

# PUBLIC LAW

PUBLIC SECTOR NEWSLETTER | SUMMER 2022 ISSUE 13

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**Hall&Wilcox**  
smarter law

I write to you on the one year anniversary of moving onto my farm. It has been a year of firsts: first time living off grid; first time cutting hay, harrowing and sowing my paddocks; first time living with my horses; first time designing and building farm infrastructure; first time meeting my local rural community; first time watching each of the seasons come and go, etc etc.

I have reflected, on this anniversary, of the life lessons I have learnt along the way.

To trust life. It knows better than I do.

To think big, because we rise to the vision.

To pause and enjoy the fleeting beauty of a sunrise or a sunset, because if you look away that moment of beauty will be gone.

To savour the ordinary rituals of each day, which make up a life.

To remember to prioritise what really matters, as it is too easy to lose perspective and get caught up in what doesn't.

To look for the good in the bad, as the good will be there waiting for us to notice it.

A simple list, isn't it? But so easy to forget.

With 2022 now well under way, and presenting so many local and international challenges, may we each reflect and be inspired by how far we have come and go forward mindful to savour the privilege of this life.



By [Kathryn Howard](#), Partner, Head of Hall & Wilcox Public Sector group and Editor of the *Public Law* newsletter

# CONNECTING YOU

Sebastian Chapman, Executive Director,  
Waste & Recycling, DELWP Victoria,  
caught up with Partner Meg Lee.



## You have worked in private practice, criminal prosecutions and now in the waste sector – what are some of your career highlights to date?

Yes, my personal journey has been a bit round-about, but I always wanted to eventually combine my science and law qualifications in some way to contribute to the public good. Memorable experiences include partnering with Traditional Owners to set up joint management arrangements for Country under the Traditional Owner Settlement Act, working with key environmental agencies to invest in parks and infrastructure, such as the Phillip Island Nature Parks visitor centre, and more recently beginning reforms to build Victoria's circular economy.

Working now at DELWP has felt like a type of home-coming in terms of my career journey. There is a huge amount of reform and investment going on in waste, recycling and energy sectors and it is exciting to be part of it.

## Can you tell us about the circular economy legislation? And when my council (Yarra) is finally going to get food waste recycling!

The Circular Economy (Waste Reduction and Recycling) Bill 2021 provides the foundation for Victoria's transition to a circular economy, and sets up Recycling Victoria, which will provide strategic leadership and oversight for the waste and recycling sector.

All households will have four waste and recycling streams, including: glass, food organics and garden organics (FOGO), mixed recyclables, and household rubbish.

The Victorian Government is supporting councils to phase in the new services, with \$127 million in financial support.

I understand Yarra is trialling a weekly food and green waste collection for some residents in [Abbotsford](#).

## Beyond household waste, what other initiatives are there to encourage recycling eg in infrastructure?

A really exciting part of the State's role is in creating local industries and new uses for recycled materials through the *Recycled First* program. DELWP has partnered with the Metropolitan Transport Infrastructure Authority (MTIA) to develop new ways to drive the use of recycled materials in Victoria's Big Build transport projects.

For example, in a world first, Mordialloc Freeway noise walls are being made from 75% recycled plastic collected from households across the state – equal to 30 million water bottles.

## Do you have any reflections on the role the States played in the new commitment to net zero emissions by 2050 following COP26 in Glasgow?

States and regions play a critical role in advancing climate action, which was recognised with their expanded participation for the first time at COP26. Victoria was the first state to legislate a net zero emissions target by 2050 with five yearly targets – clear policy settings can advance new technology, innovation and attract investment to the states.

In Victoria, emissions reduction targets will be aided by Recycling Victoria targets to divert 80% of waste from landfill by 2030, and a 15% reduction in total waste generation per capita between 2020 and 2030. Recovering more resources, avoiding landfill and supporting circular economy initiatives will grow the economy, reduce emissions and contribute to the Victorian Government's target of net zero emissions by 2050.

