

# THE PRACTITIONER SOCIETY UPDATES



## CPD

### **Ethical conundrums for criminal lawyers**

1 March 2018  
1.00 pm - 2.00 pm  
Darwin/Alice Springs  
Register [here](#)

### **Trade Mark 101**

6 March 2018  
1.00 pm - 2.00 pm  
Darwin  
Register [here](#)

### **Litigation involving self-represented parties**

12 March 2018  
1.00 pm - 2.00 pm  
Darwin  
Register [here](#)

### **NT ICAC update**

15 March 2018  
1.00 pm - 2.30 pm  
Darwin/Alice Springs  
Register [here](#)

### **The Australian Workplace and the Duty of Care**

22 March 2018  
1.00 pm - 2.00 pm

## From the CEO

### **Opening of the legal year - the year ahead**

The Northern Territory deals with some of the most difficult federal legal issues. Issues such as proper access to justice, over representation of Aboriginal and Torres Strait Islanders in jails along with scarcity and under resourcing of rural, regional and remote areas. Law Council President, Morry Bailes, addressed these issues in his speech when he opened the Northern Territory's Legal Year last week. Read the full speech [here](#).

### **Congratulations Lachlan Drew**

Join us in congratulating MinterEllison SA/NT Partner Lachlan Drew who has been recognised for his outstanding commitment to his clients, announced as a Client Choice Award 2018 winner in a global ceremony held in London on 8 February 2018. Lachlan was recognised for his work in the Projects & Procurement category. Uniquely, these awards survey senior corporate counsel only, with this year's winners chosen from a pool of more than 2,000 individual client assessments. A list of 2018 winners is available [here](#).

### ***Maxcon Constructions Pty Ltd v Vadasz & Ors [2018] HCA 5***

The High Court unanimously dismissed an appeal from the Full Court of the Supreme Court of South Australia. The Court held that an adjudicator appointed to resolve a disputed payment claim under the *Building and Construction Industry Security of Payment Act 2009* (SA) (the Security of Payment Act) did not

Darwin/Alice  
Springs  
Register [here](#)

## CPD Guidelines

## Purchase CPD DVDs



## Events

**2018  
Constitutional Law  
Conference**  
23 February 2018  
NSW

**Contract Law  
Masterclass**  
1 March 2018  
Sydney

**ICCA 2018**  
15-18 April 2018  
Sydney

**A Taste of Kakadu**  
18-27 May 2018  
Kakadu

**Australian Institute  
of Judicial  
Administration  
Conference**  
24-26 May 2018  
Brisbane

**7th LAWASIA  
Family Law &  
Children's Rights  
Conference**  
6-8 June 2018  
Vientiane, Laos

**Hellenic Australian  
Lawyers  
Association**

make an error of law, and that in any event the Supreme Court's jurisdiction to quash non-jurisdictional errors of law on the face of the record had been ousted by the Security of Payment Act. Read the decision [here](#).

## ***Probuild Constructions Pty Ltd v Shade Systems Pty Ltd & Anor [2018] HCA 4***

The High Court unanimously dismissed an appeal from the Court of Appeal of the Supreme Court of New South Wales. The High Court held that the Supreme Court of New South Wales does not have jurisdiction to make an order in the nature of certiorari to quash a determination made by an adjudicator appointed under the *Building and Construction Industry Security of Payment Act 1999* (NSW) (the Security of Payment Act) for a non-jurisdictional error of law on the face of the record. Read the decision [here](#).

