



THE LAW SOCIETY
OF NEW SOUTH WALES

GOVERNMENT LAWYER

Newsletter of The Law Society of NSW's Government Solicitors Committee

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Chair's Message

By **Deb Willcox**

Chair, Government Solicitors Committee

Dear colleagues,

2012 has been another productive and fulfilling year for the Government Solicitors Committee. Notably this year's conference on 28 August was a great success. The day featured highly engaging and informative speakers across a wide range of topics, topped off by a truly inspiring and entertaining after dinner speech by Michael Antrum, a rural magistrate and former member of the Committee. Social worker Robyn Bradey led a session on mental wellbeing for practitioners and really hit the mark in identifying the pressures we can face and insightful ways to keep ourselves well. Robyn has since run two more seminars for in-house lawyers which due to their incredible popularity will be offered again in February/ March 2013.

I would like to thank all our conference speakers and offer my congratulations to the winners of the Excellence Award and Hennessy Scholarship. I would also like to take the opportunity to thank the organising committee, and in particular the Law Society staff who orchestrated a highly professional and well managed event.

The final event of the year was a CPD seminar on legal professional privilege for government lawyers on 13 November. This event booked out in record time, but plans are underway to offer this seminar again in early 2013.

I would like to send a special thank you to all of my colleagues on the Government Solicitors Committee for all their work over the course of the year – the Committee is passionate about the work of government solicitors and will continue to drive initiatives and advocate on their behalf. I step down from the Committee this year. It has been a wonderful experience and I feel privileged to have been a member and Chair. I would also like to express my gratitude to the Law Society staff. The role Heather Moore plays deserves special mention – Heather adds an unsurpassed level of rigour and sophistication to the work of this important committee. Thanks again and all the best for the festive season and 2013.

HAPPY HOLIDAYS

The Government Solicitors Committee wishes all government lawyers a safe and happy festive season and looks forward to another busy year in 2013.

A day in the life...

of Elizabeth Espinosa

Corporate Lawyer, Sutherland Shire Council and
Government Solicitors Committee member

Rates, roads and rubbish – a bit more

The Sutherland Shire is a local government area in the southern region of Sydney, to the south of Botany Bay and the Georges River.

The official population of the Sutherland Shire was 219,751 as at 30 June 2011.

The original inhabitants of the Sutherland area were the Dharawal speaking people.

After 6 years of private practice I answered a “calling” and commenced my in-house career in April 2003 at Sutherland Shire Council.

Within the Legal Services Unit we have a Principal Environmental Lawyer and myself (Corporate Lawyer) with unrestricted practising certificates. There are other lawyers within the Unit who assist either of us depending on deadlines (usually court imposed deadlines) and workload. I usually try to get in first!

Being Corporate Lawyer in a local council is a dynamic job.

On any given day I can deal with any number of legal issues and transactions which can be summarised with the following list:

- contracts (including tenders)
- general advice
- property (leases, licences, conveyancing)
- criminal law (as prosecutor)

My role as prosecutor involves appearing predominantly in the Local Court, but also in the District Court and the Land and Environment Court on appeals. The types of matters range from simple parking tickets and dog attacks to complex environmental crime including unauthorised development, significant tree removal and pollution offences.

Anything I do, whether it be to negotiate a design and construct contract for the latest piece of public infrastructure (such as a seawall) or prosecute a dog attack has to be allowed, permitted or otherwise provided for by the *Local Government Act 1993*. To be honest, this has been the trick in effectively acting for a council – getting my head around the intricacies and interrelationship the Local Government Act has with all other pieces of legislation. One of the most important areas is tendering requirements. As spenders of public monies and custodians of public land, local councils are under significant scrutiny and part of my job is to assist in ensuring that council and its staff keep their heads above murky waters. Ethics and probity are at all times a priority.

I have compensated for any potential professional loneliness by maintaining an active role within my Regional Law Society and through my involvement in the Law Society of NSW Government Solicitors Committee.

A typical day for me can involve packing my trolley bag for a walk around the block to the Local Court. Mention a few matters, return with said trolley bag. Arrive back in the office to the piles of contracts, property transactions and other general advice matters awaiting my attention. In the meantime, there’s never any pre-warning of those “drop everything!” matters which regularly land on my desk. Often these “drop everything” matters are entwined with the council meeting cycle and the deadline is akin to a court deadline – ie unmovable.

Some of my highlights have been achieving an effective rapport with the Local Court and establishing a regular “list” day, negotiating a complex commercial advertising contract following an open tender process, establishing processes and procedures for the provision of advices including drafting templates and precedent documents and successfully prosecuting defended dog attack matters where the elderly victim suffered atrocious permanent injuries and disability to his right arm.

