



PUBLIC SECTOR NEWSLETTER - NEW SOUTH WALES

MEDIA

Lack of respect for High Court ruling concerns ALA

The outcry from some commentators following a recent High Court ruling that Aboriginal Australians cannot be considered 'aliens' in Australia reveals a concerning lack of respect for the High Court, says the Australian Lawyers Alliance (ALA). <https://www.lawyersalliance.com.au/news/lack-of-respect-for-high-court-ruling-concerns-ala>

LCA: High Court decision natural outcome of Mabo

The Law Council of Australia has welcomed a landmark High Court decision confirming that the Australian Parliament cannot use the "aliens" power to make laws for Aboriginal Australians. Law Council President said the decision of the High Court in *Love v Commonwealth of Australia*; *Thoms v Commonwealth of Australia* flows from the *Mabo (No. 2)* decision in 1992. <https://www.lawcouncil.asn.au/media/media-releases/high-court-decision-natural-outcome-of-mabo>

We must do better on children's rights

Australia's first Children's Commissioner, Megan Mitchell has launched her final report – one of the most comprehensive assessments of children's rights ever produced in Australia. The report makes clear that the mental health of Australian children is not being cared for sufficiently and that Governments must do more to ensure children's wellbeing. <https://www.humanrights.gov.au/about/news/we-must-do-better-childrens-rights>

New ACLEI Commissioner appointed

Attorney-General Christian Porter is pleased to announce that Ms Jaala Hinchcliffe has been appointed to lead the Australian Commission for Law Enforcement Integrity (ACLEI). <https://www.attorneygeneral.gov.au/media/media-releases/new-aclei-commissioner-appointed-7-february-2020>

LCA: Religious Freedom Bills - Second Exposure Drafts

The Law Council provided a submission to the Attorney-General's Department on the second exposure drafts of the Religious Freedom Bills (ie Religious Discrimination Bill 2019 (the Bill); Religious Discrimination (Consequential Amendments) Bill 2019; Human Rights Legislation

Amendment (Freedom of Religion) Bill 2019). <https://www.lawcouncil.asn.au/media/news/religious-freedom-bills-second-exposure-drafts>

LCA: Corporate Criminal Responsibility

A key concern for the Law Council was the proposed model for reforming the attribution of criminal responsibility to both bodies' corporate and individual officers within corporations. The Australian Law Reform Commission will deliver its Final Report on the 30 April 2020. <https://www.lawcouncil.asn.au/media/news/corporate-criminal-responsibility>

HRLC: Religious Discrimination Bill one of the biggest threats to reproductive healthcare access

Women's rights and legal experts have warned that the Morrison Government's latest version of the Religious Discrimination Bill threatens to erode decades of progress on reproductive healthcare access. <https://www.hrlc.org.au/news/2020/2/6/religious-discrimination-bill-one-of-the-biggest-threats-to-reproductive-healthcare-access-in-decades>

HRLC: Healthcare and equality for all would be jeopardised by deeply unbalanced Religious Discrimination Bill

People's healthcare will be undermined, while religious bodies are given unprecedented privileges to discriminate in the revised Religious Discrimination Bill, the Human Rights Law Centre has warned in a submission to the Attorney-General's Department. <https://www.hrlc.org.au/news/2020/2/3/healthcare-would-be-jeopardised-by-unbalanced-religious-discrim-bill>

IN PRACTICE AND COURTS

[Law Council of Australia Updates](#) 7 February 2020

Law Council of Australia Submissions

04 February 2020— Law Council

[Religious Freedom Bills - Second Exposure Drafts](#)

Practice Direction - Federal Circuit Court of Australia

[Practice Direction 2 of 2020 - Case Management - Family Law \(Priority Property Pools under \\$500,000\) Financial Cases](#)

This practice direction sets out guiding principles for case management arrangements for cases that meet

the definition of a Priority Property Pool under \$500,000 Case (PPP500). All steps taken in proceedings before the Court in these cases, including commencing proceedings, should follow these principles. This practice direction takes effect from the date that it is issued and, to the extent practicable, applies to all PPP500 cases filed on or after 1 March 2020.

[Joint Practice Direction - Family Court of Australia and Federal Circuit Court of Australia](#)

Find attached the following Joint Practice Direction "Core Principles in the Case Management of Family Law Matters" Family Court of Australia and Federal Circuit Court of Australia - Joint Practice Direction: JPD1 of 2020.

[LSC: Consultation Paper - Proposed Amendments to the Legal Profession Uniform Law](#)

The Legal Services Council has published a consultation paper on proposed amendments to the Legal Profession Uniform Law. Submissions can be sent to the Council at submissions@legalservicescouncil.org.au on or before Friday, 28 February 2020.

Australian Bushfires Disaster Emergency Declaration – Understanding your privacy obligations

The Attorney-General has made the [Privacy \(Australian Bushfires Disaster\) Emergency Declaration \(No. 1\) 2020](#) (the emergency declaration) under Part VIA of the Privacy Act 1988 (Cth) (Privacy Act). The emergency declaration was made in response to bushfires in Australia resulting in death, injury and property damage occurring from August 2019 into 2020. The emergency declaration expires on 20 January 2021.

