 2019
The recommendations in the two reports provide a useful starting point for consideration of measures to further improve Australia’s compliance with the Convention and its broader response to foreign bribery

[Government Advertising: June 2015 to April 2019](#)

ANAO Report No 7: 26 August 2019
The objective of this audit is to assess the effectiveness of the Department of Finance’s and selected entities’ implementation of the Australian Government’s campaign advertising framework

[OAIC Corporate Plan 2019–20](#)

23 August 2019 - Our Corporate Plan for 2019–20 sets out our vision for increasing public trust and confidence in the protection of personal information and access to government-held information.

[Implementation of the ‘Smith Review’ and progress in strengthening protective security procedures, practices and culture: 12 month follow up review](#)

Peter Vardos; Department of the Prime Minister and Cabinet (Australia): 19 August 2019
This review considers progress to date in strengthening PM&C’s protective security procedures, practices and culture protective security culture. It also includes recommendations to guide ongoing efforts to mature protective security culture across the department and broader Australian Public Service.

IN PRACTICE AND COURTS

[Practice Directions - High Court of Australia, No 1 of 2019: Legislation and Authorities Appeals and Other Full Court Matters](#)

Reminder: This Practice Direction takes effect in relation to matters set down for hearing after 1 October 2019. In consultation with the respondent and any interveners, the appellant must prepare a joint book of the authorities which reference will be made during the course of oral argument at the hearing of the appeal.

[Draft Religious Freedom Bills](#)

The Australian Government invites submissions on a package of legislative reforms on religious freedom. These are the: Religious Discrimination Bill 2019; Religious Discrimination (Consequential Amendments) Bill 2019 and Human Rights Legislation Amendment (Freedom of Religion) Bill 2019. The draft Bills are available on the Attorney-General’s Department website. Submissions on the Bills close on 2 October 2019

[Whole of Australian Government Legal Services Panel](#)

The Whole of Australian Government Legal Services Panel commenced on 15 August 2019. Alongside the panel, Commonwealth agencies can use AGS for any legal work at any time. Participating agencies must use the panel for new legal services procurements from 15 August 2019, subject to some exemptions.

AAT Bulletin

The AAT Bulletin is a weekly publication containing a list of recent AAT decisions and information relating to appeals against AAT decisions, including immigration and citizenship. [Issue No. 34/2019, 26 August 2019](#)

OAIC Submissions

[Developing Standards for Artificial Intelligence: Hearing Australia’s Voice – Submission to Standards Australia](#)

Law Council of Australia Submissions

07 August 2019— Law Council - [Inquiry into the Impact of the Exercise of Law Enforcement and Intelligence Powers on the Freedom of the Press](#)

Current Senate Inquiries

Legal and Constitutional Affairs References Committee

[The impact of changes to service delivery models on the administration and running of Government programs](#)
[Nationhood, national identity and democracy](#)

Environment and Communications References Committee
[Press Freedom](#)

NSW

[NSW IPC: Right to Know Week NSW](#)

Right to Know Day (RTK) is an international annual event held on 28 September that aims to increase awareness of individuals’ right of access to government information and open, transparent governance.

ICAC: Public inquiry into allegations concerning political donations starts

The NSW Independent Commission Against Corruption’s (ICAC) public inquiry into allegations concerning political donations, the NSW Branch of the Australian Labor Party (ALP), members of Chinese Friends of Labor and others will start from 26 August 2019 [MEDIA ALERT Public inquiry into allegations concerning political donations starts Monday](#)

JUDCOM

[Local Court Bench Book Update 132 published 21 August 2019](#)

[Civil Trials Bench Book Update 39 19 August 2019](#)

[Report of the Standing Committee on Law and Justice on the Crimes \(Appeal and Review\) Amendment \(Double Jeopardy\) Bill 2019](#)

The Standing Committee on Law and Justice has today released its report on the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2019.

[Decisions of interest](#)

August 22 2019 - Practice support - The NSW Court of Appeal has just published its latest Decisions of Interest Bulletin on the Court of Appeal website. [Learn more here.](#)

CASES

[Choi v University of Technology Sydney \[2019\] NSWCATAD 176](#)

ADMINISTRATIVE LAW – Freedom of information – Access to information – application for Tribunal to refuse to deal with review application under s 109 of the Government Information (Public Access) Act 2009 – application for summary dismissal of review application – Tribunal refused to deal with and dismissed review application.

