

31 OCTOBER 2019

ISSUE 77



PUBLIC SECTOR NEWSLETTER - NEW SOUTH WALES

Amendments to the NCAT Rules

Changes to the [Civil and Administrative Tribunal Rules 2014 \(NCAT Rules\)](#) came into effect on 11 October 2019. The following NCAT resources have been updated to reflect these amendments: [NCAT Guideline 1 - Internal Appeals](#) and [NCAT Policy 4 - Access to, and Publication of, Information Derived from Proceedings in the Tribunal](#).

MEDIA

Poorly managed conflicts of interest enable corruption in Victoria - IBAC report finds

Poorly managed conflicts of interest remain a major enabler of corruption according to a report released by Victoria's anti-corruption body, IBA. <https://www.ibac.vic.gov.au/media-releases/article/poorly-managed-conflicts-of-interest-enable-corruption-in-victoria---ibac-report-finds>

APS information proving popular

The Australian Information Commissioner and Privacy Commissioner, Angelene Falk has revealed that privacy complaints and freedom of information requests involving the Australian Public Service (APS) increased in the past financial year. <https://www.oaic.gov.au/updates/news-and-media/privacy-complaints-foi-reviews-on-rise-in-2018-19/>

Report on identity-matching strikes the right balance

The Law Council supports bipartisan recommendations by the Parliamentary Joint Committee on Intelligence and Security (PJCS) to include greater safeguards and privacy protections in the Identity-matching Services Bill 2019, but the committee has recommended the Bill and the related Australian Passports Amendment (Identity-matching Services) Bill 2019 (Passports Bill) be redrafted. <https://www.lawcouncil.asn.au/media/media-releases/report-on-identity-matching-strikes-the-right-balance>

AEC enrolls new election webpage

The Australian Electoral Commission (AEC) has launched a new Transparency Register on its main website to improve public access to the data political parties and candidates are required to lodge at each election. https://www.aec.gov.au/Parties_and_Representatives/financial_disclosure/transparency-register/

LCA Opinion Piece: Journalists to keep government accountable

Australia's media is critical to holding government and its agencies accountable for their actions. The Law Council has strongly advocated for greater protections for Australia's independent press because transparent government leads to better decision-making and a stronger democracy. <https://www.lawcouncil.asn.au/media/news/journalist-to-keep-government-accountable>

Privacy complaints, FOI reviews on rise in 2018–19

Increases in privacy complaints and freedom of information requests and reviews last year demonstrate the increasing value the community places on information, according to Australian Information Commissioner and Privacy Commissioner. <https://www.oaic.gov.au/updates/news-and-media/privacy-complaints-foi-reviews-on-rise-in-2018-19/>

OAIC commences consultation on draft CDR Privacy Safeguard Guidelines

The OAIC has commenced a consultation process with industry and the public on draft Privacy Safeguard Guidelines for the coming Consumer Data Right (CDR). <https://www.oaic.gov.au/updates/news-and-media/oaic-commences-consultation-on-draft-cdr-privacy-safeguard-guidelines/>

Bill to cut red tape and restore certainty to native title agreements

Streamlining the native title claim process and removing uncertainty around the validity of some mining and exploration agreements are the key aims of a Bill tabled in Parliament by the Morrison Government. The Bill will provide claimant groups with increased transparency and accountability for prescribed bodies corporate (the corporations set up to manage native title). <http://www.attorneygeneral.gov.au/Media/Pages/bill-to-cut-red-tape-and-restore-certainty-to-native-title-agreements-17-october-2019.aspx>

Helping inform crime and justice policy—AIC releases annual report

The Australian Institute of Criminology (AIC) recently released its Annual Report 2018–19, which demonstrates

the Institute's achievements in providing timely, accurate and sound research to inform public policy. <https://aic.gov.au/media-centre/media-releases-and-statements/helping-inform-crime-and-justice-policy-aic-releases-annual-report>

Without encryption, we will lose all privacy

The US, UK and Australia are taking on Facebook in a bid to undermine the only method that protects our personal information. <https://www.theguardian.com/commentisfree/2019/oct/15/encryption-lose-privacy-us-uk-australia-facebook>

Telcos tackle mobile number fraud and identity theft

The Australian Communications and Media Authority (ACMA) welcomed newly implemented measures to tackle mobile number fraud—the gateway to identity theft. Mobile number fraud can have devastating effects as scammers can gain access to bank accounts, email, social media and more. <https://www.acma.gov.au/theACMA/telcos-tackle-mobile-number-fraud-and-identity-theft>