[AHRC: Human Rights and Technology Discussion Paper - Rights and Freedoms](#)

The Commission has launched the Human Rights and Technology Discussion Paper, which makes wide-ranging proposals for safeguarding human rights and encouraging accessible, equal and accountable use of new technology in Australia. The deadline for submissions is 10 March 2020.

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](#)

Legal and Constitutional Affairs Legislation Committee

[Federal Circuit and Family Court of Australia Bill 2019 \[Provisions\] and Federal Circuit and Family Court of Australia \(Consequential Amendments and Transitional Provisions\) Bill 2019 \[Provisions\]](#)
[Crimes Legislation Amendment \(Combatting Corporate Crime\) Bill 2019](#)

NSW

[Coronavirus: precautions at NCAT](#)

The New South Wales Civil and Administrative Tribunal has released the following statement regarding Coronavirus precautions at the Tribunal. [Contact NCAT](#) immediately if you are required to attend NCAT and may be affected.

NSW Government Services

The [Department of Customer Service \(external link\)](#) is collaborating across government to help agencies get ready to retire little-used sites or merge information to nsw.gov.au, which will become the centralised online home of the NSW Government. A trial version of the refreshed nsw.gov.au website will go live at the end of February 2020.

[ICAC lobbying public inquiry to focus on roles and perspectives of government officials](#)

The next phase of the NSW Independent Commission Against Corruption's (ICAC) public inquiry into the regulation of lobbying, access and influence in NSW (Operation Eclipse) will focus on the roles and perspectives of government officials from 17 February 2020.

NSW Public Consultation

[Review of the Minimum Age of Criminal Responsibility](#)

The Council of Attorneys-General (CAG) Working Group is reviewing the age of criminal responsibility. Interested persons are invited to comment on a series of questions relevant to the Working Group's review. Submissions close on 28 February 2020.

[Review of the Graffiti Control Act 2008](#)

The Department of Communities and Justice is seeking feedback on the Graffiti Control Act 2008 to determine whether the policy objectives of the Act remain valid and if its terms remain appropriate for securing those objectives. Submissions close on 10 February 2020.

[NSW DCJ: Update to child protection reporting](#)

From 1 March 2020 amendments to the [Children and Young Persons \(Care and Protection\) Act 1998 opens in new window](#) (Care Act) will commence to expand mandatory reporting groups and provide greater protections for reporters.

[Call for Submissions on the Legal Profession Uniform Admission Rules 2015 \(NSW\) Removal of the word 'fame'](#)

The Legal Services Council's (LSC's) Admissions Committee invites comment about its recommendation that the text of the Legal Profession Uniform Admission Rules 2015 (Admission Rules) be amended to reflect the language of the Legal Profession Uniform Law 2014 (Uniform Law). Specifically, the Admissions Committee supports the removal of the word 'fame'. Submissions close on 28 February 2020.

CASES

[Insurance Australia Ltd t/as NRMA Insurance v Atkins \[2020\] NSWSC 67](#)

ADMINISTRATIVE LAW – judicial review – decision under the Motor Accidents Compensation Act 1999 – whether medical assessor's decision affected by error of law on the face of the record or jurisdictional error – failure to provide adequate reasons for assessment of impairment – certificate set aside and matter remitted for reassessment by different assessor. *Insurance Australia Ltd t/as NRMA Insurance v Atkins* [2020] NSWSC 67.

[Melco Resorts & Entertainment Limited v The Independent Liquor and Gaming Authority \[2020\] NSWSC 53](#)

STATUTORY INTERPRETATION – Summons to produce documents to statutory inquiry – claim of privilege – whether abrogated – Casino Control Act 1992 (NSW), s 143A.

[Grosser v Registrar of Births Deaths and Marriages \[2020\] NSWCATAD 55](#)

ADMINISTRATIVE LAW – registration of birth – whether Registrar should correct the applicant's name recorded in the Register Grosser v Registrar of Births Deaths and Marriages [2020] NSWCATAD 55.

[Henadeck Pty Ltd v Independent Liquor and Gaming Authority; Niraula v Independent Liquor and Gaming Authority \[2020\] NSWCATAD 53](#)

ADMINISTRATIVE REVIEW – hotel licence - application to vary an ongoing extended trading authorisation – refusal of application - whether decision administratively reviewable.

[Gabriel v Commissioner of Police \[2020\] NSWCATAD 51](#)

FREEDOM OF INFORMATION – government information – disclosure of information provided in confidence – revealing the identity of an informant – Personal information – personal factors of the applicant – balancing exercise. Gabriel v Commissioner of Police [2020] NSWCATAD 51

[O'Grady v Sutherland Shire Council \[2020\] NSWCATAD 50](#)

ADMINISTRATIVE LAW – Government Information (Public Access) Act -- GIPA – whether agency obliged to create a new record in response to an access application – discretion balanced with objects of the Act.