## I'm interested in your thoughts on how Covid has changed the way we work and the impact on waste and recycling?

We have seen a shift of waste and recycling into homes over the last two years. In some cases this has increased contamination in household recycling and organics bins, which can increase processing costs and reduce the value of materials. However, these should be reduced through Recycling Victoria actions and policy measures including household recycling reforms.

Some positive effects include reduction in office waste and resource use. Taking DELWP as an example, since 2019-2020 there has been a significant reduction in paper purchasing (88%) and waste generation (56%). Further, the use of shared platforms has made it much simpler to connect with people around the world working on building the global circular economy.



By [Meg Lee](#),  
Co-Lead ESG,  
Partner, Environment  
& Planning



# 5 MINUTES WITH CITY OF CANADA BAY MAYOR ANGELO TSIREKAS

Partner Maurice Doria is leading a team advising the City of Canada Bay on the new [Concord Oval community and sports precinct](#).

City of Canada Bay Mayor, Angelo Tsirekas, shares his thoughts.

## Why is this redevelopment significant for Canada Bay?

The \$75 million Concord Oval community and sports precinct is the largest infrastructure project ever undertaken by the City of Canada Bay. This new recreation project has been four years in the making, with the last major upgrade in 1985.

Funded by the NSW Government in association with the Australian Government, the City of Canada Bay and Wests Tigers, the new precinct will provide our community with an indoor recreation centre, green open spaces, community rooms, match day facilities for local sports clubs, and more.



City of Canada Bay Mayor,  
Angelo Tsirekas



### Has the site's interesting history influenced the new precinct's design?

The site's custodians are the Wangal people. It housed the convicts who broke the first stones for Great North Road, and was the site of the Wallabies' heart-breaking 1987 Rugby World Cup Semi-Final loss to France. It's vital that we celebrate the history of this wonderful place. The site's history has really breathed life into the design of the whole precinct.

We want the public to be inspired by the site's Indigenous heritage and convict history. We aim to achieve this through native landscaping, interpretive signs, sculptures, and artefact displays related to Aboriginal culture in the area, as well as timelines found in paving inlays and indoor signage capturing more recent history.

### What are your project management top tips for successfully balancing the needs of different stakeholders?

Open communication and community consultation is critical. Our community told us they wanted the precinct to include green open spaces to relax, multipurpose indoor and outdoor sports facilities, community spaces for hire, and of course a café, so we made sure to reflect these elements in the final design.

We have also worked closely with the sporting groups who have a connection to the precinct. We understand their importance to our community and the importance of this project to the clubs, so we have worked closely with them to deliver the best facility for them and for local residents.

### What was your strategy for successful and timely community consultation, and was the community on board?

Our approach is to provide the community with plenty of time and multiple opportunities for feedback. We reached out to residents, visitors, and business owners through as many communications channels as possible. Our consultation was well received because our community was thrilled to see Concord Oval, which was largely a privately used sports facility, transformed into an open precinct for everyone to enjoy.

### What do you see as the biggest benefits to the community?

The biggest benefit is an improved quality of life in an area with forecasted population growth. Having green, open spaces and public facilities available within walking distance, where people can relax, come together and have fun has never been more important.

### What's next in the pipeline for the City of Canada Bay?

Aside from the grand opening of the Concord Oval community and sports precinct, 2022 will be our biggest year yet for delivering great new open spaces and recreation facilities for our community. This includes re-establishing a swim site at Bayview Park Concord with a swimming net, outdoor shower, and more. We're also excited to transform two of our major high streets in Drummoyne into inviting public spaces the whole community can enjoy.

Beyond 2022, the upcoming Rhodes Recreation Centre is our next major project, similar in scope to the Concord Oval Project, and will seek to create a thriving space for recreation and community connection in the heart of Rhodes.



[Maurice Doria](#),  
Partner, Property  
& Projects



[Paul O'Donnell](#), Consultant and Head of Energy

# PAUL O'DONNELL'S GALBI

This tender Korean barbecue beef has become a favourite from my local Korean restaurant, Sang by Mabasa, due to its wonderful combination of smoky, sweet and savoury flavours. It's easy to make at home too – the magic comes from the marinade, with the beef short ribs left to soak up those flavours for 24 hours.