Law Council backs push for increase to minimum age of criminal responsibility

The Law Council of Australia has welcomed the introduction of legislation to Federal Parliament, which seeks to increase the minimum age of criminal responsibility for Commonwealth offences to 14 years. The Bill is consistent with Law Council policy and recognises Australia's international obligations under the United Nations Convention on the Rights of the Child. <https://www.lawcouncil.asn.au/media/media-releases/law-council-backs-push-for-increase-to-minimum-age-of-criminal-responsibility>

PUBLISHED - ARTICLES, PAPERS, REPORT

[CDPP 2018-19 Annual Report](#)

The 2018-19 CDPP Annual Report was tabled in Parliament on Monday, 21 October 2019

[Commonwealth Auditors General Group e-newsletter \(Issue 2 – September 2019\)](#)

ANAO: 24 October 2019

This is the second e-newsletter of the Commonwealth Auditors General Group. These e-newsletters are a genuine effort to share experiences, challenges and engage in thought-provoking discussions on topics which are common to the fifty-three member countries of the Commonwealth.

[The risk of the digital status quo: how governments can enable digital transformation](#)

Satyamoorthy Kabilan; Public Policy Forum: 17 Oct 2019
Digital transformation can be risky — but the status quo is riskier. Drawing on insights of CIOs and senior public servants, this report identifies strategies for dealing with the risks of not embracing digital technology for public services, including: legacy systems costs, cyber security, people and culture, and service failure.

IN PRACTICE AND COURTS

Legal and Constitutional Affairs Legislation Committee
[Native Title Legislation Amendment Bill 2019](#)

[Customs Amendment \(Product Specific Rule Modernisation\) Bill 2019 \[Provisions\]](#)

[Crimes Legislation Amendment \(Sexual Crimes Against Children and Community Protection Measures\) Bill 2019 \[Provisions\]](#)

Legal and Constitutional Affairs References Committee
[Impact of changes to service delivery models on the administration and running of Government programs](#)

[Nationhood, national identity and democracy](#)

[Cyber security strategy](#)

The new strategy will build on the foundations of the 2016 Cyber Security Strategy. For more information on consultation events until the end of October 2019, including the discussion paper.

Senate Committee Inquiries

Community Affairs Legislation Committee

[Social Security \(Administration\) Amendment \(Income Management to Cashless Debit Card Transition\) Bill 2019](#)
[Social Services Legislation Amendment \(Drug Testing Trial\) Bill 2019](#)

Legal and Constitutional Affairs Legislation Committee

[Crimes Legislation Amendment \(Sexual Crimes Against Children and Community Protection Measures\) Bill 2019 \[Provisions\]](#)

[The impact of changes to service delivery models on the administration and running of Government programs](#)

Inquiry into the impact of the exercise of law enforcement and intelligence powers on the freedom of the press

The inquiry was [referred by the Attorney-General, The Hon Christian Porter MP](#) who noted that the Government will consider proposals from media organisations and interested bodies which aim to ensure the right balance is struck between a free press and keeping Australians safe. [For further information about the inquiry see the full terms of reference.](#) As agreed by the Attorney-General, the reporting date for this inquiry has been extended to 28 November 2019.

NSW

[IPC NSW: Media companies in a united call for Right to Know](#)

Some of the nation's media companies have censored their own front pages in a united call for greater media freedom and upholding their right to know. The Your Right to Know campaign will be accompanied by radio and television advertising across the country.

[Decisions of interest: Practice support](#)

The NSW Court of Appeal has published its latest Decisions of Interest Bulletin on the [Court of Appeal website](#).

[Report tabled - Right to Farm Bill 2019](#)

Legislative Council Portfolio Committee No. 4 has published its final report arising out of its inquiry into the Right to Farm Bill 2019. The report refers extensively to the [association's submission to the inquiry](#) and the evidence given on its behalf at the committee hearing by Naomi Sharp SC, co-chair of the Human Rights Committee.

[ICAC Annual Report 2018-19](#)

The ICAC Annual Report 2018-19 was made public on 18 October 2019.

