

14 DECEMBER 2016

ISSUE 5



PUBLIC SECTOR NEWSLETTER - VICTORIA

Welcome to the last Public Sector Newsletter for 2016.

It is fair to say there is plenty happening right up until the end of the year with a new Chief Justice of the High Court, a 10 year plan to end family violence, a strengthening of Victoria's anti-corruption capacity, an upgrade of the Melbourne Magistrates' Court and new laws to protect children from abuse and partners of Victorians who die without a Will all announced or progressed over the past fortnight.

As this is our last newsletter for 2016, we take this opportunity to thank you for your support throughout 2016 and to wish you and your families a happy and safe 2017.

MEDIA

Appointments to the High Court of Australia

His Excellency the Governor-General has accepted the advice of the Government to appoint the Honourable Justice Susan Mary Kiefel AC as the next Chief Justice of the High Court of Australia. Justice Kiefel will become Australia's thirteenth Chief Justice.

<https://www.attorneygeneral.gov.au/Mediareleases/Pages/2016/FourthQuarter/Appointments-to-the-high-court-of-australia.aspx>

HRLC: New legal action launched to get children out of Barwon adult jail

A new Supreme Court case has been launched against the Victorian Government

to ensure no child is held in the Barwon maximum security adult prison.

<https://www.hrlc.org.au/news/2016/12/2/new-legal-action-launched-to-get-children-out-of-barwon-adult-jail>

Mandatory reporting of suspected corruption for public sector heads starts 1 December 2016

Victoria's anti-corruption capacity will be strengthened tomorrow with the introduction of compulsory reporting of suspected corruption for all heads of public sector bodies.

<http://www.ibac.vic.gov.au/news-and-features/article/mandatory-reporting-of-suspected-corruption-for-public-sector-heads-starts-tomorrow>

Safety and Security Overhaul For Melbourne Courts

The Victorian Government today announced \$1.1 million to upgrade the Melbourne Magistrates' Court and the Children's Court to improve community safety.

<http://www.premier.vic.gov.au/safety-and-security-overhaul-for-melbourne-courts/>

Victorian Submission to Support Racial Discrimination Act

In response to the federal inquiry launched on November 8, the Government will make a submission outlining its continued support

for Section 18C, which protects vulnerable people against bigotry and hate speech.

<http://www.premier.vic.gov.au/victorian-submission-to-support-racial-discrimination-act/>

10 Year Plan to End Family Violence

Ending Family Violence: Victoria's Plan for Change details how the Victorian Government will deliver the 227 recommendations made by Australia's first Royal Commission into Family Violence and build a new system that protects families and punishes perpetrators.

<http://www.premier.vic.gov.au/10-year-plan-to-end-family-violence/>

New Laws to Protect Victorian Families

The Administration and Probate and Other Acts Amendment (Succession and Related Matters) Bill 2016 will better protect the rights of partners of Victorians who die without a will. It will also ensure families have legal options if they are charged with excessive fees or commission by an executor managing the estate.

<http://www.premier.vic.gov.au/new-laws-to-protect-victorian-families/>

An Australian First to Protect Children from Abuse

The *Wrongs Amendment (Organisational Child Abuse) Bill 2016* will create a 'duty of care' for organisations so they can be held accountable for the abuse of children.

<http://www.premier.vic.gov.au/an-australian-first-to-protect-children-from-abuse/>

Bringing Family Violence Perpetrators to Justice

The Victorian Government is creating new laws, upgrading courts and giving police the tools they need to hold perpetrators of family violence to account and put victims first, as part of the landmark 10-year Family Violence Strategy.

<http://www.premier.vic.gov.au/bringing-family-violence-perpetrators-to-justice/>

Call for Clinicians to Boost Patient Safety

Doctors, nurses and other health clinicians are being urged to play their part in an

overhaul of Victoria's hospital quality and safety system with expressions of interest for the new Victorian Clinical Council now open.

<http://www.premier.vic.gov.au/call-for-clinicians-to-boost-patient-safety/>

Greater Transparency for Mental Health Services

Victoria's Mental Health Services Annual Report 2015-16 will provide a greater understanding of the public mental health system, identifying system strengths, challenges and opportunities.

