



PUBLIC SECTOR NEWSLETTER - NEW SOUTH WALES

Welcome to Edition 45 of our NSW Public Sector Newsletter. This issue looks at some of the impacts of the NSW Budget 2018.

The purpose of this newsletter is to provide government lawyers with a digestible and relevant snapshot of current news, case law and legislation. We welcome feedback or suggestions for areas of interest at any time.

MEDIA

Budget 2018: Bar talks with Premier Berejiklian yield \$10m extra for early guilty pleas

In the recently released NSW Budget, the Treasurer announced that in addition to \$29.5 million for reforms to encourage early guilty pleas, there will be an additional \$10 million in funding for Legal Aid NSW. <http://inbrief.nswbar.asn.au/articles/bb24741e67431b27a08039cbb310fd5d>

NSW Budget 2018: Funding Support for Courts and Legal Centres

Small businesses and some of the State's most vulnerable people will benefit from increased support for Community Legal Centres (CLCs) and measures to streamline civil justice processes. <https://www.justice.nsw.gov.au/Pages/media-news/media-releases/2018/funding-support-for-courts-and-legal-centres.aspx>

Beefed-up hate speech laws pass NSW Parliament

Inciting violence against a community or person in New South Wales based on their race could result in three years in jail under new laws. <http://www.abc.net.au/news/2018-06-21/race-hate-laws-pass-nsw-parliament/9893172>

ABA supports the inclusion of a First Nations "Voice" in the Constitution

In a unified voice representing Independent Bars from across Australia, the ABA has made a submission to the Joint Select Committee on Constitutional Recognition

Relating to Aboriginal and Torres Strait Islander Peoples supporting the Uluru Statement call. <http://austbar.asn.au/index.php/news-media/aba-supports-the-inclusion-of-a-first-nations-voice-in-the-constitution>

Law Council supports calls for Voice to Parliament

The Law Council has called on the Australian Government to work with Aboriginal and Torres Strait Islander peoples to constitutionally enshrine a representative Voice to the Australian Parliament. <https://www.lawcouncil.asn.au/media/media-releases/law-council-supports-calls-for-voice-to-parliament>

Charter for Public Participation

NSW Information Commissioner and Open Data Advocate has launched a Charter for Public Participation - a guide to assist agencies and promote citizen engagement. More information and resources on information access and privacy rights in NSW are available at the Information and Privacy Commission NSW website. <https://www.ipc.nsw.gov.au/news-media/media-releases/charter-public-participation-media-release>

Australian Government Response to the Royal Commission into Child Sexual Abuse

The Turnbull Government will establish a National Office for Child Safety and issue a formal apology in response to the Royal Commission into Institutional Responses to Child Sexual Abuse. <https://www.attorneygeneral.gov.au/Media/Pages/australian-government-response-to-the-royal-commission-into-child-sexual-abuse-13-june-2018.aspx>

Law Council applauds historic day for abuse survivors

The Law Council has welcomed the passage of legislation that will establish the National Redress Scheme for survivors of institutional child sexual abuse, paving the way for the scheme to become operational on 1 July 2018. <https://www.lawcouncil.asn.au/media/media-releases/law-council-applauds-historic-day-for-abuse-survivors>

PUBLISHED - ARTICLES, PAPERS, REPORTS[Navigating the political landscape of Australian criminal justice reform: senior policy-makers on alternatives to incarceration](#)

Melissa Lovell, Jill Guthrie, Paul Simpson, Tony Butler; Current Issues in Criminal Justice: 21 June 2018. This article reports upon in-depth interviews conducted with five senior criminal justice policy-makers, each of whom was broadly sympathetic to reforming criminal justice policy to achieve the goal of lower incarceration levels.

[Interim Report on Key Financial Controls of Major Entities](#)

Australian Institute of Health and Welfare: 01 June 2018.

While the National Disability Insurance Scheme (NDIS) is expected to largely replace the current provision of services to people with disability under the National Disability Agreement (NDA), many people were still receiving support under the NDA in 2016–17.

[Australian government response to the Royal Commission into Institutional Responses to Child Sexual Abuse](#)

Government of Australia; Attorney-General's Department (Australia): 13 June 2018.