In-house council lawyers don’t get to network much as we are spread out across the state. I have compensated for any potential professional loneliness by maintaining an active role within my Regional Law Society and through my involvement in the Law Society of NSW Government Solicitors Committee. ■

2012 Government Solicitors Conference and Dinner

By **Harold Bear**, Roads and Maritime Services and Government Solicitors Committee member

The Law Society's annual conference and dinner for government solicitors were held on 28 August at the Hilton Hotel Sydney. This year, the Government Solicitors Committee's engaging and informative program of speakers attracted close to 200 delegates at the conference and 70 attendees at the dinner.

Thanks to Law Society of NSW Senior Vice-President John Dobson for opening the event and reminding participants that services undertaken by government solicitors are fundamental to the fabric of the community and the way in which society functions.

Sessions at the conference included:

- Ross Fox, NSW Office of the Environment and Heritage spoke on the outcomes of a visit to US Environmental Protection Agency by Rebecca Hicks, winner of the 2011 John Hennessy Research Scholarship
- Paddy Hannigan, Federal Court, Deputy District Registrar and Stephen Olischlager, Local Court Assessor spoke on alternative dispute resolution and litigation
- Robyn Bradey, Mental Health Accredited Social Worker spoke on mental health issues for lawyers
- John McDonnell, Crown Solicitor's Office spoke on making delegations

"I found the conference interesting and particularly enjoyed the session by mental health social worker Robyn Bradey on the Lawyer's Guide to Sanity Profitability and Wellbeing."

Jovanka Naumoska, Senior Corporate Lawyer,
Australian Nuclear Science and
Technology Organisation

- Jennifer Mar Young, NSW Department of Attorney General and Justice and Janean Richards, Australian Attorney-General's Department spoke on managing government legal services
- Prof Rosalind Croucher, President, Australian Law Reform Commission spoke on law reform for government lawyers
- Prof Andrew Lynch, Gilbert + Tobin Centre of Public Law, University of NSW spoke on the implications of High Court case *Williams v Commonwealth*

- Michael Tooma, Norton Rose and Bruce Hodgkinson SC, Denman Chambers delivered a joint presentation on the new work health and safety legislation
- Doug Humphreys, Veterans Review Board, Linden Barnes, Law Society of NSW Ethics Unit and Dr Rita Shackel, University of Sydney conducted an interactive panel session on ethics for government lawyers which included three case study scenarios

The annual dinner was held following the conference, with an entertaining after-dinner speech delivered by guest speaker Michael Antrum, Magistrate of the Local Court and former member of the Government Solicitors Committee. The winners of the Law Society's Excellence Award in Government Legal Service and John Hennessy Research Scholarship were also announced at the dinner. ■

SAVE THE DATE

FREE government lawyers CPD seminar on legal professional privilege

Designed for less experienced lawyers or those seeking a refresher
presented by Frances Moffitt of the Law Society Professional Standards Department

6 March 2013, 4:30pm

Registration details will be circulated by email to government lawyer members and included in **MONDAY BRIEFS**.



2012 EXCELLENCE AWARD

Government Legal Service

Since 1992 the Law Society of New South Wales' Government Solicitors Committee has been administering the Excellence Award in Government Legal Service which recognises the outstanding achievements of public sector solicitors. The award is given to a solicitor or legal team who has performed "above and beyond the call of duty".

Law Society members employed in NSW by Commonwealth, NSW or local governments are eligible for nomination if their legal work:

- makes a contribution to the community that is worthy of notice
- enhances the standing of the government legal service, or
- contributes to good government.

The Law Society received three nominations for the Excellence Award which were judged by the Government Solicitors Committee as deserving of recognition this year.

Winner - 2012 Excellence in Government Legal Service Award

Congratulations to **Doug Humphreys**, the winner of the Excellence Award in Government Legal Service for 2012. Mr Humphreys was nominated by his colleagues and is a solicitor who has

contributed to government legal practice in a multitude of ways over a career spanning 30 years. He has been described as "a dedicated leader" with "an exemplary record", "who possesses personal integrity and enormous energy".

Mr Humphreys spent a number of years working at the Legal Aid Commission of NSW, including 10 as the Director of the Criminal Law Branch. In 2003, he was appointed as Principal Registrar of the Commonwealth Administrative Appeals Tribunal and subsequently served as the Executive Officer of the Council of Australasian Tribunals until 2010.

Mr Humphreys has been a long-serving contributor to the Law Society, having been a member of the Licensing and Government Solicitors Committees and an advocate for specialist accreditation for many years. He also served as a Councillor between 2008 and 2011, during which time he drove the creation of a new specialist accreditation in Government and Administrative Law. He has recently commenced a new term on Council following the Law Society election in October.