## ***Commonwealth of the Australian Federal Police v Hart [2018] HCA 1***

The High Court has allowed [an appeal](#) against a decision of the Court of Appeal of Queensland on the meaning and application of federal proceeds of crime legislation. The proceeds of crime proceedings follow a successful criminal prosecution of Steven Irvine Hart, the respondent in the one of the three High Court appeals, for his involvement in tax minimisation schemes. During that prosecution, the Commonwealth Director of Public Prosecutions (DPP) obtained a restraining order on property under Hart's 'effective control'. The present proceedings involve two subsequent actions: first, an action by companies against the Commonwealth under s 102 of the Act claiming an interest in some of the forfeited properties (respondents in two of the three High Court Appeals) for their interests (or an equivalent value) to be transferred to them; second, an action by the Commonwealth DPP under s 141 of the Act seeking a declaration that any property the companies recover in this way be made available to pay any pecuniary penalty Hart was liable to pay. The companies generally succeeded in both actions at the trial in Queensland's District Court in 2013 and following the Commonwealth's appeal to Queensland's Court of Appeal, with the Commonwealth ordered to pay the companies the value of their interests and denied the ability to use that money to pay a nearly \$15M pecuniary penalty that Hart was ordered to pay to the Commonwealth in 2010. Read more of this case note [here](#).

## **Mandatory data notification laws**

With the passage of the *Privacy Amendment (Notifiable Data*

**Conference**  
9-12 July 2018  
Greece

## Employment

Principal  
environmental  
lawyer - **Melbourne**

Community solicitor  
- **Darwin**

Law officer - **Darwin**

Summary  
prosecutor - **Darwin**

Crown prosecutor -  
**Alice Springs**

Property lawyer -  
**Brisbane**

Solicitor -  
**Bundaberg**

Judicial  
appointments  
(several)-  
**Queensland**

In house lawyer -  
**Adelaide**

In house Counsel -  
**Melbourne**

Special Counsel -  
**Melbourne**

Corporate lawyer -  
**Adelaide**

*Breaches) Act 2017* Australia will have a mandatory data breach notification law. It comes into effect from 22 February 2018. In summary the scheme as enacted in Part IIIC of the *Privacy Act* obliges organisations covered by the *Privacy Act* and agencies to notify individuals whose personal information is involved in a data breach that is likely to result in serious harm. A notification must include recommendations about the steps individuals should take in response to the breach. The Australian Information Commissioner must also be notified of eligible data breaches. That is the starting point. It is a complex piece of legislation which requires careful consideration of the exemptions and consideration of what may or may not constitute serious harm.

## GST changes to affect property settlements

The *Treasury Laws Amendment (2018 Measures No. 1) Bill 2018* was introduced in the Federal Parliament on 7 February and introduces new arrangements that will require purchasers of new residential premises and new residential subdivisions to withhold the GST on the purchase price and remit it directly to the Australian Taxation Office as part of settlement. If the Bill is passed, changes will begin on 1 July 2018 (contracts entered into before 1 July 2018 will not be affected so long as the transaction settles before 1 July 2020).

## The big changes ahead for 2018

2018 looks set to be as unpredictable and challenging as any in recent memory for the legal industry worldwide especially with the evolving new landscape of Artificial Intelligence. Read this article from ThoughtRiver [here](#).

## Foreign Investment Review Board

The Commonwealth Treasurer, Scott Morrison, announced on 1 February changes to the regulatory framework around foreign investors acquiring interests in Australian agricultural land including the requirement that foreign investors must be able to satisfy that the sale of agricultural land was open and transparent. To give effect to the Treasurer's announcement, the Foreign Investment Review Board (FIRB) issued an **amended guidance note** in relation to agricultural land investments. Under the guidance note, when considering an application by a foreign investor to acquire an interest in agricultural land the FIRB will take into account whether there was an opportunity for



Legal associations

**NT Bar Association**

**Criminals Lawyers NT**

**NT Women Lawyers**

**NT Young Lawyers**

**Other**



### **Public workshops calendar**

**LawCare:** The Society funds a professional, confidential and free counselling service for our members and their immediate family, provided through EASA. If you are experiencing workplace, personal or emotional issues which are affecting your work or personal life, please call LawCare via the 24-hour support line on: 1800 193 123 or visit their [website](#).



The Society is pleased to endorse this human rights campaign. For more information visit the [website](#).

Australians to acquire a given parcel of the land. The FIRB has indicated that, in general, approval will not be granted for any acquisition of agricultural land by a foreign person where the land was not offered for sale publicly and marketed widely for a minimum of 30 days. This is to ensure that Australians have had a sufficient opportunity to bid in any sale process of agricultural land. In order to be marketed widely, agricultural land must be listed or advertised on widely used real estate listing websites in regional and national media. Applicants for FIRB approval may be requested to provide evidence that the sale process met the requirements for it to be marketed widely.