## INGREDIENTS

1kg beef short ribs, cut 1cm thick  
1 tablespoon oil for cooking (vegetable, canola or peanut oil)

### For the marinade

140ml soy sauce  
50ml Mirin  
25ml cooking wine  
120ml sugar  
100ml distilled water  
20ml sesame oil  
200g onion  
2-3 stalks of spring onion  
50g garlic  
10g ginger  
pinch of pepper  
500g of nashi pear or pineapple

## METHOD

Blend all marinade ingredients together in a mixer or food processor and pour over the beef, coating thoroughly. Marinate in a zip-lock bag or container for 24 hours.

When you're ready to cook, remove the beef from the marinade and discard the marinade. The beef can be cooked either on a hot barbecue or a hot skillet, though you may need to trim the beef strips to fit the skillet.

Once the barbecue or skillet has come to temperature, add the beef and cook for two minutes until caramelised, then turn over and cook for an additional two minutes.

The beef can be garnished with sesame seeds and spring onions if desired.



## KITTY'S KNOW HOW: REMOTE WITNESSING OF DOCUMENTS FORMALISED IN NSW

Zoom, Teams and FaceTime have become mainstream business tools throughout COVID-19 during the height of enforced remote working.

### ACT RECEIVES ROYAL ASSENT: WITNESSING BY AV LINK HERE TO STAY

To the relief of many, interim measures permitting remote witnessing of signatures and attestation of documents by audio-visual link have become a permanent fixture in NSW. The *Electronic Transactions Amendment (Remote Witnessing) Act 2021* (NSW) received assent on 29 November 2021.

In summary, a number of requirements must be satisfied when witnessing a document remotely under the ETA. The witness must:

- (a) observe the signatory signing the document in real time. The witness must therefore watch the signatory sign the document using a program or application via a live audio-visual link (eg Zoom, Teams or FaceTime);
- (b) attest or confirm that the signature was witnessed by signing the document or a copy of the document;
- (c) be reasonably satisfied that the document signed by the witness is the same document or copy of the document signed by the signatory; and
- (d) endorse the document or a copy of the document with a statement specifying the method used to witness the signatures of the signatory and that the document was witnessed in accordance with section 14G of the ETA.



To satisfy the confirmatory obligations noted in (b) above, the witness may:

- sign a counterpart of the document; or
- if the signatory scans and sends a copy of the signed document electronically, countersign the document as soon as practicable after witnessing the signatory sign the document.

The ETA also permits a document to be witnessed remotely even if the signatory or witness, or both, are located outside of NSW if the document is made or must be signed under NSW law, or the governing laws of the document are the laws of NSW.

### AV WITNESSING VS ELECTRONIC EXECUTION

It is important to recognise that audio-visual witnessing of documents and electronic execution of documents are two separate concepts. It should be noted that in NSW deeds and agreements (including instruments to be registered with NSW Land Registry Services) may be signed electronically or in 'wet ink'.

However, care should be taken when signing or witnessing affidavits, statutory declarations, Wills and powers of attorney to ensure compliance with any specific requirements under relevant legislation, such as wet-ink signatures or the manner in which a document must be witnessed.

### STATES OTHER THAN NSW

Victoria and Queensland are the other states to have made permanent amendments permitting audio-visual witnessing and electronic execution of certain documents. Pleasingly, at the Federal level, permanent amendments to the *Corporations Act 2001* (Cth) have recently been passed, to permanently permit the electronic execution of documents by companies.

There is still no uniform national approach to the audio-visual witnessing and electronic execution of documents. We recommend that the jurisdiction and type of document be considered on a case-by-case basis to ensure compliance with the law in that relevant jurisdiction.