[Murrant v Building Professionals Board \[2019\] NSWCATOD 130](#)

ADMINISTRATIVE REVIEW – accredited certifier – findings of unsatisfactory professional conduct – disciplinary orders Murrant v Building Professionals Board [2019] NSWCATOD 130

[Harris v Mathieson \(in his capacity as an authorised officer under the Water Management Act 2000 \(NSW\) \[2019\] NSWSC 1064](#)

ADMINISTRATIVE LAW – ground of review other than procedural fairness – improper exercise of power – plaintiffs issued with notices from defendant on behalf of the National Resources Access Regulator – notices issued under s 338A Water Management Act 2000 (NSW) – notices required the provision of stipulated information and documents – notices said to be issued as part of an investigation by NRAR into the plaintiffs' water access and use at their two farms – notices said to be issued for the purpose of determining whether there had been compliance with or contravention of identified conditions of the access licence for each of the properties – whether the defendant was entitled to require the plaintiffs to furnish the stipulated information/documents – whether the information/documents were required for the purpose of ascertaining whether the plaintiffs had contravened identified conditions of the respective access licences – notices set aside.

[Frost v State of New South Wales, Department of Communities and Justice \[2019\] NSWCATAD 165](#)

PRACTICE AND PROCEDURE – Principles applying to power to make confidentiality orders – Whether Tribunal should dispense with a hearing PROCEDURAL FAIRNESS – Apprehended or actual bias - Whether Tribunal member should recuse herself.

[Turner v Department of Planning and Environment \[2019\] NSWCATAD 166](#)

ADMINISTRATIVE LAW – freedom of information – preliminary draft expert report – whether release could reasonably be expected to prejudice the effective exercise of agency's functions – effect upon availability of experts to assist agency – consideration of broader circumstances where expert does not object to disclosure.

[Zidar v NSW Department of Justice \(Office of the General Counsel\) \[2019\] NSWCATAD 164](#)

ADMINISTRATIVE LAW – access to information – whether respondent holds further information – reasonableness of searches Zidar v NSW Department of Justice (Office of the General Counsel) [2019] NSWCATAD 164.

LEGISLATION

[Same-Sex Relationships \(Equal Treatment in Commonwealth Laws—General Law Reform\) \(Veterans' Affairs\) Regulations 2019](#)

These regulations repeal and remake the Same-Sex Relationships (Equal Treatment in Commonwealth Laws – General Law Reform) (Veterans' Affairs) Regulations 2009 without amendments and to ensure dependants of deceased Australian Defence Force members continue receiving benefits under the Military Rehabilitation and Compensation Act 2004 and the Veterans' Entitlements Act 1986.

NSW

Proclamations commencing Acts

[Surveillance Devices Amendment \(Statutory Review\) Act 2018 No 90 \(2019-421\)](#) – published LW 30 August 2019

Regulations and other miscellaneous instruments

[Administrative Arrangements \(Administrative Changes—Transfer of EPA Staff\) Order 2019 \(2019-422\)](#) – published LW 30 August 2019

[Crimes \(Domestic and Personal Violence\) Amendment \(Prescribed Form\) Regulation 2019 \(2019-424\)](#) – published LW 30 August 2019

[Criminal Records Regulation 2019 \(2019-425\)](#) – published LW 30 August 2019

[Subordinate Legislation \(Postponement of Repeal\) Order \(No 2\) 2019 \(2019-442\)](#) – published LW 30 August 2019

[Contaminated Land Management \(Adjustable Amounts\) Notice 2019 \(2019-404\)](#) – published LW 23 August 2019

[Dust Diseases Tribunal Regulation 2019 \(2019-405\)](#) – published LW 23 August 2019

[Film and Television Industry \(Advisory Committee\) Regulation 2019 \(2019-406\)](#) – published LW 23 August 2019

Bills introduced Government – 23 August 2019

[Children's Guardian Bill 2019](#)

[Justice Legislation Amendment Bill 2019](#)

The object of this Bill is to amend various Acts and regulations relating to courts, crimes and other Stronger Communities portfolio matters.

KEY CONTACTS

PANEL RELATIONSHIP CONTACTS

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

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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