## **Community leases and Indigenous communities**

Consumer leases offer low-income consumers the option to hire household items that they do not have the money to purchase upfront. They are marketed by consumer lease providers as a cheap way to purchase important household items. However, recent studies illustrate that the price ultimately paid to hire goods under a consumer lease contract will generally exceed the retail value of the goods hired and that it is the most expensive form of finance available. Despite this, consumers are often persuaded to enter into consumer lease contracts as a result of predatory practices engaged in by providers. These predatory practices are most effective with low-income consumers who may be experiencing financial difficulties and who live in remote areas that make it difficult to shop for alternative goods or seek financial and legal advice.

The problems associated with consumer leases are particularly prevalent in remote and rural Indigenous communities where issues such as geographical isolation, financial hardship, and cultural practices make them vulnerable targets for providers. [This article](#) explores in detail the ongoing problems faced by Indigenous consumers when entering consumer leases. After setting out some of the key aspects of consumer leases and the general problems associated with their use, the article explores the operation of consumer leases in Indigenous communities and enforcement actions relating to Indigenous consumers that have been undertaken by the Australian Securities and Investments Commission. The article also reports the results of interviews conducted by the authors that indicate that, despite regulatory reforms and enforcement actions, Indigenous communities continue to be vulnerable consumers. This vulnerability has led many Indigenous consumers to pay exorbitant amounts for household items that could be purchased

more cheaply or through less costly credit products. As a result, Indigenous consumers entering into consumer leases often find they are unable to afford to pay for other essential items, which in turn forces them into even greater financial distress. The article concludes with observations regarding the potential negative effects of consumer leases in Indigenous communities and reforms that may address these problems.

## **Myilly Point Heritage Precinct buildings for lease**

The historic Myilly Point Heritage building has offices for lease. View more details [here](#) and photos [here](#).

## **Volunteer, networking and capacity building opportunities at DCLS**

Darwin Community Legal Service (DCLS) is a community-based organisation committed to legal and social justice and the protection of human rights in the Northern Territory. We assist those who are disadvantaged or marginalised access justice by:

- Providing high quality legal and related services
- Identifying obstacles to justice and options for reform
- Promoting understanding of legal rights and how to assert them.

As part of our service delivery, DCLS has been working with volunteers from the legal community to provide free legal advice sessions for over twenty-five years.

We provide three advice sessions per week:

- Monday at Palmerston library (6.00-7.00 pm)
- Thursday at our city office (5.30-7.00 pm)
- Saturday at Casuarina library (10.00-11.45 am)

To maintain this essential community service, we urgently need the support of lawyers holding a practising certificate that share our vision for a community where all people can obtain legal and social justice.

Volunteers working at these sessions obtain practical, front-line experience advising clients on a diverse range of legal issues, the opportunity to network with other legal practitioners and gain first-hand insights into the operations of a busy community legal

service.

Volunteer opportunities also exist for session coordinators, a role that does not require a practising certificate and is often filled by law students who have reported that the experience gained through volunteering at DCLS contributed significantly to their professional development.

Your regular commitment to volunteer for between two and four hours a month will allow us to ensure the continuation of this important advice service.

In addition DCLS is engaged in legal research, lobbying, law reform, policy development and community legal education and welcomes additional volunteer expertise in these areas either on a regular basis or for a limited time in relation to specific areas.

If you are interested in pursuing volunteer opportunities with DCLS, please contact with [Maureen Wright](#) on 8982 1111.

## Lost will

Anyone knowing the whereabouts on the last will of Marie Diana Simmons (previously Truman) born 20 February 1959 is asked to contact [Jodi Truman](#) at John Toohey Chambers as soon as possible.

## Legislation

The Department of the Attorney-General and Justice would like to invite you to an information session on the **Domestic and Family Violence Amendment (Information Sharing) Bill 2017**.