By [Kitty Vo](#)  
Co-Lead NSW Government Practice,  
Partner, Property & Projects

# THE RISE OF ESG AND SOME LITIGATION TRAPS TO AVOID

ESG is on the rise, and ESG litigation by regulators and consumers is equally prevalent for reasons explained below. From the perspective of the planet, both are a good thing and can only lead to better environmental outcomes, keeping us all honest in our efforts and ensuring those efforts are well placed to make a meaningful contribution.

When I first started practice as an environment practitioner in 1998, it was in the wake of the 1997 Kyoto conference of the parties of the Climate Change Convention ([COP3](#)) and very few law firms at the time were talking about the 'E' (environment and sustainability) or the 'G' (corruption and governance), although many had well-developed pro bono and charity programs and were doing their bit for the 'S' (social impact).

## WAS GLASGOW DIFFERENT?

While the 'E' has perhaps lagged behind, the recent Glasgow conference (COP26) has seen the parties affirm and agree on, through the [Glasgow Climate Pact](#), the 'urgency of enhancing ambition and action in relation to mitigation adaptation and finance in this critical decade'.

Having attended several sessions run by rapporteurs from the conference and following the conference, the overwhelming feeling of most attendees was that we should feel positive about the future. There was a sense attitudes had significantly shifted among the majority of parties and non-government attendees at the



conference since the previous COP at Copenhagen. A more 'can do' attitude involved stronger commitments to halting climate change via implementing policies and technology.

## ENHANCED ESG AMBITIONS

We too are seeing more clients 'enhancing their ambition' in their response to the climate emergency. We also see clients, particularly state government clients, regularly using the tenders response process to ensure law firms demonstrate they are pursuing an ESG agenda.

At Hall & Wilcox, we recently launched our new overarching framework, *ESG Wise*, and in February the Hall & Wilcox Board resolved to become a signatory of the [UN Global Compact](#).

Since 2012, we have been members of the Australian Legal Sector Alliance (AusLSA), which includes a commitment to publicly report our calculated scope 1 and 2 greenhouse gas (GHG) emissions each year.

Since FY18 we have offset 100% of our calculated scope 1 and 2 GHG emissions by purchasing Gold Standard verified carbon credits through With One Seed (forestry program in Timor Leste) and the Aboriginal Carbon Fund.

## AVOIDING LITIGATION

When considering public statements about commitments to Net Zero, we all need to be conscious to avoid making false claims and misleading statements, and to ensure commitments are based on a clear plan that is rooted in sound technical advice.

The rise of ESG has been accompanied by a rise of legal proceedings being brought by NGOs seeking to keep companies honest in their claims. Consider the recent proceedings against Santos, which relate to Santos's claim that it provides clean energy and that it has a credible plan for net zero emissions by 2040.

Having a strong ESG policy and management system can assist to ensure ESG compliance throughout your supply chain. The Santos case is a reminder to ensure all ESG claims are soundly based in research and action.

For more information on ESG risk management and reporting, please contact me.

By [Meg Lee](#),  
Co-Lead ESG,  
Partner, Environment  
& Planning



# ELECTRIC VEHICLES CHARGE CONTRACTUAL AND PROCUREMENT ISSUES FOR GOVERNMENTS



By [Catie Moore](#), Partner,  
Projects & Infrastructure

Governments are taking bold steps toward a zero-emissions future by acquiring more electric vehicles for transport fleets. While going electric is encouraging for sustainability, the transition away from diesel creates several issues around contracts and procurement.

The Victorian Department of Transport just announced a contract with public transport company Kinetic, which brings 36 fully electric buses to the network by 2025, and five by June 2022. The City of Newcastle also unveiled its first electric truck as it pushes toward a fully electric fleet.

With governments being proactive on electric vehicles, watch out for these risks in transitioning to electric vehicles.

## **CURRENT AGREEMENTS FALL SHORT**

Current bus franchise agreements in Victoria and New South Wales do not envisage the large wholesale changes to the franchising environment required to transition from a diesel fleet to an electric fleet. For example, the Victorian model has been drafted on the assumption buses will be replaced like for like (ie one diesel bus is replaced with another newer diesel bus).

Yet going electric is a major change with many knock-on effects, as diesel and electric fleets require different maintenance regimes.

