



PUBLIC SECTOR NEWSLETTER - NEW SOUTH WALES

Welcome to new Federal Attorney-General Christian Porter

Christian Porter MP has been appointed as the 37th Attorney-General for Australia, taking the reins from The Hon George Brandis QC. <https://www.lawcouncil.asn.au/media/media-releases/law-council-congratulates-new-attorney-general-christian-porter>

MEDIA

New second Parliamentary Counsel appointed

The Attorney-General announces the appointment of Mr Keith Byles PSM as Second Parliamentary Counsel to the Office of Parliamentary Counsel (OPC) for a seven year period. <https://www.attorneygeneral.gov.au/Media/Pages/New-second-Parliamentary-Counsel-appointed-16-January-2018.aspx>

'Creeping Stalinism': secrecy law could imprison whistleblowers and journalists

Proposed changes to Australia's official secrecy laws a threat to democracy, say human rights and media organisations. Government whistleblowers and journalists who report on leaked information could face 20 years' imprisonment if changes to Australia's official secrecy laws pass parliament. <https://www.theguardian.com/australia-news/2018/jan/11/creeping-stalinism-secrecy-law-could-imprison-whistleblowers-and-journalists>

District Court program reduces delays in NSW

A program aimed at cutting the District Court backlog is delivering significantly faster case outcomes, according to a new report by the Bureau of Crime Statistics and Research (BOCSAR). The spectacular results of the Rolling List Court show what can be achieved with earlier and better management of cases by prosecution and defence agencies. <http://www.justice.nsw.gov.au/Pages/media-news/media-releases/2018/district-court-program-reduces-delays.aspx>

Building a more diverse and inclusive legal profession

Law Council of Australia President, Fiona McLeod SC, said [three new tools](https://www.lawcouncil.asn.au/media/media-releases/building-a-more-diverse-and-inclusive-legal-profession) available on the Law Council website delivered national leadership on the issue of diversity and equity and would provide lawyers with important information to help them grasp the opportunities presented by changing times, expectations, and workplace laws. <https://www.lawcouncil.asn.au/media/media-releases/building-a-more-diverse-and-inclusive-legal-profession>

CASES

[The Australian and Minister for Foreign Affairs \(Freedom of information\) \[2018\] AICmr 6](#)

Freedom of Information — Whether reasonable steps taken to locate documents — (CTH) Freedom of Information Act 1982 ss 24A, 55D.

[Virginia Plowman and Australian Securities and Investments Commission \(Freedom of information\) \[2018\] AICmr 5](#)

Freedom of Information — Whether reasonable steps taken to locate documents — Whether disclosure would have a substantial adverse effect on the management or assessment of personnel — Whether contrary to public interest to release conditionally exempt documents — (CTH) Freedom of Information Act 1982 ss 11A(5), 24A and 47E(c).

['NQ' and Department of Industry, Innovation and Science \(Freedom of information\) \[2018\] AICmr 4](#)

Freedom of Information — Whether reasonable steps taken to locate documents — (CTH) Freedom of Information Act 1982 s 24A.

['NO' and National Library of Australia \(Freedom of information\) \[2018\] AICmr 2](#)

Freedom of Information — Whether documents subject to legal professional privilege — Whether disclosure would disclose commercially valuable information —

Whether disclosure of personal information unreasonable – Whether disclosure would unreasonably affect an organisation or undertaking in respect of its lawful business affairs – Whether contrary to the public interest to release conditionally exempt documents – (CTH) Freedom of Information Act 1982 ss 11A(5), 42, 47(1)(b), 47F and 47G(1)(a).

[‘NN’ and Department of Human Services \(Freedom of information\) \[2018\] AICmr 1](#)

Freedom of Information – Whether disclosure would have a substantial adverse effect on the management or assessment of personnel – Whether contrary to public interest to release conditionally exempt documents – (CTH) Freedom of Information Act 1982 ss 11A(5), 47E(c).

[Hossain v Roads and Maritime Services \[2018\] NSWCATOD 11](#)

ADMINISTRATIVE REVIEW – Passenger Transport – Where applicant’s authority to drive taxis suspended under Passenger Transport Act 1990 - Commencement of new legislation and repeal of relevant provisions of Passenger Transport Act 1990 – Whether Tribunal has jurisdiction to review suspension decision – Whether, if Tribunal does have jurisdiction, applicant is of good repute.

[CEU v University of Technology Sydney \[2018\] NSWCATAD 13](#)

ADMINISTRATIVE LAW – alleged breaches of Information Privacy Principles 1, 3, 4, 6, 7, 9, 10, 11 and 12 of the Privacy and Personal Information Protection Act 1998
ADMINISTRATIVE LAW – privacy – Health Privacy Principles 1, 2, 3, 4, 6, 8, 10 and 11 of the Health Records and Information Privacy Act 2002.

[CWI v The University of New South Wales \[2018\] NSWCATAD 12](#)

PRIVACY – Personal Information – Whether collected - Use for purpose collected – Whether use consistent with purpose collected – Whether circumstances amount to disclosure.

[Dezfouli v Justice Health & Forensic Mental Health Network \[2018\] NSWCATAD 11](#)

GOVERNMENT INFORMATION – access application – whether public interest considerations against disclosure outweigh public interest considerations in favour of disclosure – redaction of officers names – whether risk of harm or serious harassment or serious intimidation if disclosed – admiralty rating in intelligence report – whether disclosure would prejudice effective exercise of agency’s functions – whether information is exempt matter under Commonwealth FOI Act. PRACTICE AND PROCEDURE – makers of statements not available for cross-examination – whether statements allowed in evidence – proposed cross-examination not go to the contents of the statements.