The Bill and explanatory documents are available on the NT Legislation Website:  
[https://legislation.nt.gov.au/en/LegislationPortal/Bills/~/\\_link.aspx?\\_id=23EF6B7D407C4C21B075390623425367&\\_z=z](https://legislation.nt.gov.au/en/LegislationPortal/Bills/~/_link.aspx?_id=23EF6B7D407C4C21B075390623425367&_z=z) .

The Bill was introduced to Parliament in the November 2017 Sittings of the Legislative Assembly and is currently before the Social Policy Scrutiny Committee, which is due to report to the Legislative Assembly on 13 March 2018.

The Bill proposes a new domestic and family violence information sharing regime. It designates certain government and prescribed non-government agencies to share information

for the purposes of assessing whether there is a serious threat to a person because of domestic violence, responding to serious threats and making referrals to specialist domestic violence services. The proposals are based on the information sharing provisions of the NT *Care and Protection of Children Act*, as well as new legislation enacted in Victoria, in response to recommendations of the Victorian Royal Commission into Family Violence, and Queensland, in response to the Queensland Special Taskforce into Family Violence.

The Department will be holding information sessions in Darwin, Katherine and Alice Springs to explain the domestic violence information sharing regime proposed by the Bill and to seek stakeholder feedback.

Details for the sessions are as follows:

#### **Alice Springs**

**Venue:** First floor Alice Springs Law Court  
Parsons Street, Alice Springs, NT

**Date:** Thursday 22 February 2018

**Time:** 1.00pm to 2.00pm

#### **Katherine**

**Venue:** Knotts Crossing Resort,  
10 Cameron Street, Katherine, NT 0850

**Meeting Room:** Territory Conference Room

**Date:** Tuesday 27 February 2018

**Time:** 2.00pm to 4.00pm

#### **Darwin**

**Venue:** Northern Australia Development and Trade,  
G/F, Development House, 76 The Esplanade,  
Darwin NT 0801

**Meeting Room:** Territory Conference Room

**Date:** Thursday, 1 March 2018

**Time:** 12.00pm to 2.00pm

If you would like to attend, **please RSVP to Maria Delin** ([Maria.Delin@nt.gov.au](mailto:Maria.Delin@nt.gov.au); 8935-7404) **and advise of your location by Tuesday 20 February 2018.**

## Commencement notice

*Fisheries Amendment (Vessel Monitoring System Levy)*

*Regulations 2018* commence on 1 February 2018.

*Liquor Amendment (Supervision Orders) Regulations 2018*

commenced on 31 January 2018.

# Law Council of Australia

## Latest submissions

## Review of Australian Solicitor Conduct Rules

The Law Council of Australia (LCA) has now released the consultation paper for a review of the Australian Solicitors Conduct Rules (ASCR). A copy of the Review of the Australian Solicitors' Conduct Rules Consultation Discussion Paper can be found [here](#).

Whilst the Northern Territory has not yet adopted the ASCR it is important for Territory practitioners to consider the proposed changes as they may affect this jurisdiction if the ASCR are adopted in the future. At present the ASCR have been adopted in South Australia, Queensland, New South Wales, Victoria and the Australian Capital Territory. Tasmania is in the process of adopting them.

This is the first review of the ASCR since their promulgation by the LCA in June 2011. Some of the issues raised for consideration as amendments (inclusions and omissions) to the ASCR arise from the experience of practitioners in the jurisdictions where the ASCR are operative.

The close date for submissions is **31 May 2018**. If you wish provide any feedback for the Society to consider including in any submission in response to this consultation discuss paper, please send it to the [CEO](#) or [MRS](#).

## Flexible workplaces

The LCA recently published a webpage on [flexible workplaces in the legal profession](#), which provides tips and resources to assist workplaces in developing flexible workplace policies, and translating these policies into practice. The webpage includes information on what flexible workplace arrangements are, employer responsibilities and examples of flexible working arrangements.

## Other tid bits

### How we said sorry: Reflecting on the Apology, a decade on

This is a long and detailed [read](#) on reflecting on the Apology.