In December 2017, the Royal Commission into Institutional Responses to Child Sexual Abuse final report made 409 recommendations. The Australian government is addressing each of these recommendations in partnership with state and territory governments.

[Journal of Judicial Administration update: Vol 27 Pt 3](#)

June 15, 2018 - The latest Part of the Journal of Judicial Administration includes the following articles: "Thirty Years Is Long Enough: It Is Time to Create a Process That Ensures Covert Recordings Used as Evidence in Court Are Interpreted Reliably" – Helen Fraser; "On Public Opinion Discourse: Justice Applications" – Pamela D Schulz OAM and Andrew J Cannon AM; and "Right Here Waiting For You: The New Social Media Chapter in the Australian Guide to Judicial Conduct" – Marilyn Bromberg. [subscription access only].

CASES[Rex Bashford and Department of Jobs and Small Business \(Freedom of information\) \[2018\] AICmr](#)

Freedom of Information – Whether documents subject to legal professional privilege – (CTH) Freedom of Information Act 1982 s 42.

[Health Care Complaints Commission v CSM \[2018\] NSWSC 902](#)

ADMINISTRATIVE LAW – judicial review – appeal on question of law – procedural fairness – protective orders – where Tribunal indicated contentment with proposed orders but then did not make all proposed orders – where procedural fairness was denied – whether certain orders may only be made as a package – statutory interpretation – individual orders may be made to the exclusion of others.

[Mookhey v Department of Finance, Services and Innovation \[2018\] NSWCATAD 128](#)

Administrative law – Government Information Public Access – access sought to identity information of the

100 corporations which paid the most mortgage duty and marketable securities duty – access refused – administrative review – consideration of public interest considerations in favour of disclosure – consideration of whether identifying information of corporations paying duty provided confidentially – secrecy provisions of Taxation Administration Act – whether release of identity information would prejudice the supply to an agency of confidential information that facilitates the effective exercise of that agency's functions – prejudice to agency's functions – disclosure of information provided in confidence – decision to refused access to identity information affirmed.

[Roberts v Commissioner of Police, NSW Police Force \[2018\] NSWCATAD 127](#)

ADMINISTRATIVE LAW – government information – whether respondent holds other information – jurisdiction to consider whether there have been adequate searches – legal professional privilege – whether privilege lost – excluded information – secondary reproductions of excluded information also excluded information.

PRACTICE AND PROCEDURE**Australian Bar Association Submissions**

[INSLM: Review of the prosecution and sentencing of children for Commonwealth terrorist offences](#) 19 June 2018.

[Submission to the Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples](#) 14 June 2018.

[Acting Australian Information Commissioner and acting Privacy Commissioner approves variations to the Privacy \(Credit Reporting\) Code 2014](#)

On 29 May 2018, the acting Australian Information Commissioner and acting Privacy Commissioner approved a variation of the registered Privacy (Credit Reporting) Code 2014 Version 1.2 (CR Code Version 1.2). The variations are proposed to commence on 1 July 2018.

Human rights and technology

New challenges to our basic rights and freedoms in an age of big data, artificial intelligence and social media, will be explored by leaders in industry, government and academia at a landmark event in Sydney. The Australian Human Rights Commission's Human Rights and Technology conference will take place on 24 July 2018, at the Four Seasons Hotel in Sydney. More information about the project and the conference is available at tech.humanrights.gov.au.

AAT Bulletins 2018

[Issue No. 23/2018, 18 June 2018](#)

[Issue No. 22/2018, 12 June 2018](#)

Reminder: Mandatory data reporting update

A number of certifying authorities are already reporting data, and each of the three reporting options (API, SFTP and mobile app) are available and in use. Councils and certifiers should be preparing for the 1 July 2018 mandatory reporting date. The Board will have an education focus for the first six months after this date.

More information:

[API and SFTP specifications](#): BPB's website will always have the latest version.

[April 2018 roadshow presentation](#)

[Certification data reporting](#) and [FAQs](#)

OAIC Key dates

[Australian Government Agencies Privacy Code](#)

Commences 1 July 2018.

NSW

[ICAC briefs with the DPP and prosecution outcomes](#)

Tables summarising information about briefs that are with the DPP, and prosecution outcomes. Last updated 20 June 2018.