[Shoebridge v Commissioner of Police, NSW Police Force \(No 2\) \[2018\] NSWCATAD 3](#)

GIPA Act – Practice and Procedure - Government Information - Access – Third party request to access documents – Whether access should be granted to documents when proceedings not concluded.

PRACTICE AND PROCEDURE

High Court of Australia

[High Court of Australia Bulletin \[2017\] HCAB 10 \(21 December 2017\)](#)

AAT Bulletin

The AAT Bulletin is a weekly publication containing a list of recent AAT decisions and information relating to appeals against AAT decisions.

[Issue No. 1/2018, 15 January 2018.](#)

[Legal rights audit 2017](#)

Morgan Begg; Institute of Public Affairs: 27 December 2017.

This report illustrates the ongoing erosion of legal rights that persists in Australia. This has been measured by an analysis of the content of all legislation passed by the federal parliament in 2017.

NSW

Community to have its say on ancient mercy law

Attorney General Mark Speakman has called for public submissions on whether petitions for mercy and their outcomes should be made publicly available. The review will deliver its recommendations to the NSW Government by 6 April 2018. Anyone interested in making a submission should do so by close of business Friday, 9 February 2018. To lodge a submission to the review, please visit the NSW Government [Have Your Say website](#).

New Court Appointments

[Three new magistrates for NSW](#) – 17 January 2018.

[Leading prosecutor appointed to the District Court](#) – 22 December 2017.

[New Land and Environment Court Commissioners](#) - 22 December 2017.

[NCAT: Commencement of strata building bond and inspections scheme](#)

The strata building bond and inspections scheme commenced on 1 January 2018 under Part 11 Strata Schemes Management Act 2015. Under Part 11 of the Act, NCAT can make the following orders about the new building bond and inspections scheme: Contract price of building work to determine the building bond amount and Access to the lot for an inspection or to rectify defective building work.

[NCAT: Service requirements for internal appeals clarified](#)

NCAT forms and publications amended to clarify the service requirements for internal appeals are outlined here.

NCAT Legal Bulletins

[NCAT Legal Bulletin Issue 10 of 2017](#) – December 2017.

[Judicial Commission of NSW: Equality Before the Law Bench Book Update 11 published](#)

The latest update to the Equality Before the Law Bench Book includes amendments to the following chapters:

Section 4 — People with a particular religious affiliation;
Section 5 — People with disabilities; Section 8 — Lesbians,
gay men and bisexuals; Section 9 — Sex and gender
diverse people.

[Judicial Commission of NSW: Local Court Bench Book Update 125 published](#)

Update 125 amends the following chapters of the Local
Court Bench Book: including Specific penalties and orders;
General orders at [10-000]; Commonwealth offences at
[15-040], [15-080], [15-120] and [15-240].

Reminder: Supreme Court of NSW: Updated forms for costs assessment

Updated costs assessment forms have recently been
published on the [Supreme Court website](#). From 1 January
2018 the registry will only accept these costs assessment
forms for processing.

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

Tables of prosecution briefs with the DPP and outcomes.
Last updated 15 January 2018.

[NSW recorded crime statistics - quarterly update to September 2017](#)

Data, overview and trends of crime in NSW, broken down
by region, from the NSW Bureau of Crime Statistics and
Research.

[The NSW Rolling List Court evaluation: final report](#)

NSW Bureau of Crime Statistics and Research.

The RLC proved effective at obtaining early guilty pleas
and reducing delay in the processing of indictable criminal
matters. The findings suggest that efforts to introduce
some elements of the RLC, such as early briefing of
practitioners and pre-trial negotiations, could have
benefits for the NSW DCC's efficiency.

LEGISLATION

COMMONWEALTH Legislative Instruments

[Administrative Appeals Tribunal \(Code of Practice\) Determination 2017](#)

02/01/2018 - This instrument establishes the minimum
standard of practice for notifying affected persons
of reviewable decisions, including the content of the
reviewable decision and outlines the affected persons' rights
to review those decisions.

ACTS

[Age Discrimination Act 2004](#)

16/01/2018 - Act No. 68 of 2004 as amended.

[Ministers of State Act 1952](#)

15/01/2018 - Act No. 1 of 1952 as amended.

[Freedom of Information Act 1982](#)

12/01/2018 - Act No. 3 of 1982 as amended.

[Public Interest Disclosure Act 2013](#)

12/01/2018 - Act No. 133 of 2013 as amended.

NSW

Proclamations commencing Acts

[Terrorism \(High Risk Offenders\) Act 2017 No 68](#) (2018-8)
— published LW 19 January 2018

Regulations and other miscellaneous instruments

[Terrorism \(High Risk Offenders\) Regulation 2018](#) (2018-9) —
published LW 19 January 2018.

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 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

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.

SUB-PANEL APPOINTMENTS

Thomson Geer are appointed to the following NSW Government sub-panels:

- 1(c) Major commercial matters (incl. ICT)
- 2(a) Commercial and contractual matters
- 4(a) Employment and industrial relations law

- 4(f) Discrimination
- 6(b) General litigation and dispute resolution
- 6(c) Debt recovery