Mr Humphreys is involved in several community organisations and is also a member of the Army Reserve posted to the Legal Corps.

Since being appointed Principal Member of the Veterans' Review Board in 2010, he has spearheaded a number of initiatives which have significantly improved its operation, including the introduction of ADR procedures and a new practice direction.

Highly Commended - 2012 Excellence in Government Legal Service Award

Congratulations to **Barbara Zakos**, Senior Principal Lawyer at the Australian Taxation Office, who received the first of two Highly Commended citations. Ms Zakos is the Australian Taxation Office's national litigation coordinator who is responsible for the conduct of the most significant litigation matters for this large Commonwealth agency. She is a strong role model and mentor for less experienced members of the team and is known for her willingness to take on difficult tasks and assist others.

Highly Commended - 2012 Excellence in Government Legal Service Award

Congratulations to **Sonja Hewison** from the NSW Electoral Commission, who received the second Highly Commended citation. Ms Hewison is the Director of Legal Services at the NSW Electoral Commission and is described as dedicated, professional and supportive by her colleagues. Since being appointed Director just over a year ago, she has established a new legal branch, commenced a new prosecution regime and been heavily involved in fundamental legislative reform. ■

SAVE THE DATE

FREE MCLE seminars on mental health and wellbeing

Tailored specifically to corporate and government practice
presented by **Robyn Bradey**, mental health accredited social worker

19 February 2013, 9:30am – 1:00pm

14 March 2013, 9:00am – 12:30pm

Registration details will be circulated by email to government lawyer members and included in **MONDAY BRIEFS**.

Human Rights Update

By the Law Society of NSW Human Rights Committee

The issue of homelessness has become a major project for the Human Rights Committee this year.

Aspects of the project have included the preparation of a submission to the Federal Parliament commenting on the exposure draft Homelessness Bill 2012. The Bill was expected to be debated before both Houses of Parliament in the Spring sittings. Comments on the Bill were invited from individuals and groups by the Minister for Housing and Homelessness, the Honourable Brendon O'Connor. The President of the Law Society signed off on the Human Rights Committee's submission in July.

The Committee submitted that the Bill did not go far enough in addressing the problem of homelessness in Australia and the current figure of 105,000 homeless people across the nation.

The Committee called for the Bill to be re-drafted in such a way as to include a legally enforceable right to housing. Such a right, encoded in statute may achieve a better legislative outcome for persons experiencing or at risk of experiencing homelessness. The Bill in its current form is more declaratory than substantive in that it does not create any new rights. Rather it only makes reference to a number of international instruments which identify housing as a basic human right.

The Committee is of the strong view that the Bill should contain provisions creating specific legal rights in the same or similar form to Article 25 of the *Universal Declaration of Human Rights* or Article 11 of the *International Covenant on Economic, Social and Cultural Rights*. If the Bill were to contain provisions of this kind and it were to become law there would be a marked improvement in the plight of many of our most vulnerable people across the country.

For more information about the Human Rights Committee's homelessness project or other activities, please contact Vicky Kuek at vicky.kuek@lawsociety.com.au

John Hennessy Research Scholarship

The John Hennessy Research Scholarship was established by the Government Solicitors Committee to support public sector solicitors to undertake a research project on legal systems in another jurisdiction and to make recommendations for the improvement of the legal system in NSW. The scholarship is an "occasional scholarship" offered from time to time to cover the cost of travel and other approved expenses to the value of \$5,000.

The Scholarship is open to all NSW based government and local government solicitors holding a current NSW practising certificate who are members of the Law Society.

The successful applicant is required to submit a final project report around six months after the grant of the scholarship with a view to publication in the *Law Society Journal* and/or *The Government Lawyer* newsletter. The final report should make recommendations to improve the operations of the "sponsor" government legal department and/or the legal system in NSW.

2012 Winner of the John Hennessy Research Scholarship

Congratulations to **Natascha Rohr** from the ADR Directorate in the NSW Department of Attorney General and Justice who is the 2012 Winner of the John Hennessy Research Scholarship.

Ms Rohr will be using the \$5000 funding to travel to Canada where she will investigate a mandatory mediation process for civil litigation which has applied in Ontario since 1999. The objective of her trip will be to learn from the Canadian experience and investigate whether implementing a similar program in NSW might improve the civil justice system by decreasing costs and delay. She plans to do this by observing the system in practice and interviewing participants and stakeholders to gain a more direct understanding of its potential advantages and disadvantages.

Ms Rohr has an ongoing interest in ADR processes and is keen to gather data on the Ontario system to inform civil justice policy in NSW. ■

Ethics Advice Line

02 9926 0114

The Law Society's Ethics Advice Line can provide assistance to any solicitor dealing with an ethical issue or dilemma.