[NSW Privacy Commissioner: Charter for Public Participation](#)

NSW Information Commissioner and Open Data Advocate, Elizabeth Tydd, has launched the Information and Privacy Commission NSW's [Charter for Public Participation - a guide to assist agencies and promote citizen engagement](#) which is aimed at enshrining the centrality of public participation in government agency decision-making.

NSW Budget measures to tackle District Court backlog

The NSW Budget 2018 will include \$27.1 million for ongoing measures to cut the backlog of criminal trials in the District Court, with five additional judges, two public defenders and extra sitting days. Learn more on legal budget allocations [here](#).

Consent in relation to sexual assault offences:

Consultation

The Attorney General has asked us to review s 61HA of the Crimes Act 1900 (NSW) which deals with consent in relation to sexual assault. The deadline for preliminary submissions is 29 June 2018. See the [Terms of reference](#) and [Making a preliminary submission](#).

LEGISLATION

BILLS

[Commonwealth Electoral Amendment \(Lowering Voting Age and Increasing Voter Participation\) Bill 2018](#)

19 June 2018 - The changes to the Commonwealth Electoral Act 1918 are intended to lower the minimum age of a voter in Australian federal elections and referenda from 18 to 16 years of age, while keeping the minimum age of compulsory voting and eligibility to stand as a federal parliamentarian at 18 years of age.

[National Redress Scheme for Institutional Child Sexual Abuse Bill 2018](#)

Finally passed both Houses 19 Jun 2018 Assent Act no: 45 Year: 2018 21 June 2018.

Introduced with the National Redress Scheme for Institutional Child Sexual Abuse (Consequential Amendments) Bill 2018, the bill implements the joint response of the Commonwealth Government, the government of each participating state and territory,

and each participating non-government institution to recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse's Redress and Civil Litigation Report by: establishing the National Redress Scheme for Institutional Child Sexual Abuse to operate for a 10-year period from 1 July 2018; providing a payment of up to \$150 000 to survivors; providing access to counselling and psychological services to survivors; and providing an option for survivors to receive a direct personal response from the responsible institution.

[National Redress Scheme for Institutional Child Sexual Abuse \(Consequential Amendments\) Bill 2018](#)

Finally passed both Houses 19 June 2018 Assent Act no: 46 Year: 2018 21 June 2018.

Introduced with the National Redress Scheme for Institutional Child Sexual Abuse Bill 2018, the bill amends the Administrative Decisions (Judicial Review) Act 1997 to exempt decisions made under the national redress scheme from judicial review; Freedom of Information Act 1982 to exempt protected information from disclosure under the Act; Social Security (Administration) Act 1999 to enable the use and disclosure of protected information if it is done for the purposes of the national redress scheme; and Age Discrimination Act 2004 to enable the exclusion of children applying to the national redress scheme if they will not turn 18 during the life of the scheme. HR Third reading 29 May 2018.

[See Act No 46 of 2018.](#)

NSW

Bills introduced Non-Government – 22 June 2018

[Crimes Amendment \(Misconduct in Public Office and Other Matters\) Bill 2018](#)

[Public Finance and Audit Amendment \(State-funded Private Entities\) Bill 2018](#)

Bills revised following amendment in Committee – 22 June 2018

[Criminal Legislation Amendment \(Child Sexual Abuse\) Bill 2018](#)

[Fair Trading Amendment \(Short-term Rental Accommodation\) Bill 2018](#)

[Justice Legislation Amendment Bill \(No 2\) 2018](#)

[Modern Slavery Bill 2018](#)

Bills passed by both Houses of Parliament – 22 June 2018

[Crimes Amendment \(Publicly Threatening and Inciting Violence\) Bill 2018](#)

[Criminal Legislation Amendment \(Child Sexual Abuse\) Bill 2018](#)

[Justice Legislation Amendment Bill \(No 2\) 2018](#)

[Modern Slavery Bill 2018](#)

[Victims Rights and Support Amendment \(Statutory Review\) Bill 2018](#)

Bills assented to

Justice Legislation Amendment Act (No 2) 2018 No 29 – Assented to 21 June 2018.

For the full text of Bills, and details on the passage of Bills, see [Bill](#).

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