### We're all eccentrics here

The small Northern Territory town of Larrimah, which boasts a population of just ten, has attracted rather more than its usual share of [media attention](#) since seventy-year-old [local man Paddy Moriarty went missing](#) in December last year. Paddy and his dog Kellie, who are both still missing, were the focus of the [7.30 Report's recent investigation](#) into the town. In this essay from *Griffith Review 9: Up North*, Andrew McMillan explores the complex social politics of life in Larrimah, where 'locals with a score to settle' have been known to feed other residents' pet peacocks to the local crocodile.

### The white darkness

[In this article](#) David Grann narrates the story of Henry Worsley, ex-British Army officer and explorer, on his multiple journeys traversing Antarctica. This gripping 22,000-word read crosses white plains larger than France, ascends the Transantarctic Mountains, and culminates in Worsley's attempt at a solo crossing in 2016, leaving behind his wife and two children. Endurance requires pushing beyond the limits of your intuition. When does obsession begin to blind you? At what point do you misjudge your body and the power of nature? When do you find the courage to stop.

### Buckeye brownie cheesecake

[This layered cheesecake](#) is a show-stopping dessert. Chocolate and peanut butter come together in layer after layer. The only thing more impressive than how it looks is how it tastes.

### Women living off the land

Women Living Off The Lands, is a bush foods documentary filmed in Ngurulpila the tri-state border in Western Australia with women and children from Wingellina Community. View it [here](#).

### Thai lime and chili roasted chickpeas

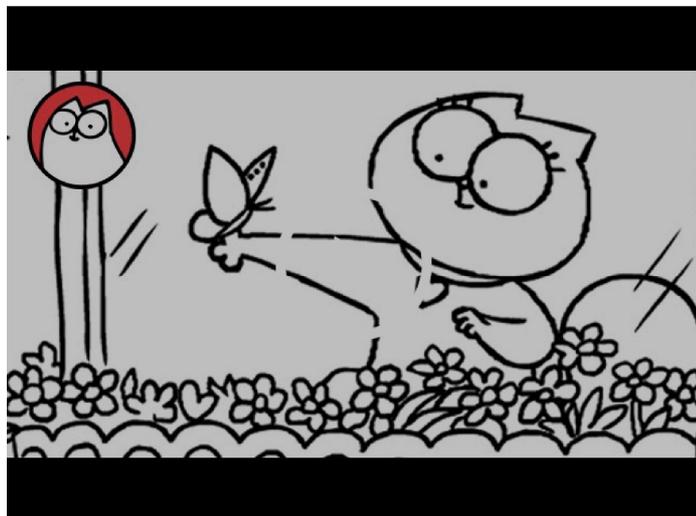
Tangy, savory, and spicy, these crispy [Thai Lime and Chili Roasted Chickpeas](#) pack a punch of spicy and savory Thai flavors. Baked in the oven, they are a protein-packed healthier way to satisfy your salty snack craving.

### Egg and chorizo breakfast muffins

These are [so easy](#) and fast to make. They include chorizo and cheese too so you know they'll taste awesome. They make a brilliant low-carb breakfast on the go or a snack at lunch.

### Cornchips for women

*"Bosses at Doritos have revealed they are to launch a new 'lady-friendly' version of the snack which are quieter to eat and a lot less messy."* — [New York Post, 2/5/18](#). Not to be outdone by Dorito's here are [five more products](#) made just for women.



Smitten

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## Missing something?

Is there something missing from your *Practitioner*? Do you have any ideas or information you would like to be kept up-to-date on? If so, email us at [practitioner@lawsocietynt.asn.au](mailto:practitioner@lawsocietynt.asn.au)

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**Law Society Northern Territory**  
Level 3, 9 Cavenagh Street, Darwin NT, 0800  
GPO Box 2388 Darwin NT 0801  
Telephone: (08) 8981 5104 Fax: (08) 8941 1623  
Email: [lawsoc@lawsocietynt.asn.au](mailto:lawsoc@lawsocietynt.asn.au)  
Website: [www.lawsocietynt.asn.au](http://www.lawsocietynt.asn.au)

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