



PUBLIC SECTOR NEWSLETTER - VICTORIA

This fortnight saw Victoria Legal Aid release its annual report, which emphasises the relationship between legal aid and the Government's Community Safety Initiatives. Meanwhile, the Government has passed new laws to protect emergency service workers.

The Commonwealth Government has moved to implement its national redress scheme for victims of childhood sexual abuse, which may impact claims brought against State Government departments and agencies.

The Government has also introduced data sharing legislation and made new appointments to the board of Victoria Legal Aid and the County and Magistrates Courts.

We hope you enjoy this fortnight's Victorian Public Sector Newsletter.

IN THE MEDIA

Community safety requires funding boost to courts and legal aid

Victoria Legal Aid's 2016-17 annual report has been tabled in Parliament by Victoria's Attorney-General, the Honourable Martin Paluka MP. Acting Managing Director Cameron Hume says government community safety initiatives will be enhanced if more time and space is provided for courts and legal aid to do their job properly. <http://www.legalaid.vic.gov.au/about-us/news/community-safety-requires-funding-boost-to-courts-and-legal-aid>

Tough new laws to protect police and emergency workers

Offenders who use motor vehicles to put police and emergency services workers at risk of harm will now face up to 20 years behind bars under tough new laws introduced by the Government. <https://www.premier.vic.gov.au/tough-new-laws-to-protect-police-and-emergency-workers/>

Redress scheme close to reality with introduction of landmark bill today

The Law Council today applauded the Federal Government's introduction of landmark legislation establishing a Commonwealth redress scheme for survivors of child sexual abuse. The bill will enable survivors of child sexual abuse in an institutional setting to access three elements of the redress scheme. <https://www.lawcouncil.asn.au/media/media-releases/redress-scheme-close-to-reality-with-introduction-of-landmark-bill-today>

Victorian Data Sharing Bill 2017

Last week, the Honourable Martin Pakula, Attorney General, introduced the Victorian Data Sharing Bill 2017 ("the Bill") to the Victorian Legislative Assembly. The purpose of the Bill is to establish the office of the Chief Data Officer, to promote the sharing and use of public sector data as a public resource that supports government policy making, service planning and design, and to amend the Privacy and Data Protection Act 2014. <https://www.vic.gov.au/news/victorian-data-sharing-bill-2017.html>

IN PRACTICE AND COURTS

Court and Legal Appointments

31 October 2017

[New Appointment to the Board of Victoria Legal Aid](#)

[New Judge Appointed to the County Court](#)

[New Appointment to the Magistrates' Court](#)

CASES**[Risi Pty Ltd v Pin Oak Holdings Pty Ltd \[2017\] VSCA 317](#)**

ADMINISTRATIVE LAW - Appeal on question of law - Primary judge allowed appeal against VCAT order that landlord execute new lease - Whether primary judge erred in concluding no evidence to support various VCAT findings - No evidence that premises closed for six months - Various findings based on erroneous primary finding as to duration of closure of premises - Vitiating error - Minister for Aboriginal Affairs v Peko-Wallsend Ltd [1986] HCA 40; (1886) 162 CLR 24 and SZQRW v Minister for Immigration and Citizenship [2012] FCAFC 164; (2012) 134 ALD 454 applied - Victorian Civil and Administrative Tribunal Act 1998 s 148(1).

LANDLORD AND TENANT - Retail lease - Landlord and tenant agreed on granting of new lease - Tenant closed business to carry out renovations on premises - Landlord failed to execute new lease - Tenant expended moneys on renovations during closure - VCAT ordered that landlord execute new lease - Primary judge ordered that landlord pay equitable compensation for moneys expended during closure.

EQUITY - Estoppel - Proprietary estoppel - Remedies - Equitable compensation ameliorated detrimental reliance upon promise - Donis v Donis [2007] VSCA 89; (2007) 19 VR 577 discussed.

APPEALS - Practice and procedure - Availability of notice of contention procedure in appeal under Victorian Civil and Administrative Tribunal Act 1998 s 148(1) - Where matter addressed in notice of contention not raised before VCAT - Applicant not permitted to raise matter on appeal.

[Karabinis v Bendrups & Ors \[2017\] VSC 648](#)

JUDICIAL REVIEW - Medical Panel - Compensable injury - Asserted failure to provide adequate reasons - Whether Panel took into account irrelevant considerations - History taken by Panel in issue - Workplace Injury Rehabilitation and Compensation Act 2013 (Vic) Wingfoot v Australia Partners Pty Ltd v Kocak.

[Guss v Traffic Camera Office \[2017\] VSC 654](#)

JUDICIAL REVIEW AND APPEALS - Appeal from Magistrates' Court under the Criminal Procedure Act 2009 (Vic) s 272 - Evidence relating to prescribed road safety camera in certificate under s 83A of the Road Safety Act 1986 - Evidence to the contrary - Road Safety Act 1986 ss 3, 66, 81, 83A(1) - Road Safety (General) Regulations 2009 regs 5, 30, 35, 37 - Hobson Bay City Council v Viking Group Holdings Pty Ltd [2010] VSC 386

LEGISLATION**Victoria****Proclamations**

No 31: [Corrections Legislation Miscellaneous Amendment Act 2017](#)

Assent: 15/08/2017 SG (No. 274) 15/08/2017 p.1
Commencement: Ss 1-3, 7-11, 13-22, 24-38, 40, 47, 61, 63 on 16/08/2017: s. 2(1) Ss 23, 39, 41, 43(3), 46, 48-60 on 01/11/2017: SG (No. 367) 31/10/2017 p. 1 Not yet in operation: Ss 4, 5, 6, 12, 42, 43(1)(2), 44, 45, 62, 64

No 41: [Administration and Probate and Other Acts Amendment \(Succession and Related Matters\) Act 2017](#)

Date of Commencement: 1/11/2017

Bills introduced and second read in the first House - week ending 03 November 2017

[Crimes Legislation Amendment \(Protection of Emergency Workers and Others\) BILL 2017](#) - 2nd reading speech 2/11/2017

[Drugs, Poisons and Controlled Substances Amendment \(Medically Supervised Injecting Centre\) Bill 2017](#) - 2nd reading speech 1/11/2017

Statutory rules made

No. 110: Victorian Civil and Administrative Tribunal (Amendment No. 18) Rules 2017

Date of Making: 24/10/2017 Commencement: 01/11/2017: rule 3 Not yet in operation: Rules 1-5: on 01/11/2017: rule 3 Sunset date: 24/10/2017

Access Victorian legislation at 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 library resource 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.