[ICAC Operation Eclipse - interim paper](#)

Operation Eclipse: Lobbying, access and influence in NSW - an interim paper (17 October 2019)

CASES

[Zonneville v NSW Department of Justice \[2019\] NSWCATAD 215](#)

ADMINISTRATIVE REVIEW – Government Information (Public Access) – decision that application not a valid access application because one clause did not contain such information as was reasonably necessary to enable the government information applied for to be identified – whether failure to provide sufficient information in one severable portion of an application renders the whole application not a valid access application – application may be valid in part and invalid in part

[Fox v Heffernan \[2019\] NSWCATAD 217](#)

Administrative Law – impounding of trespassing cattle on private lands by owner – review of appropriate charge for impound under s 38(2) of the Impounding Act 1992 – charge found to be excessive.

[DXD v NSW Department of Justice \[2019\] NSWCATAD 214](#)

Administrative Law – privacy and personal information – review of conduct – jurisdiction -whether conduct under review relates to the exercise of a judicial function.

[Ramadas v Industrial Relations Secretary \(Legal Aid Commission of NSW\) \[2019\] NSWIRComm 1075](#)

PUBLIC SECTOR DISCIPLINARY APPEAL – first and final warning – allegations of misconduct – failure to comply with a lawful and reasonable direction – making vexatious allegations against work colleagues – misconduct struck at the heart of the employment relationship – termination of employment warranted – appeal disallowed.

[Wootten v Godfrey \[2019\] NSWCATAP 255](#)

PROCEDURAL FAIRNESS – bias – actual bias – principles PROCEDURAL FAIRNESS – bias – apprehended bias – principles PROCEDURAL FAIRNESS – hearing rule – principles APPEALS – NCAT – leave to appeal NCAT – whether decision against the weight of evidence.

[Bryant v Shoalhaven City Council \[2019\] NSWCATAD 209](#)

FREEDOM OF INFORMATION – government information – whether information held by agency – no reasonable grounds that information is held.

LEGISLATION

Commonwealth

[Transport Security Amendment \(Serious Crime\) Bill 2019](#)

HR 23/10/2019 - to clarify and align the legislative basis for undertaking background checks of individuals under the Aviation and Maritime Acts.

[Commonwealth Electoral Amendment \(Lowering Voting Age and Increasing Voter Participation\) Bill 2019](#)

HR 21/10/2019 – 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 Integrity \(Parliamentary Standards\) Bill 2019](#)

Senate 17/10/2019 - This Bill is part of a package of bills to promote public confidence in the integrity of Parliament, the public sector and the democratic system. This package is about creating a culture of integrity and a practical and pro-active approach to preventing and addressing corruption. The Bill will create a statutory code of conduct for parliamentarians and their staff.

Note: The Bill will operate alongside the *National Integrity Commission Bill 2018* (No. 2) which seeks to establish the Australian National Integrity Commission. [Social Services Legislation Amendment \(Drug Testing Trial\) Bill 2019](#) HR 17/10/2019 - Amends the: Social Security Act 1991 and Social Security (Administration) Act 1999 to establish a two year drug testing trial in three regions for 5000 new recipients of newstart allowance and youth allowance; Farm Household Support Act 2014 to make consequential amendments

Act Compilation

[National Disability Insurance Scheme Act 2013](#)

18/10/2019 - Act No. 20 of 2013 as amended

[Administrative Decisions \(Judicial Review\) Act 1977](#)

16/10/2019 – Act No. 59 of 1977 as amended

NSW

Regulations and other miscellaneous instruments

[Crimes \(Administration of Sentences\) Amendment \(Use of Force\) Regulation 2019](#) (2019-515) – published LW 25 October 2019

[Road Transport \(Driver Licensing\) Amendment \(Digital Driver Licences\) Regulation 2019](#) (2019-517) – published LW 25 October 2019

Bills introduced Government – 25 October 2019

[Justice Legislation Amendment Bill \(No 2\) 2019](#)

Non-Government – 25 October 2019

[Child Protection \(Nicole's Law\) Bill 2019](#)
[Liquor Amendment \(Harm Reduction Areas\) Bill 2019](#)

Bills revised following amendment in Committee – 25 October 2019

[Gambling Legislation Amendment \(Online and Other Betting\) Bill 2019](#)

Bills introduced Government – 18 October 2019

[Electoral Funding Amendment \(Cash Donations\) Bill 2019](#)
[Electoral Funding Amendment \(Local Government Expenditure Caps\) Bill 2019](#)

[Statute Law \(Miscellaneous Provisions\) Bill \(No 2\) 2019](#)

Non-Government – 18 October 2019

[Government Information \(Public Access\) Amendment \(Electronic Applications\) Bill 2019](#)

Bills revised following amendment in Committee – 18 October 2019

[Right to Farm Bill 2019](#)

KEY CONTACTS

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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

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