Advice is practical, confidential and free and available Monday to Friday, 9:00am to 5:00pm.

To contact an Ethics Solicitor, call (02) 9926 0114 or email ethics@lawsociety.com.au

The Government Solicitors Committee has also published *A Guide to Ethical Issues for Government Lawyers* available on the [Law Society website](#)

Pro Bono Resources for In-house Lawyers

In-house lawyers can make an effective and valuable contribution to pro bono legal assistance. Your skills and talents are incredibly valuable and volunteering them in some type of pro bono capacity can literally change people's lives.

Many of the barriers which previously stopped in-house lawyers from being involved in pro bono have been largely removed. Professional indemnity insurance for pro bono is now available free of charge, disbursements incurred in some types of matters can be reimbursed from the Pro Bono Disbursement Trust fund administered by the Law Society of NSW and there are opportunities for legal education and training to be provided at no cost.

If you are interested in undertaking pro bono work, it is also important to consider the issues of conflict and supervision. Government lawyers will always need to speak with their employer agency before volunteering.

How to get started:

We suggest you start by having a "brain storming" session with your legal team. What are people interested in? Is there a special interest group you want to target? Or perhaps you are eager to spend time on your feet in front of a Local Court Magistrate.

Hearing from those wanting to be involved will assist you in making your contributions meaningful to your team and is most likely to result in an ongoing contribution that is mutually beneficial and rewarding to both staff member and pro bono client.

Organisations already working in the Pro Bono arena:

The Law Society of New South Wales Pro Bono Scheme

The Law Society's [Pro Bono Scheme](#) is a well established and respected scheme that has been operating for 20 years. The Scheme aims to assist people in obtaining legal assistance in situations where they have been refused legal aid and cannot afford legal fees. All applicants are subject to a means and merit assessment before being referred to solicitors.

Assistance can include legal advice, preparing court documentation, representation in court and ongoing legal representation.

For more information on how you can get involved, please contact the Manager of the Pro Bono Scheme, Solicitor Nerida Harvey on (02) 9926 0379.

See also the Law Society's [Pro Bono Policy](#) adopted in 2009.

Public Interest Law Clearing House (PILCH)

The Public Interest Law Clearing House of NSW is a membership-based, not-for-profit organisation facilitating and delivering legal services to individuals and not-for-profit organisations throughout NSW.

PILCH connects the private legal sector, the non-government and community sector and vulnerable, marginalised or disadvantaged persons and groups through pro bono legal assistance and sustained advocacy on issues of widespread or systemic impact.

PILCH is committed to protecting human rights, promoting social justice, and responding to emerging legal, social and ethical issues.

Contact [PILCH](#) on (02) 9114 1793 to find out how you can get involved.

Public Interest Advocacy Centre (PIAC)

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action on public interest issues.

For over 27 years, PIAC has worked to ensure that people and communities who are marginalised or suffer disadvantage can secure justice.

Contact [PIAC](#) on (02) 8898 6500 to explore how you can assist.

The National Pro Bono Resource Centre

The [National Pro Bono Resource Centre](#) provides a wide variety of information regarding pro bono opportunities for individuals and for organisations who wish to develop pro bono programs for their in-house legal teams. Other opportunities may include working with a Community Legal Centre or Aboriginal and Torres Strait Islander Legal Service (see [www.clcvolunteers.net.au](#)) or volunteering with Lawyers Beyond Borders through [Australian Volunteers International](#).

Salvos Legal "In-house Pro Bono Desk"

Government lawyers who wish to undertake pro bono legal work now have a new opportunity to do so. Salvos Legal and Salvos Legal Humanitarian are two law firms owned and run by The Salvation Army. Salvos Legal does commercial legal work on a paid basis, but its "profits" are used to fund Salvos Legal Humanitarian, which provides free legal assistance to those in need, primarily in the "legal aid" areas of law. They have now launched an "In-house Pro Bono Desk", which is intended to be fully staffed by corporate/government lawyers. Lawyers can volunteer in their own time, or as part of their official employment depending on their arrangement with their employer. Importantly, the government lawyers who work at the Desk will be able to rely on Salvos Legal Humanitarian's professional indemnity insurance. Any government lawyer who can work at the Desk for at least a day may apply. To apply, or for more information, please visit the [Salvos Legal](#) website. ■

2012 Government Solicitors Committee

Chair:

Ms Deb Willcox	HealthShare NSW	deborah.willcox@hss.health.nsw.gov.au
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Committee Members:

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Ms Elizabeth Espinosa	Sutherland Shire Council	eepinosa@ssc.nsw.gov.au
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