

2014 AIAL National Administrative Law Conference

Innovations in Administrative Law and Decision-Making

Thursday 24 and Friday 25 July 2014

The University Club of Western Australia, Hackett Drive,
Crawley, Perth, WA



Administrative law is a dynamic and constantly developing area of Australian law. This is reflected in variations on the traditional court-based adversarial model and greater flexibility in dispute resolution generally, common law developments in judicial review and ongoing efforts to balance freedom of information and privacy, particularly in light of modern information technologies.

The 2014 AIAL National Administrative Law Conference will examine innovations in administrative law and decision-making and the current state of administrative law in the Commonwealth, States and Territories.

The Conference will be relevant to government decision-makers, public lawyers, those affected by decisions and their advisers, members of review bodies, tribunals and courts, policy developers, academics, students and others with an interest in Australian administrative law.

Thursday 24 July 2014

12.00pm Registration and arrival tea and coffee

12.45pm **Welcome and Introductory Remarks**
Justice Michael Barker, Federal Court of Australia

1.00pm **Plenary Session 1: Opening Address**

Dr Tim Soutphommasane, Commonwealth Race Discrimination Commissioner
Administrative decision-making under Parts II and IIA of the Racial Discrimination Act 1975 (Cth)

Chair and Commentator: Richard Hooker, Chair, WA Chapter of the AIAL and Barrister, John Toohey Chambers

2.00pm **Plenary Session 2: Fundamental Issues in Administrative Law (including Q & A style discussion)**

Justice Janine Pritchard, Supreme Court of WA
The increasing scope of merits review - issues and consequences for judicial review

Fiona McLeod SC, Barrister, Victorian Bar
State human rights legislation - doctrinal and practical issues for administrative lawyers

3.15pm Afternoon tea

3.45pm **Concurrent Session 1**

Stream 1.1: **Dr Jeffrey Barnes**, La Trobe University
Plain English legislative drafting – innovations and issues in administrative law

Stream 1.2: **Emma Turner**, Special Counsel, and **Anita Courtney**, Associate, Russell Kennedy Pty Ltd
Whether regulatory authorities should make submissions as to the appropriate penalty in civil penalty proceedings

Stream 1.3: **Amanda Sapienza**, University of Sydney
Developments in the law of justiciability of non-statutory executive action: a message for immigration policy makers

Stream 1.4: **Tom Smyth**, Barrister, Victorian Bar
A less complex, less bewildering avenue for merits review: NCAT in NSW

5.00pm **Plenary Session 3: National Lecture on Administrative Law** **The Honourable Wayne Martin AC**, Chief Justice of WA

6.00pm **Conference Drinks**

7.00pm **Conference Dinner and AIAL Trivia Quiz**
Venue: The University Club of WA, Hackett Drive, Crawley, Perth

Friday 25 July 2014

8.00am Registration and arrival tea and coffee

9.00am **Plenary Session 4: Freedom of Information and Privacy – Current (and Competing) Issues**

Dr James Popple, Australian Freedom of Information Commissioner
The OAIC FOI experiment: what have we learnt?

Sven Bluemmel, WA Information Commissioner
Achieving transparency with blurred government boundaries

Mick Batskos, Executive Director, FOI Solutions
Balancing the treatment of “personal information” under FOI and privacy laws: a comparative Australian analysis

10.15am Morning tea

10.45am Concurrent Session 2

- Stream 2.1:** **Lisa Burton**, Monash University
Section 75(iii) of the Commonwealth Constitution and the outsourcing of public power
- Stream 2.2:** **Colonel Bronwyn Worswick**, Director of Military Administrative Law, Department of Defence
War-fighting and administrative law: developing a risk-based approach to process in command decision-making
- Stream 2.3:** **Peter Johnston**, Adjunct Professor, University of WA; and **Peter McNab**, Senior Member, State Administrative Tribunal of WA
Towards the far frontier viewed through the lens of the WA State Administrative Tribunal; a conjecture regarding the evolution of state adjudicative power as an alternative to state judicial or administrative power
- Stream 2.4:** **Mireya Hyland**, Solicitor
Determinations of refugee status on Nauru - the interaction of law and process

11.45am Plenary Session 5: Developments in Judicial Review

Justice Michael Barker, Federal Court of Australia
The ultimate rule of law? Li unreasonableness

Richard Oliver, Senior Member, Queensland Civil and Administrative Tribunal
The relevance of Wednesbury in merits review

1.00pm Lunch

2.00pm Plenary Session 6: Practical Issues in Merits Review

Jill Toohey, Senior Member, Administrative Appeals Tribunal
New challenges in merits review decision-making

Michael Sassella, Special Counsel, Legal Services Branch, National Disability Insurance Agency
Issues presented by legislative and executive implementation of the NDIS

3.00pm Plenary Session 7: Future Directions for Australian Administrative Law

John Carroll, Partner, and **Cain Sibley**, Special Counsel, Clayton Utz
Decision-making and statements of reasons: the effect of recent judicial decisions on the work of decision-makers

Professor Peta Spender, Australian National University

Associate Professor Matthew Groves, Monash University

Chair and Commentator: Chris Field, WA Ombudsman

4.15pm Closing comments
Dr Jonathan Aleck, National President of the AIAL

Additions and amendments to the program will be posted on the AIAL website at: www.aial.org.au.

Attendance at the whole of the Conference will attract seven points under the WA Continuing Professional Development scheme for lawyers.

Displays at the conference

Do you have an administrative law program or activity that would be appropriate for a display at the Conference? The Institute welcomes displays from government agencies, tribunals, academic institutions, publishers and law firms.

