



PUBLIC SECTOR NEWSLETTER - VICTORIA

Welcome to Issue 73 of the Victorian Public Sector Newsletter.

Exciting developments this fortnight with a new pro bono website to improve access to justice, new laws to modernise criminal appeals and an Auslan Parliamentary Bulletin launched.

IBAC released its report into the Inflation nightclub shooting and announced the appointment of its new CEO, former Victorian Government solicitor, Marlo Baragwanath. This follows another Victorian Government solicitor, and former Thomson Geer Partner John Cain's appointment as a County Court Judge and State Coroner. Congratulations John.

The sentencing advisory council has released a report in relation to whether courts take the potential for deportation into account when sentencing and Magistrates' Court sentencing statistics.

Meanwhile, in the courts, a jury has delivered its judgment in a long running dispute arising out of the Hazelwood coal mine fire, the Supreme Court has delivered judgment in an application for judicial review of a section 173 Agreement and VCAT has considered the Health Privacy principles.

We hope you enjoy this edition of our public sector newsletter.

IN THE MEDIA

Law Institute of Victoria calls for stamp duty reform to protect elder financial abuse victims

Victims of elder financial abuse should be protected from paying stamp duty on property transfers when they recover their stolen real estate, according to the Law Institute of Victoria. (22 November 2019) <https://www.liv.asn.au/Staying-Informed/Media-Releases/Media-Releases/November-2019/Law-Institute-of-Victoria-calls-for-stamp-duty-ref>

'A win for the people': Companies convicted over Hazelwood mine fire

Hazelwood Power Corporation failed to take key steps to avoid a coalmine fire that raged for 45 days, blanketing the local community in thick smoke and coal dust, a Supreme Court jury finds. (20 November 2019) <https://www.abc.net.au/news/2019-11-20/hazelwood-mine-fire-jury-returns-verdict/11696010>

New Pro Bono platform to increase access to justice

The Government is supporting the launch of a new online system that will improve access to legal representation for the state's most vulnerable and disadvantaged people. The new platform will allow courts to refer self-represented litigants to barristers for pro bono services (19 November 2019). <https://www.premier.vic.gov.au/new-pro-bono-platform-to-increase-access-to-justice/>

Deficiencies in Victoria Police review of Inflation nightclub shooting

Victoria's independent police oversight agency, IBAC, has found Victoria Police failed to properly examine and review police conduct following a critical incident at the Inflation nightclub in 2017, instead focusing on the actions of civilians and not police officers. (14 November 2019) <https://www.ibac.vic.gov.au/media-releases/article/deficiencies-in-victoria-police-review-of-inflation-night-club-shooting>

New Laws to Modernise Appeals in Victoria

New laws to modernise Victoria's criminal appeals system have passed Parliament, making appeal proceedings more efficient and reducing the burden on victims and witnesses. (14 November 2019) <https://www.premier.vic.gov.au/new-laws-to-modernise-appeals-in-victoria/>

Highly regarded leader appointed new CEO of Victoria's anti-corruption commission

Victoria's independent anti-corruption commission, IBAC, has announced that highly experienced public sector leader and legal practitioner Marlo Baragwanath has been appointed as its new CEO. (12 November 2019) <https://www.ibac.vic.gov.au/media-releases/article/highly-regarded-leader-appointed-new-ceo-of-victoria-s-anti-corruption-commission>

IN PRACTICE AND COURTS

[Auslan Parliament Bulletin launched](#)

A parliament news bulletin in Auslan has been launched to help make information about the Victorian Parliament more accessible (12 November 2019).

[Judicial College launches new website](#)

The Judicial College of Victoria's new website is now live. The site has been developed to make it easier to users to access College publications and resources, which have been categorised by area of law to assist and speed up user searches. (22 November 2019)

[New Report Asks, Can an Offender's Deportation Affect Sentencing](#)

Sentencing Advisory Council, 19 November 2019. The Council has released a report reviewing how Victorian courts take deportation into account in sentencing. The report finds that, in Victoria, an offender's potential deportation could be taken into account in sentencing in four ways, and identifies three key issues that may benefit from further judicial guidance.

[Sentencing Advisory Council: New Sentencing Statistics Released for the Magistrates' Court](#)

The Sentencing Advisory Council's public 'SACStat' database of sentencing statistics has been updated with three years of new data for offences sentenced in the Magistrates' Court of Victoria. The new data gives users access to a wealth of information about 500 offences sentenced. The Sentencing Advisory Council has published a two-page guide with handy hints to help users get across SACStat's counting rules. (15 November 2019)

CASES

[Kinchington Estate Pty Ltd v Wodonga City Council \[2019\] VSC 745](#)

ADMINISTRATIVE LAW – Judicial review – Order 56 – Agreement under s 173 of the Planning and Environment Act 1987 (Vic) – Applications by registered proprietor to amend s 173 agreement – Council refusal to agree in principle to s 173 amendment applications – Refusal by Council to furnish statement of reasons – Whether Council was acting as a 'tribunal' when decisions were made – Definition of 'tribunal' considered – Procedural fairness – No 2 Pitt Street Pty Ltd v Wodonga City Council (No 3) [1999] 3 VR 439; Muldoon v Melbourne

City Council [2013] FCA 994; (2013) 217 FCR 450 referred to and applied – Administrative Law Act 1978 (Vic) ss 2, 8(1) – Planning and Environment Act 1987 (Vic) ss 177, 178A, 178B, 178C-178I.

[LJU v Hoffman \(Human Rights\) \(Corrected\) \[2019\] VCAT 1429](#)

Health Records Act 2001 section 18 - Health Privacy Principles – whether a health practitioner has breached the Health Records Act 2001 section 18 and Health Privacy Principles 2, 3 and 4.

The complaints in relation to the breaches of Health Privacy Principles 2, 3 and 4 are proven. David Hoffman to pay to LJU the sum of \$39,420.00.

[Wellington v Surf Coast Shire \(Review and Regulation\) \[2019\] VCAT 1811](#)

Freedom of Information Act 1982 – email provided to municipal councillors and officers by applicant in support of planning permit application – whether exempt as personal information or information received in confidence – ss 33, 35(1)(a) (invoking s 30), 35(1)(b).

LEGISLATION

Acts

[Justice Legislation Amendment \(Criminal Appeals\) Act 2019](#)

Date of assent: 19 November 2019 Act Number: 44/2019

[Justice Legislation Amendment \(Serious Offenders and Other Matters\) Act 2019](#)

Date of assent: 19 November 2019 Act Number: 45/2019

Bills

[Drugs, Poisons and Controlled Substances Amendment \(Pill Testing Pilot for Drug Harm Reduction\) Bill 2019](#)

Date of second reading speech: 13 November 2019

Passed Parliament (will now go to the Governor for royal assent) – 15 November 2019

[Justice Legislation Amendment \(Serious Offenders and Other Matters\) Bill 2019](#)

[Justice Legislation Amendment \(Criminal Appeals\) Bill 2019](#)

Statutory Rules

Reminder:

No 106 [County Court \(Chapter I Circuit Fees, Expenses and Allowances Amendment\) Rules 2019](#)

These Rules come into operation on 1 January 2020.

KEY CONTACTS

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



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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.

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.

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