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ISSUE 7



PUBLIC SECTOR NEWSLETTER - NEW SOUTH WALES

The Civil Remedies for Serious Invasions of Privacy Bill 2016 received its second reading speech on 13 October 2016.

The bill introduces a statutory cause of action for a serious breach of privacy. The invasion of privacy must entail an intrusion upon seclusion or misuse of private information.

The bill seeks to implement proposals recommended in the Report on civil remedies for serious invasion of privacy.

MEDIA

Australian Bar Association adopts LCA Equitable Briefing Policy and considers practical measures to implementation

The President of the Australian Bar Association, Patrick O'Sullivan QC, has today confirmed the ABA's commitment to promoting excellence, diversity and inclusion at the Bar by adopting the Law Council of Australia's Equitable Briefing Policy.

<http://www.austbar.asn.au/archives/2825>

Life Bans for Kings Cross Strip Club Operators

Two former operators of the Dreamgirls strip club in Kings Cross have been banned for life from holding a liquor licence or managing any licensed venue, after operating a clandestine illegal bar and turning a blind eye to the sale and use of illegal drugs.

<http://www.justice.nsw.gov.au/Pages/media-news/media-releases/2016/Life-Bans-for-Kings-Cross-Strip-Club-Operators.aspx>

Access to justice denied for people with disability

Disability Discrimination Commissioner Alastair McEwin has expressed disappointment at a High Court decision that last week found a deaf woman had not been discriminated against when she was denied an opportunity to serve on a jury.

<http://www.humanrights.gov.au/news/stories/access-justice-denied-people-disability>

Former MPs lose High Court challenge over entitlements

Four former federal MPs have lost a High Court challenge after arguing against reductions to their retirement allowances and Life Gold Passes, which entitles them to free travel.

<http://www.abc.net.au/news/2016-10-12/high-court-rules-on-entitlements-gold-pass/7924916>

Human Rights Commissioner to focus on detention

Australia's new Human Rights Commissioner, Edward Santow, will use his first year in office to focus on the treatment of people in detention in Australia.

<http://www.humanrights.gov.au/news/stories/human-rights-commissioner-focus-detention>

CASES

[Cunningham & Ors v Commonwealth of Australia & Anor \[2016\] HCA 39](#)

Constitutional law (Cth) – Legislative power – Acquisition of property on just terms – Where amendments to Parliamentary Contributory Superannuation Act 1948 (Cth) and Remuneration Tribunal Act 1973 (Cth) and Determinations by Remuneration Tribunal modified method by which allowances paid to retired members of Parliament calculated – Where enactment of and subsequent amendment to Members of Parliament (Life Gold Pass) Act 2002 (Cth) modified entitlement conferred on retired members of Parliament to payment of travel expenses – Whether amendments and Determinations constitute or authorise acquisition of property otherwise than on just terms within meaning of s 51(xxxi) of Constitution. Words and phrases – “acquisition of property”, “inherently defeasible”, “inherently liable to variation”, “just terms”, “Life Gold Pass”, “parliamentary allowance”, “property”, “retiring allowance”, “subject to this Act”, “until the Parliament otherwise provides”.

[Gilbert v Commissioner for Fair Trading \[2016\] NSWCATOD 130](#)

ADMINISTRATIVE REVIEW - Home Building Act - contractor licence - fit and proper person

[Chief Executive, Office of Local Government v Passas \[2016\] NSWCATOD 132](#)

CIVIL AND ADMINISTRATIVE TRIBUNAL – Local Government Act – Alleged misconduct of Local Government Councillor – Disruption to Council meetings – Unauthorised interaction with Council staff – Unauthorised communication of investigation to media – misconduct established – procedural orders made

[Quach v New South Wales Health Care Complaints Commission \(No 3\) \[2016\] NSWCA 284](#)

PRACTICE – review of decision of single judge of appeal – Supreme Court Act 1970 (NSW), s 46(4) – whether court properly constituted by single judge – whether denial of procedural fairness – whether judge

erred in principle or decision plainly wrong
PRACTICE – inherent jurisdiction of court – abuse of process – where applicant sought to re-agitate issues finally determined in principal proceedings – where applicant made repeated applications for orders already rejected on previous applications – where applicant asserted entitlement to persist in making applications – where order in terms of *Teoh v Hunters Hill Council* (No 4) (2011) 81 NSWLR 771 – principle of finality – Court’s exercise of inherent powers to prevent abuse of process
LAW REFORM – Civil Procedure Rules 1998 (UK), r 3.11 – Practice Direction 3C (Civil Restraint Orders) – recommendation Rules Committee consider similar rule and practice direction.