Depots will need to be refitted, maintenance staff will need to be either replaced or retrained, and it's possible new depots closer to high-voltage transmission lines will need to be acquired. This would create a period of flux and change, impacting timetables, transport routes and staffing.

## **LITTLE FLEXIBILITY UNDER CURRENT CONTRACTS**

These changes present contractual challenges. Private operators may apply to deviate from the bus replacement schedule but existing contractual frameworks often do not enable a diesel fleet to be replaced with an electric fleet.

This has consequences, depending on the jurisdiction, for relief from the performance monitoring regime during any transition phase, or the extra costs associated with the transition to an electric fleet.

In Victoria, operators have a general obligation to provide and maintain enough depots to meet their obligations under the franchise agreement. Yet the franchise agreement does not contain any arrangements for refitting depots to accommodate electric vehicles. Nor are there provisions, in the Victorian franchise agreement or the New South Wales service contract, for major changes to timetables and bus routes should they be required for electric fleets.

## **TO TENDER OR NOT TO TENDER?**

There are also questions around how contracts will be procured for electric vehicles. Most current contracts are not set up with the flexibility required to incorporate electric vehicles. There are risks of blow-outs in capital and operational expenditure, which means the private sector could feel compelled to charge higher prices.

Whether organising contracts via tender or open book, government can benefit by trying to ensure the process is as contestable as possible, and being mindful of the strategic asset issue even at trial or pilot phase. Negotiating contractual provisions that deal with these issues upfront will help smooth the transition towards electric.

# ETHICS AND CORRUPTION: PARALLEL WORLDS IN GOOD GOVERNANCE

Honesty, impartiality and transparency are key pillars of probity underpinning the obligations of public officials across Australian governments. Yet a string of corruption inquiries has revealed maintaining probity in public office is not always as simple as it sounds.

The roles of elected people in local, state and federal government are governed by various codes of conduct and ethics, such as the Model Code of Conduct for Local Councils prescribed by the Local Government (General) Regulation 2015 in NSW, and the Code of Conduct for Ministers and Parliamentary Secretaries in Victoria. Similar codes can be found across all jurisdictions and levels of government in Australia, which outline the standard of behaviour our community expects from elected official and public servants such as:

- general conduct (exercising care and diligence, no misuse of power for personal benefit);
- proper use of confidential information;
- declaring interests;
- receiving gifts and benefits; and
- improper influence.

Ethical standards are clear cut, but what happens when behaviour below that standard is disguised as achieving solid public policy outcomes?

Consider planning matters, whereby private sector developers and government entities frequently engage with each other when developing major sites or anticipating long-term planning outcomes. If unchecked, these interactions can invite corruption.

## BENEFITS OF A PROBITY PLAN

Putting a Probity Plan in place, and having a Probity Referee present while public and private entities engage, can mitigate the chances of public officials slipping in their obligations.

A Probity Plan complements existing government requirements (established through both statute and policy) by providing procedures and systems for public officials and public sector agencies to ensure significant decisions such as tenders and large scale developments withstand public scrutiny.

## KEYS TO A GOOD PROBITY PLAN

A good Probity Plan should ensure:

- processes followed in deliberations are defensible and can withstand external scrutiny (including legal challenge);
- processes followed are transparent;
- conflicts of interest risks are minimised;
- processes are understood by all members; and
- the multiple capacities in which a government entity may participate in a project are properly understood and appropriately managed.

A Probity Referee is tasked with monitoring the implementation of the Probity Plan, and offering solutions to the parties when grey areas arise that threaten non-conformity with probity pillars.

Independent corruption watchdogs such as IBAC, CCC and ICAC maintain public confidence in the administration of the public sector. The ways in which these corruption commissions and watchdogs protect the public interest are twofold:

1. preventing breaches of public trust by publishing reports recommending ways in which public sector bodies can minimise members engaging in corrupt conduct; and
2. investigating breaches of public trust by conducting public hearings and inquiries.

In doing so, these bodies focus on upholding principles of:

- impartiality;
- public duty; and
- public accountability.

