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ISSUE 1



## PUBLIC SECTOR NEWSLETTER - NEW SOUTH WALES

We are pleased to introduce the inaugural edition of Thomson Geer's Public Sector Newsletter for New South Wales.

Thomson Geer was recently appointed to the NSW Government Legal Services Panel and is looking forward to working collaboratively with the various agencies falling under the banner of that Panel.

The purpose of this newsletter is to provide government lawyers with a digestable and relevant snapshot of current news, case law and legislation. We intend it to be a useful resource for government lawyers. With this in mind, we welcome feedback or suggestions for areas of interest at any time.

### MEDIA

#### New service targets repeat offenders to keep community safe

The Department of Justice announced the roll out of an innovative program to reduce crime and protect the community. The Extra Offender Management Service will engage persistent criminals in programs proven to reduce crime.

<http://www.justice.nsw.gov.au/Pages/media-news/media-releases/2016/Extra-Offender-Management-Service.aspx>

#### New online tool for problem gambling

Liquor & Gaming NSW is now undertaking a social media campaign to further spread the word about Talkward and help encourage problem gamblers to access free support tools and counselling services.

<http://www.talkward.com.au>

### CASES

#### [Woollahra Municipal Council v Minister for Local Government \[2016\] NSWLEC 86](#)

JUDICIAL REVIEW – proposal for amalgamation of local government areas – referral of proposal to Departmental Chief Executive for examination and report – inquiry required to be held – whether reasonable public notice given of the holding of inquiry – whether inquiry held in accordance with Act – whether examination and report on proposal in accordance with Act – whether an affected council denied procedural fairness by Departmental Chief Executive – review and comment on Departmental Chief Executive's report by Boundaries Commission – whether review conducted in accordance with Act – whether affected council denied procedural fairness by Boundaries Commission – publicly accessible material in support of proposal represented that analysis and modelling of consultant was independent – whether representations misleading – whether allegedly misleading representations invalidated statutory process of amalgamation

#### [APV v Department of Finance and Services \[2016\] NSWCATAD 168](#)

Breach of privacy – damages – loss of opportunity – onus on Applicant – nexus between claimed loss and breach

## [O'Donnell v Commissioner for Fair Trading \[2016\] NSWCATAD 166](#)

ADMINISTRATIVE LAW – Administrative review jurisdiction – Tattoo parlour licence – Fit and proper person – confidential evidence – Public interest

## [ZAW v ZAX & ZAY & ZAZ & New South Wales Trustee and Guardian \[2016\] NSWCATAP 163](#)

APPEAL – application to replace financial manager – procedural fairness – new applications received shortly before the hearing considered at the hearing – documents provided to non-party – whether applicant had opportunity to put relevant evidence before Tribunal – whether sufficient weight given to relevant matters and/or conclusion reached not available on the evidence – subject person's cultural background and traditions – proposed manager's financial experience and expertise – no material error of fact – appeal dismissed

## [Costco Wholesale Australia Pty Ltd v Woolworths Ltd and Ors \[2016\] SASFC 75](#)

GAMING AND LIQUOR – ADMINISTRATION – STATUTES – ACTS OF PARLIAMENT – INTERPRETATION – GENERAL APPROACHES TO INTERPRETATION – WHOLE ACT TO BE CONSIDERED – The issues on appeal were; first, whether the judge erred in finding that a retail liquor merchant's licence could not adequately cover Costco's business; secondly, whether Costco satisfied the two preconditions for a special circumstances license; and thirdly, whether the judge erred by exercising the discretion to refuse the application.

## [Marijancevic v Roads Corporation of Victoria \[2016\] VSCA 181](#)

JUDICIAL REVIEW – Applicant required to undergo practical drive test and road law knowledge tests where unlicensed for more than five years – Whether Road Safety Act 1986 s 27 permitted respondent to require applicant to undergo tests where no physical or mental unfitness relied upon – Requirement to undergo tests lawful – Road Safety Act 1986 ss 1, 17, 19, 24, 27 – Road

Safety (Drivers) Regulations 2009 regs 39, 78. JUDICIAL REVIEW – Adequacy of reasons – Absence of evidence to support applicant's contention that licence renewed – Reasons sufficient to disclose path of reasoning. JUDICIAL REVIEW – Procedural fairness – Refusal to allow examination of potential witness – Refusal to allow applicant to inspect subpoenaed documents without paying prescribed fee – Refusal to allow filing of affidavit – No procedural unfairness occasioned – Appeal dismissed

## PRACTICE AND PROCEDURE

### AAT bulletin

[Issue No 30 2016](#)

### ICAC: Operations Credo and Spicer reports status

[Updated 22 July 2016](#)

### Law Society of NSW submissions

[National framework to improve accessibility to Australian courts for Aboriginal and Torres Strait Islander women and migrant and refugee women](#)

### [Australian National Standards for Working with Interpreters in Courts and Tribunals](#)

### NCAT legal bulletin

[Issue 4 of 2016](#)

### NSW Court Appointments

[Five new district court judges for NSW](#)

## LEGISLATION

### Acts

- [Internal Audit Bureau Act 1992 No 20](#) – Repealed 1 July 2016

### Regulations and other instruments

- [Civil and Administrative Tribunal Amendment \(Fees\) Regulation 2016 \(2016-394\)](#) - Published LW 1 July 2016
- [Government Sector Employment Amendment \(Consequential Amendments\) Regulation 2016 \(2016-404\)](#) – Published LW 1 July 2016
- [Government Sector Employment Rules \(Amendment No 6—Consequential Amendments\) 2016 \(2016-422\)](#) – Published LW 1 July 2016

- [Electricity Network Assets \(Authorised Transactions\) Regulation 2016 \(2016-435\)](#) – published LW 8 July 2016
- [Election Funding, Expenditure and Disclosures Amendment \(Local Government Campaign Accounts\) Regulation 2016 \(2016-446\)](#) – published LW 15 July 2016
- [Children \(Detention Centres\) Amendment \(Juniperina Juvenile Justice Centre\) Order 2016 \(2016-460\)](#) – published LW 29 July 2016
- [Community Services Accreditation Order 2016 \(2016-461\)](#) – published LW 29 July 2016
- [Surrogacy Regulation 2016 \(2016-464\)](#) – published LW 29 July 2016

#### Proclamations

- [Government Sector Employment Legislation Amendment Act 2016 No 2 \(2016-390\)](#) – Published LW 1 July 2016
- [Criminal Legislation Amendment \(Organised Crime and Public Safety\) Act 2016 No 16 \(2016-458\)](#) – published LW 29 July 2016

## 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](mailto:nswgovtlegal@tglaw.com.au) at anytime.



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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](mailto: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 email address will be monitored during normal business hours (9.00 am to 5.00 pm (EST), Monday to Friday).

Thomson Geer will use its best endeavours to provide the Help Desk Services within one business day of the query being logged.

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