PRACTICE AND PROCEDURE

AAT Bulletin

[Issue no 41 2016](#)

[Issue no 42 2016](#)

FCA: National Court Framework Reforms

On Tuesday, 25 October 2016, the Federal Court implemented the following as part of its NCF reforms. Practice Notes: practice documents will be refined from 60 practice documents to 25 new national practice notes” and the new practice notes will apply to proceedings whether filed before, or after, the date of issuing. General Practice Notes: General Practice Notes will be issued on a “12-month review” basis in order to allow for a period of external consultation.

Website: the website is being updated to provide dedicated webpages for each [national practice area] and other key areas of law, such as class actions and appeals.

[FCA media release](#)

<http://www.fedcourt.gov.au/law-and-practice/practice-documents/new-practice-notes>

AAT Annual Report

The report was released on 14 October 2015. [AAT Alert No. 21 - AAT Annual Report 2015-16](#)

Attorney-General’s Department 2015-16 Annual Report

The department’s [2015-16 annual report](#) is now available.

ICAC: Register now for Australia’s premier investigators and complaint handlers forum
Registration is now open for the 11th

National Investigations Symposium to be held 9 to 11 November 2016 at the Four Seasons, Sydney.

[Register now for Australia's premier investigators and complaint handlers forum](#)

ICAC: Prosecution briefs with the DPP and outcomes

Tables showing outcomes of ICAC-related prosecutions and briefs with the Director of Public Prosecutions. Updated 14 October 2016.

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

NSW New Bill - Civil Remedies for Serious Invasions of Privacy

The [Civil Remedies for Serious Invasions of Privacy Bill 2016](#) was introduced into the Legislative Assembly and received its second reading speech on 13 October 2016. The object of the Bill is to implement the proposals for legislation in the Report on civil remedies for serious invasion of privacy, which is a Report of the Standing Committee on Law and Justice of the Legislative Council, published in March 2016. Specifically, the Bill would:

- create a statutory cause of action enforceable in the Supreme Court or District Court as a tort;
- entitle a person to apply to the NSW Civil and Administrative Tribunal for relief for an alleged serious invasion of privacy with provisions based on (though varying from) Part 2 (Cause of action for serious invasion of privacy) of the proposed Act;
- enable a person to make a complaint to the Privacy Commissioner about a serious invasion of privacy; and provide for other and related matters.

LEGISLATION

Commonwealth

Bills

- [Privacy Amendment \(Notifiable Data Breaches\) Bill 2016](#)
- [Australian Postal Corporation \(Unsolicited Political Communications\) Bill 2016](#)
- [Privacy Amendment \(Re-identification Offence\) Bill 2016](#)
- [Legislation Brief: Re-Identifying De-Identified Data Bill 2016 Introduced](#)

- [Regulatory Powers \(Standardisation Reform\) Bill 2016](#)
- [Commonwealth Electoral Amendment \(Foreign Political Donations\) Bill 2016](#)

New South Wales

Regulations and other instruments

- [Local Court \(Amendment No 7\) Rule 2016](#) (2016-619) — published LW 14 October 2016: the object of the amending Rule is to increase, from \$100 to \$350, the maximum amount of costs that the Local Court may allow in respect of the fee for an expert opinion report.
- [Uniform Civil Procedure \(Amendment No 78\) Rule 2016](#) (2016-621) — published LW 14 October 2016: the object of the Amending Rule is to remove outdated references to the use of DX addresses for registries.
- [Uniform Civil Procedure \(Amendment No 79\) Rule 2016](#) (2016-622) — published LW 14 October 2016: the object of the amending Rule is to extend the circumstances in which a cost assessor's certificate must be accompanied by an affidavit.

Bills introduced

- [Land Acquisition \(Just Terms Compensation\) Amendment Bill 2016](#)
- [Regulatory and Other Legislation \(Amendments and Repeals\) Bill 2016](#)

Bills passed

- [Child Protection \(Working with Children\) and Other Child Protection Legislation Amendment Bill 2016](#)
- [Justice Portfolio Legislation \(Miscellaneous Amendments\) Bill 2016](#)
- [Statute Law \(Miscellaneous Provisions\) Bill \(No 2\) 2016](#)
- [Civil Remedies for Serious Invasions of Privacy Bill 2016](#)
- [Legislation Brief: Civil Remedies for Serious Invasions of Privacy Bill 2016 \(NSW\): Statutory Cause of Action Proposed](#)
- [Suitors' Fund Amendment \(Costs of NCAT Appeals\) Bill 2016](#)

- [Crimes \(Administration of Sentences\) Amendment Bill 2016](#)
- [Social and Affordable Housing NSW Fund Bill 2016](#)

Bills assented to

- Crimes (Administration of Sentences) Amendment Act 2016 No 47 – Assented to 18 October 2016
- Industrial Relations Amendment (Industrial Court) Act 2016 No 48 – Assented to 18 October 2016

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 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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