Probity and corruption are the antithesis of one another, yet are inextricably linked and sit in parallel worlds. The rise of public inquiries in recent years investigating corruption in public office reveals that a failure to uphold standards of probity invites corrupt conduct, highlighting just how important probity is to ensure public officials uphold their obligations to the community.



By [Stan Kondilios](#),  
Lead Local Government  
Practice, Partner,  
Property & Projects



By Charlotte Reed,  
Lawyer, Property  
& Projects

# 10 TIPS FOR ENGAGING HIGH-PERFORMING TEAMS IN HYBRID WORKING ENVIRONMENTS



[Dr. John Hopkins](#)

Dr John Hopkins, founder of WorkFLEX and Associate Professor at Swinburne University, recently joined Hall & Wilcox partners Kathryn Howard and Fay Calderone to discuss how to cultivate high-performing teams in hybrid working environments.

Here are 10 top tips to consider:

**1. Understand ‘why’ we work:** the ‘why’ is even more critical where teams are separated. Understanding the why is part of giving your team a purpose, and purpose energises those around you and brings them along.

**2. Build trust:** high-performing teams cannot function if people are fearful and insecure. Trust is crucial in providing feedback. Foundations for trust in hybrid working include values-based leadership and a growth mindset – understanding that sometimes we win, sometimes we learn.

**3. Vulnerability is critical:** leaders who own their mistakes are more likely to be respected by those around them. To be vulnerable is to discourage perfectionism. While high-performing teams may attract the ‘best of the best’, perfectionism is irreconcilable with a growth mindset.

**4. Use ritual to fight fatigue:** having rituals, particularly at the beginning and the end of the day, helps counter the ‘always on’ feeling from hybrid working. It could be walking a dog, going out for a morning coffee, a walk, a swim, reading – anything you will look forward to.

**5. Your calendar can be your best friend:** use your calendar to set reminders to stop and take a break. We do less incidental movement when working from home, and there are no ‘water cooler’ discussions. Planning your breaks may help to avoid burnout.

**6. Consider separate devices for home and work:** to help separate your home and work life – for example, to avoid being interrupted by work emails when you are trying to relax.

**7. Delay email delivery:** set emails to be delivered within office hours, so you’re not interrupting colleagues late night/early morning.

**8. Put your makeshift office away:** many of us are making do by working on the kitchen table or a corner of the lounge room – tidying your makeshift office away every night helps to switch off completely.

**9. Be prepared to be flexible:** the pandemic has been a huge circuit-breaker, with more people considering extended leave or changing jobs. High-performing teams can benefit by being flexible with their people’s needs, for example allowing for a leave of absence – being inflexible only heightens the risk of losing talented team members for good.

**10. Be prepared to experiment:** you can’t learn to swim from a textbook, you have to get in the water and try. There isn’t one perfect solution to hybrid working. High-performing teams will be prepared to try new ideas, adapt and change if things aren’t working.

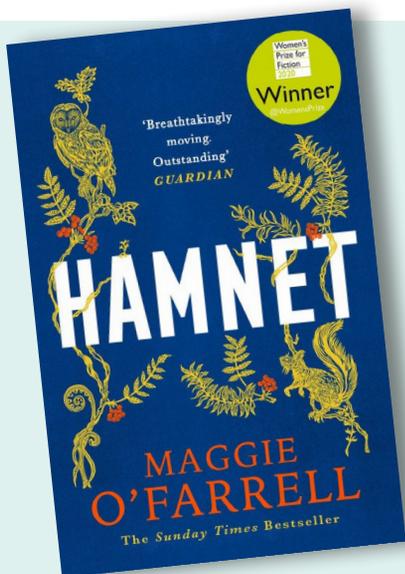
Interested in more? [Check out this article](#) or [watch the recording](#) of the session.