[Klaric v Commissioner of Police \[2020\] NSWCATAD 47](#)

ADMINISTRATIVE LAW – administrative review - Government Information – refusal to deal with application – whether agency has already decided previous application for same information – whether no reasonable grounds for believing agency would make a different decision – adequacy of searches ADMINISTRATIVE LAW – administrative review - Government Information – balancing the public interest.

[Tabbaa v NSW Taxi Council \[2020\] NSWCATAD 46](#)

ADMINISTRATIVE REVIEW – taxi driver – no legislative requirement that driver be authorised – respondent not an administrator - no administratively reviewable decision.

[Vafa v Northern Sydney Local Health District \[2020\] NSWCATAD 44](#)

FREEDOM OF INFORMATION – government information – whether information is held by agency – decision affirmed. Vafa v Northern Sydney Local Health District [2020] NSWCATAD 44

[Choi v University of Technology Sydney \[2020\] NSWCATAP 18](#)

APPEAL – where Tribunal summarily dismissed application under Government Information (Public Access) Act 2009 – whether the Tribunal made an error of law – whether new evidence should be admitted – whether what happened at a case conference affected the Tribunal's decision.

[Kirkby & Gibbs v Department of Premier and Cabinet \[2020\] NSWCATAD 39](#)

Administrative Law – Government information - reveal a deliberation or consultation conducted, or an opinion, advice or recommendation given - prejudice the effective exercise by an agency of the agency's functions - found an action against an agency for breach of confidence - prejudice the conduct, effectiveness or integrity of any audit, test, investigation or review - endanger the security of, or prejudice any system or procedure for protecting any place, property or vehicle - reveal an individual's personal information - expose a person to a risk of harm or of serious harassment or serious intimidation - diminish the competitive commercial value of any information to a person - prejudice any person's legitimate business, commercial, professional or financial interests - prejudice the conduct, effectiveness or integrity of any research - prejudice the conservation of any place or object of natural, cultural or heritage value Kirkby & Gibbs v Department of Premier and Cabinet [2020]

[Johnson Property Group Pty Limited v Lake Macquarie City Council \[2020\] NSWLEC 4](#)

CIVIL PROCEDURE: application for the determination of a separate question of law – legal principles – power of judges to allocate and list matters for hearing – where no expedition sought – matter referred to Registrar for the allocation of a hearing date.

LEGISLATION

Commonwealth

[Student Identifiers Amendment \(Enhanced Student Permissions\) Bill 2019](#)

Introduced Senate 11/02/2020 - Amends the Student Identifiers Act 2014 to: allow any entity to request access to an individual's authenticated vocational education and training (VET) transcripts (or extract), where that access is permitted by the access controls set by the individual; and introduce new civil penalties in relation to further applications for student identifiers, alteration of authenticated VET transcripts and representing that a non-authentic document is an authenticated VET transcript (or extract).

Regulation

[Privacy \(Credit Reporting\) Code 2014 \(Version 2.1\)](#)

This instrument is a written code of practice about credit reporting under s 26N(1) of the Privacy Act 1988 as amended by the Privacy Amendment (Enhancing Privacy Protection) Act 2012.

The CR Code V2.1 repeals and replaces the Previous Code to clarify obligations under the Previous Code, reflect current industry practice and ensure consistency with the provisions in the Privacy Act.

[Marriage \(Celebrant Professional Development\) Statement 2020](#)

This instrument provides Commonwealth registered marriage celebrants with a list of activities to choose from to complete their ongoing professional development obligations for 2020.

[Competition and Consumer \(Consumer Data Right\) Rules 2020](#)

This instrument prescribes the Consumer Data Right as an economy-wide reform that will apply sector-by-sector, starting with the banking sector. The Competition and Consumer (Consumer Data Right) Rules 2020 deal with aspects of the Consumer Data Right regime as provided in Part IVD of the Competition and Consumer Act 2010, including the accreditation process, the use and disclosure of CDR data, dispute resolution, and rules in relation to the Privacy Safeguards.

KEY CONTACTS

PANEL RELATIONSHIP CONTACTS

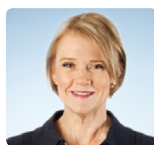
Your contacts responsible for navigating our firm, connecting you with the appropriate expertise and achieving maximum efficiency.

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

SUB-PANEL APPOINTMENTS

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

- | | |
|--|--|
| 1(c) Major commercial matters (incl. ICT) | 4(f) Discrimination |
| 2(a) Commercial and contractual matters | 6(b) General litigation and dispute resolution |
| 4(a) Employment and industrial relations law | 6(c) Debt recovery |

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NSW

Regulations and other miscellaneous instruments

- [Crimes \(Domestic and Personal Violence\) Amendment \(Application Notices\) Regulation 2020 \(2020-40\)](#) – published LW 14 February 2020
- [Local Government \(Regional Joint Organisations\) Amendment Proclamation 2020 \(2020-42\)](#) – published LW 14 February 2020
- [Gaming Machines Amendment \(Miscellaneous\) Regulation 2020 \(2020-33\)](#) – published LW 7 February 2020
- [Liquor Amendment \(Miscellaneous\) Regulation 2020 \(2020-34\)](#) – published LW 7 February 2020

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