For more information, contact the AIAL Secretariat on 02 6290 1505 or email aial@commercemgt.com.au.

Conference venue and transport information

The University Club of Western Australia is located on the University of Western Australia campus in Crawley. Access to the Club is via Hackett Drive.



Full day parking is available on a 'pay and display' basis in car park 23 (corner Hackett Drive and Mounts Bay Road), and along the University side of Hackett Drive. This is charged at \$1.50 per hour to a maximum of \$10.00. Both of these areas are within a 5 minute stroll of the Club.

Limited conference parking is available at \$12.50 per day in car park 3 which is located immediately adjacent to the Club. Please note that this parking is only available in the morning and is strictly limited. Once these bays are taken, car park 3 is not recommended for full-day delegates as the remainder of the bays are short term parking for a maximum of 3 hours only.

Please be sure to read the parking signs. If you park in staff or student bays without a permit prior to 5.00pm, a parking inspector will fine you. Car parking is free of charge after 5.00pm on weekdays in all University car parks.

To access UWA via public transport please check with Transperth for current information on 13 62 13 or visit www.transperth.wa.gov.au. Buses to the UWA Campus in Crawley are frequent with regular services from the city, Subiaco, Morley and along Stirling Highway. Bus routes to the UWA Campus: 23, 24, 78, 97, 98, 99, 102, 103, 107, 950. Bus routes that depart from the Esplanade Busport in the CBD include: 23, 102, 107 and 950.

UWA is a 10 minute taxi ride from the Perth CBD. Taxi ranks can be found at various points in the Perth CBD. For a full list of taxi ranks visit: <http://www.tcwa.com.au/servtaxirank.html>. To book a taxi call Swan Taxis on 13 13 30 or Black & White Cabs on 13 32 22.

Accommodation information

A limited number of rooms have been secured at the Parmelia Hilton. To make a reservation and to access the special conference rate, please contact reservations on (08) 9215 2000 and quote the AIAL National Conference Code: GAILA. The special conference rate for a Hilton Queen Guestroom for one or two guests is \$260.00.

Alternative accommodation options in the Perth CBD or surrounding areas may be located using www.expedia.com.au and www.tripadvisor.com.au.

AIAL acknowledges the support of the Perth Convention Bureau.



2014 AIAL National Administrative Law Conference 24 - 25 July 2014

Australian Institute of Administrative Law Inc (ABN:97 054 164 064)

Registration form

Taxation Invoice

Delegate Details:

Name: _____

Organisation: _____

Postal Address: _____

Phone: _____ Email: _____

Registration Fees:

- \$740 AIAL members (includes GST)
- \$840 non members (includes GST)
- \$660 Group bookings (each for 3 or more from the same organisation) (includes GST)
- \$425 Community groups and full-time academics (includes GST)

Please indicate which concurrent sessions you will be attending:

- Stream 1.1: Jeffrey Barnes, La Trobe University *OR*
- Stream 1.2: Emma Turner, Special Counsel, and Anita Courtney, Associate, Russell Kennedy Pty Ltd , *OR*
- Stream 1.3: Amanda Sapienza, University of Sydney *OR*
- Stream 1.4: Tom Smyth, Barrister, Victorian Bar

AND

- Stream 2.1: Lisa Burton, Monash University *OR*
- Stream 2.2: Colonel Bronwyn Worswick, Director of Military Administrative Law, Department of Defence *OR*
- Stream 2.3: Peter Johnston, Adjunct Professor, University of WA, and Peter McNab, Senior Member, State Administrative Tribunal of WA *OR*
- Stream 2.4: Mireya Hyland, Solicitor

Payment Details:

- Please find enclosed **cheque** payable to the Australian Institute of Administrative Law
- Please debit my **credit card** as follows: Visa Mastercard

Card Number:

Expiry Date: ____/____ Amount authorised: \$ _____

Name & phone number of signatory: _____

Signature: _____

- EFT:** Payment of \$ _____ has been made by direct deposit to: (*reference: your initial and family name*)
Bank: St George A/c Name: AIAL BSB: 112908 A/c No: 040024525

Please indicate below if you will be attending the **Social functions** (included in the registration fee for conference delegates):

Conference Drinks and Dinner: Yes No

Delegates are welcome to bring additional guests to the Conference Drinks and Dinner at a cost of \$120.00 per head (the 2014 AIAL National Lecture will be open to the public):

Number of additional guests attending the Conference Drinks and Dinner: _____

Additional guest names : _____

Dietary requirements: _____

Registrations close 17 July 2014

How to Register

To register, complete the registration form and payment details and return by **17 July 2014 to:**

Mail: Australian Institute of Administrative Law
PO Box 83
DEAKIN WEST ACT 2600

Fax: 02 6290 1580

Email: aial@commercemgt.com.au

Delegates will receive a confirmation email confirming their registration details.

All enquiries should be directed to:

AIAL National Secretariat
Ph: 02 6290 1505
Email: aial@commercemgt.com.au

Please note: Conference papers which are available will be sent by email following the Conference. Some papers will be published in the *AIAL Forum* at a later date.

Terms and Conditions

1. "AIAL Members" are current financial members of the AIAL.
2. All prices are stated in Australian Dollars (\$AUD) and include GST. Payments must be made in Australian dollars.
3. Cancellations must be submitted in writing to aial@commercemgt.com.au prior to COB Wednesday 17 July 2014 and will incur an administrative fee of \$55.00 (incl. GST). No refunds will be provided after 18 July 2014.
4. AIAL reserves the right to amend any part of the Conference program. If amendments are made to the program, an updated copy of the Conference program will be available on the AIAL website at www.aial.org.au.