[Fay Calderone](#),  
Partner, Employment



[Kathryn Howard](#),  
Partner, Public Sector  
Industry Lead



## BOOK REVIEW: *HAMNET* BY MAGGIE O'FARRELL

Shakespeare wrote some of the greatest plays in the western canon. The human emotions in his dramas resonate down the centuries, still relevant and able to move us almost 500 years later. But what of his own story? Maggie O'Farrell has spun sketchy biographical details into this magnificent novel.

Shakespeare and his wife Anne, known as Agnes in this novel, had three children: Susanna, and twins Hamnet and Judith. In Stratford-upon-Avon, 1596, Judith is ill with a fever and Hamnet is searching, in vain, for someone to help him. His father is several days' travel away, in London. His mother is tending to her bees, a mile from the house. Within a week, Judith will have recovered from the 'pestilence', but Hamnet will have succumbed.

Agnes, a healer with the gift of foresight, does not foresee Hamnet's death. She is unmoored by grief, barely able to face a world that no longer has her son in it, while his father hastens back to London. There he channels his grief into one of the most celebrated plays ever written.

Woven within this story are other stories: of a wild country girl pursued by a glovemaking's son, and of a cabin boy who picks up a flea in Alexandria and carries it across the sea. Lyrical and moving, this is an enthralling story of love and grief. And having just lived through the pandemic, it is a striking read about the Plague experienced all those years ago.



By [Melinda Woledge](#)  
Marketing & Communications Manager

## PRO BONO UPDATE: ADDRESSING ELDER ABUSE

Caxton Legal Centre is a community legal centre based in Brisbane, which provides accessible legal services to people who are on a low income or otherwise disadvantaged. Caxton covers a broad range of legal areas including employment, debt, human rights, and support for those experiencing or at risk of family and domestic violence, particularly in the older population.

An important part of Caxton's work is their Older Persons Advocacy and Legal Service (OPALS). OPALS is a health-justice partnership bringing together

lawyers, social workers and other health professionals to achieve proactive early intervention for older patients who are at risk of or are experiencing elder abuse.

OPALS also provides several outreach programs targeted at raising awareness for signs of elder abuse, and the legal rights of those who are aggrieved.

To support OPALS' important work, I am seconded to OPALS to provide legal support and to build pathways for pro bono referrals to Hall & Wilcox's Queensland pro bono practice. For example, we recently assisted an older

By Daniel Simpson,  
Law Graduate



person who was referred by a health care worker who identified potential financial elder abuse. We advised that older person of their legal rights and were able to recover a sum of money wrongfully taken by a third party.

Hall & Wilcox looks forward to growing our relationship with Caxton's OPALS and contributing to addressing this important legal need. If you or someone you know is in need of help, please reach out to partner [Nathan Kennedy](#), Head of Pro Bono and Community.

# COMMUNITY HOUSING SECTOR UPDATE



In November 2021, the Australian Charities and Not-for-profits Commission (the ACNC) updated its longstanding interpretation statement on the provision of housing by charities. This is an important development for community housing providers (CHPs) that are charities. Hall & Wilcox was involved in making the case for change through the consultation process with the ACNC.

The ACNC provides administrative guidance for CHPs that are charities in the *Commissioner's Interpretation Statement CIS 2014/02* (the Statement). Many CHPs are charitable entities, and, in particular, registered as Public Benevolent Institutions. As such, the administrative guidance set out in the Statement is a very important resource for CHP boards and administrators in managing regulatory risk.

In November 2021, the ACNC released an updated version of the Statement, which was originally released in 2014.

A key driver of the updated Statement was ensuring that it adapted to the change and innovation affecting the community housing sector – for example, the intersection between ‘community’ and ‘affordable’ housing.

As housing has become increasingly unaffordable and out-of-reach for more Australians, the community housing sector has responded to provide broader and more flexible affordable housing options on a reduced cost basis, including ‘buy-to-rent’ and similar arrangements.

Pleasingly, in the updated Statement, the ACNC has adapted its administrative response to provide greater clarity to CHPs, although it does not provide complete certainty. Regulatory risk for CHPs and others in the sector remains, and is amplified by the very significant capital contributions and long term investment timeframes for community housing projects.