<http://www.premier.vic.gov.au/greater-transparency-for-mental-health-services/>

Man charged following unauthorised radio transmissions at Victorian airports

The Australian Federal Police (AFP) has charged a 19-year-old Rockbank (Victorian) man with serious offences related to the alleged unlawful interference with air traffic control and endangering the safety of aircraft at two Victorian airports.

<http://www.acma.gov.au/theACMA/Newsroom/Newsroom/Media-releases/man-charged-following-unauthorised-radio-transmissions-at-victorian-airports>

Premier hails anti-fracking campaign as legislation nears

The Victorian Government will introduce legislation today to permanently ban fracking following what the Premier described as "one of the most amazing community campaigns" in Australian history.

<http://www.abc.net.au/news/2016-11-22/fracking-permanently-banned-in-victoria/8045264>

Judge reprimanded for calling 14yo sexual assault victim 'nubile'

Victorian County Court Judge Christopher Ryan is reprimanded by the Court of Appeal for calling a 14-year-old sexual assault victim nubile and worldly, while describing the offender's actions as "readily understandable"

<http://www.abc.net.au/news/2016-11-22/county-court-judge-reprimanded-nubile-sex-assault-victim/8046978>

CASES

[Mackenzie & Ors v VicRoads & Ors \[2016\] VSC 698](#)

PRACTICE AND PROCEDURE – Interlocutory injunction – Road project causing environmental damage – Alleged deficiencies in Environment Effects Statement and Minister’s assessment – Whether serious question to be tried – Whether balance of convenience favours granting injunction – Compliance with precautionary principle – Procedural fairness – No viable undertaking as to damages – Environment Effects Act 1978 – Environment Protection and Biodiversity Conservation Act 1999 (Cth) – Planning and Environment Act 1987 – Transport Integration Act 2010 – Charter of Human Rights and Responsibilities Act 2006.

[Sheehan v Kitson \(Human Rights\) \[2016\] VCAT 1964](#)

Vexatious Proceedings Act 2014 – applications for extended restraint order – applications granted
The great advantage of making orders under the Act is that it will bring to an end the harassment by letter and unmeritorious application which I have documented in these reasons. Without such an order, I am persuaded that Mr Kitson will not cease to make unmeritorious applications, no matter how many times he is unsuccessful in this Tribunal.

Order that Mr Kitson be under an extended restraint order in relation to each applicant and in relation to the issue of proceedings under the *Health Records Act 2001*.

PRACTICE AND PROCEDURE

Legal Services Board Chair Reappointed

Fiona Bennett has been reappointed as the Chair of the Victorian Legal Services Board for a further four years.

<http://www.premier.vic.gov.au/legal-services-board-chair-reappointed/>

New Senior Counsel Appointed

The Supreme Court of Victoria has announced the appointment of 18 new senior counsel

[Supreme Court of Victoria’s media release](#)
[Victorian Bar’s media release #2](#)

LEGISLATION

Victoria

Bills Introduced and Second Read in the first House

- Administration and Probate and Other Acts Amendment (Succession and Related Matters) Bill
- Wrongs Amendment (Organisational Child Abuse) Bill

Statutory Rules made

- No. 134: Drugs, Poisons and Controlled Substances Amendment (Cannabis and Tetrahydrocannabinols) Regulations 2016
- No. 135: Magistrates’ Court General Civil Procedure and Judicial Registrars (Miscellaneous Amendments) Rules 2016
- No. 137: Magistrates’ Court General Civil Procedure and Miscellaneous Civil Proceedings (Costs Amendment) Rules 2016
- No. 138: Supreme Court (Chapter I Appendices A and B Amendment) Rules 2016
- No. 139: Supreme Court (Chapter I Litigation Guardian Amendment) Rules 2016
- No. 140: Supreme Court (Chapter V Publication of Notices Amendment) Rules 2016
- No. 141: Supreme Court (Chapter VI Confiscation Amendment) Rules 2016

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HELP DESK SERVICES

Thomson Geer is delighted to offer access to the Victorian 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 the Victorian 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
- a dedicated librarian, Warwick Johns, to assist Victorian Government departments and agencies research relevant case law, statutes, regulations and articles.

(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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