



PUBLIC SECTOR NEWSLETTER - VICTORIA

Over the past fortnight the Victorian Government has announced Victoria's first ever Cyber Security Strategy, established a new statutory authority to watch over the most serious offenders and expanded programs which make offenders more accountable for family violence.

The past fortnight also saw two new judges appointed to the County Court. We congratulate Aileen Ryan QC and Paul Higham.

In Court news, the High Court of Australia rejected Julian Knight's latest parole bid.

We hope you enjoy this edition of our Victorian Public Sector Newsletter.

MEDIA

ING Real Estate accused of 'acting like the mafia' in Melbourne Ferris wheel dispute
Pasa Pasaoglu said the company had been "acting like the mafia" in trying to force them to accept an unfair settlement by dragging out the legal process, in turn racking up their costs. The Pasaoglus are the only traders left who have not signed a settlement with ING and are continuing to push their claim through the Victorian Civil and Administrative Tribunal (VCAT)
<http://www.abc.net.au/news/2017-08-27/ing-real-estate-acted-like-the-mafia-in-ferris-wheel-dispute/8836000>

Tackling The Cyber Security Threat To Victorian Services

Special Minister of State Gavin Jennings says Victoria's first ever Cyber Security Strategy ensures we can stay ahead of the cyber criminals and develop the infrastructure, systems and processes needed to protect government services and information.
<http://www.premier.vic.gov.au/tackling-the-cyber-security-threat-to-victorian-services/>

New Authority To Keep Watch Over Serious Offenders

The Government is establishing a new statutory authority to keep watch over the state's most serious offenders - a key recommendation of the Harper Review. The *Serious Sex Offenders (Detention and Supervision) Amendment (Governance) Bill 2017* will be introduced into Parliament today to create the Post Sentence Authority.
<http://www.premier.vic.gov.au/new-authority-to-keep-watch-over-serious-offenders/>

Making Men Take Responsibility For Family Violence

The Government is making Victoria safer by expanding programs that make men who have committed family violence take accountability for their actions and stop abusing women and children.
<http://www.premier.vic.gov.au/making-men-take-responsibility-for-family-violence/>

Two New Judges Appointed to the County Court

Attorney-General Martin Pakula today announced the appointment of Aileen Ryan QC and Paul Higham as judges of the County Court.
<http://www.premier.vic.gov.au/two-new-judges-appointed-to-the-county-court/>

Expulsion is not the answer: Ombudsman

A disproportionate number of children expelled from Victorian Government schools have a disability, are in out of home care, or identify as Aboriginal and Torres Strait Islander, according to the Victorian Ombudsman.
<https://www.ombudsman.vic.gov.au/News/Media-Releases/Media-Alerts/Expulsion-is-not-the-answer-Ombudsman>

CASES[Gaycel Pty Ltd v Heski Carpenters Pty Ltd \[2017\] VSC 450](#)

JUDICIAL REVIEW – Decision of VCAT – Building dispute involving ‘cost plus contract’ and provision of estimate – Alleged misleading and deceptive conduct in provision of estimate – Whether failure to consider evidence of inducement and loss given ‘cost blowout’ – Whether failure ‘to apply the law of negligence’ – Whether question of law raised in relation to alleged common law claim for delay damages – Whether discretion miscarried in refusing amendment – No merit to the extent any question of law was raised – Leave refused – Victorian Civil and Administrative Tribunal Act 1998 (Vic) s148

[Casenote: Knight v Victoria \[2017\] HCA 29: Parole and Judicial Power](#)

In Julian Knight v The State of Victoria & Anor [2017] HCA 29 (17 August 2017) the High Court of Australia has in a unanimous decision held, answering a question posed in a special case, that section 74AA of the Corrections Act 1986 (Vic) (the Corrections Act) is not invalid on the ground that it is contrary to Chapter III of the Commonwealth Constitution.

[Setka v Magistrates' Court of Victoria \[2017\] VSC 422](#)

STATUTORY INTERPRETATION – Statutory immunity – “Criminal proceedings do not lie against a person by reason only” – Plaintiffs charged with blackmail – Whether statutory immunity applies – Competition and Consumer Act 2010 (Cth), ss 45D, 45E, 76, 77, 78, 79 – Crimes Act 1958 (Vic), s 87.

[Re APCH Ltd \(No 4\) \[2017\] VSC 451](#)

COURTS AND JUDGES – Recusal application claiming apprehended bias – Applied test in Ebner v Official Trustee in Bankruptcy [2000] HCA 63; (2000) 205 CLR 337 – The plaintiff contended that there was a reasonable apprehension of bias on the part of the judge – Consideration of whether a friendship between a judge and partners in the defendant firm who were not involved in the allegations against the firm, but who would be financially affected by the proceedings, could reasonably give rise to apprehended bias – Consideration of principles on bias – Judge recused himself.

In the 2012 proceeding (the listing fee proceeding), the receivers and managers of Australian Property Custodian Holdings Limited (APCH) (in liquidation) (receivers and managers appointed) (controllers appointed), which was the responsible entity for the Prime Retirement and Aged Care Property trust, contend that amendments to the terms of the trust resulted in trust moneys being improperly applied to pay what is called a listing fee to interests associated with Mr Lewski, a former director of APCH, and effective owner.

LEGISLATION**Victoria****Bills Introduced and Second Read in the first House**

Residential Tenancies Amendment (Long-term Tenancy Agreements) Bill

Serious Sex Offenders (Detention and Supervision) Amendment (Governance) Bill

Assented to**No. 31: Corrections Legislation Miscellaneous Amendment Act 2017**

Assent: 15/08/2017 SG (No. 274) 15/8/2017 p. 1
Commencement: Ss 1-3, 7-11, 13-22, 24-38, 40, 47, 61, 63 on 16/08/2017: s. 2(1)

Not yet in operation: Ss 4, 5, 6, 12, 23, 39, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 62, 64

No. 32: Crimes Legislation Amendment (Public Order) Act 2017

Assent: 15/08/2017 SG (No. 274) 15/8/2017 p. 1

Commencement: NYP

Not yet in operation: Ss 1-13

No. 33: Disability Amendment Act 2017

Assent: 15/08/2017 SG (No. 274) 15/8/2017 p. 1

Commencement: Ss 1-33 on 16/08/2017: s. 2

Not yet in operation: N/A

No. 34: Sentencing Amendment (Sentencing Standards) Act 2017

Assent: 15/08/2017 SG (No. 274) 15/8/2017 p. 1

Commencement: NYP

Not yet in operation: Ss 1-44

Access Victorian legislation here www.legislation.vic.gov.au

KEY CONTACTS

PANEL RELATIONSHIP CONTACTS

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



Cameron Roberts

Partner
+61 3 9641 8696
+61 438 510 885
croberts@tglaw.com.au



Loretta Reynolds

Partner, Markets
+61 3 8080 3705
+61 403 069 819
lreynolds@tglaw.com.au

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 03 8080 3604; 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.

SYDNEY

Level 25
1 O'Connell Street
Sydney NSW 2000
+61 2 8248 5800

MELBOURNE

Level 39
Rialto South Tower
525 Collins Street
Melbourne VIC 3000
+61 3 8080 3500

BRISBANE

Level 16
Waterfront Place
1 Eagle Street
Brisbane QLD 4000
+61 7 3338 7500

ADELAIDE

Level 7
19 Gouger Street
Adelaide SA 5000
+61 8 8236 1300