The ACNC, as a charity regulator, can only go so far in adapting its regulatory and administrative approach. We would welcome policy and legislative reform by Government that responds directly to the needs of the community housing sector.

Hall & Wilcox, together with our community housing industry partners, will continue to support reform, and to support our CHP clients to navigate through the current regulatory regime.

For a further discussion about the Statement or any of the issues raised in this update, please contact partners Katrina Reye or Frank Hinoporos.



[Katrina Reye](#),  
Lead Social & Affordable Housing  
Practice, Partner, Property & Projects



By [Frank Hinoporos](#),  
Partner and Head of Tax

# WHAT'S HAPPENING

## Smarter Lawcast

[Season 3](#) of our Smarter Lawcast is now available. In *You can't say that!* Partner [Martin Ross](#) and defamation expert, Special Counsel [Hamish McNair](#), discuss all things defamation. Who can be defamed? How should you respond to a claim? What are some recent game changers and what reforms are in the pipeline?

You can also catch up on [previous seasons](#):

Season 1: The changing landscape of employment law

Season 2: Tax Records.

## CPD Program

Supporting our clients to meet their annual CPD/CLE requirements, our [2022 CPD Program](#) for in-house counsel is now available on our website.

Hall & Wilcox is delivering 19 complimentary webinars across all required CPD areas throughout February and March.

## Public Sector Webinar Series

We are currently working on developing more great events for our government audience.

To ensure you are kept up to date, visit our [subscription page](#) to update your preferences.

## On-demand webinars

All of our highly attended webinars are available to watch [on demand](#).

## Workplace investigations in the public sector

Partner [Alison Baker](#) and Special Counsel [Iona Goodwin](#) provide a practical discussion about running a procedurally fair workplace investigation and how to run the investigation from briefing the investigator to finalising the report.

[Watch a recording of the session.](#)

## What employers need to know about mandatory vaccinations

Across all industries and sectors, organisations are constantly adapting to ever-changing restrictions and health orders, including COVID-19 testing and vaccinations. But can employers require their employees be vaccinated beyond what the government mandates? The answer is, it depends.

[Watch a recording of the session.](#)

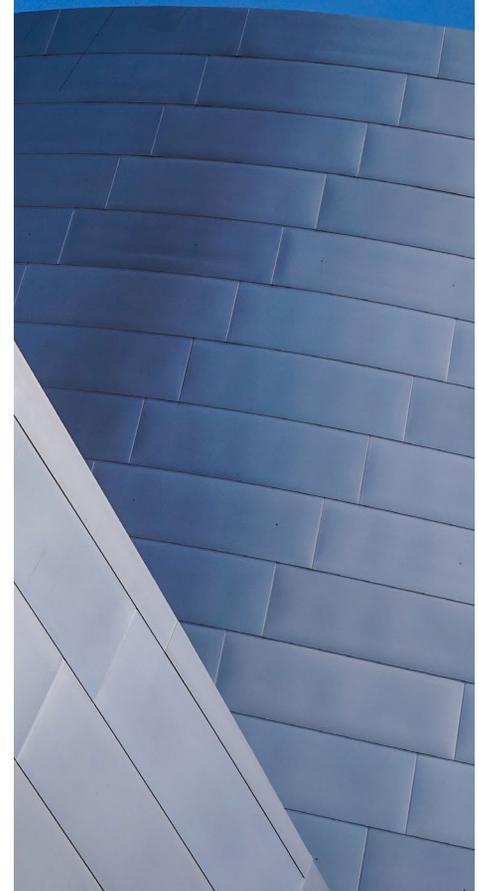
## Engaging high-performing teams in hybrid working environments

When lockdowns disrupted the in-person working environment, leaders were presented with the challenge of how to facilitate high-performing teams without the benefit of face-to-face interaction. With many workplaces implementing permanent flexible working arrangements post-COVID, leaders are seeking to understand the legal and behavioural approaches to engaging high-performing individuals, teams and organisations in a hybrid environment.

[Watch a recording of the session.](#)



To view the full list of on-demand webinars visit our [website](#).



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