

Welcome to the second Newsletter for 2023.

AAL's First Nations Scholarship 2023

The Australian Academy of Law again offers the Australian Academy of Law First Nations Scholarship tenable in 2023 for a First Nations final year law student studying for the LLB or JD or combined Law degree at any Australian law school, or the Diploma in Law through the NSW Law Extension Committee.

The amount of the award is \$5000 for one year only.

The successful applicant may, additionally, have the opportunity of being mentored for up to a year by an AAL Fellow.

The winner will be announced by the end of April 2023.

Applications are through nominations by the respective Law Deans to the AAL Secretariat by the closing date.† Each Law Dean may nominate one Final Year First Nations law student.

Interested applicants should have contacted their respective Law Deans to seek to be nominated.

Planning for 2023

If you wish to propose a topic for an event or would like to present a paper on an issue of interest to you please contact the Secretariat or me.

Update of Wikipedia page

I have recently updated the AAL's Wikipedia page:

[Australian Academy of Law - Wikipedia](#)

Please let me or the Secretariat know of any errors.

Donations to the AAL's Public Fund

Please consider making a donation to the AAL's

charitable purposes via the Public Fund, which has DGR status. The AAL is most grateful to all donors. Donations may be made via the website:

<https://academyoflaw.org.au/Donations>

AAL Annual Report for 2022

The AAL's third annual report is being prepared.

If you wish to have a particular subject addressed in the Report please contact the Secretariat or me.

Once published, the Report will be available on the website.

Forthcoming events

1 March 2023 Time: 5.00 pm - 6.30 pm AEDT

Place: Court No 1, Federal Court of Australia, 305 William Street, Melbourne, Vic and online

The Treaty Negotiation Framework for Victoria

The First Peoples' Assembly of Victoria is recognised under the *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) as the Aboriginal Representative Body that works with the State of Victoria to establish by agreement the elements necessary to support future Treaty negotiations. On 20 October 2022, the First Peoples' Assembly and the State of Victoria established the Treaty Negotiation Framework. The Framework provides for a process for negotiating and formalising a treaty to recognise historic wrongs and address ongoing injustices. It identifies the minimum standards with which a party must comply in order to enter into treaty negotiations. It imposes reporting requirements and provides for a process for resolving disputes together with mechanisms for enforcement.

The Australian Academy of Law is very pleased to host this event, chaired by the **Hon Pamela Tate AM KC**.

The speakers will be:

The Hon Kenneth Hayne AC KC, a Professorial Fellow at the University of Melbourne and a former Justice of the High Court of Australia. He is currently a member of the Constitutional Expert Group advising the Referendum



Working Group on constitutional matters relating to the referendum on The Voice.

Karri Walker, a proud Nyiyaparli woman whose family is from the East Pilbara region of Western Australia and who has grown up living on Wurundjeri Country. She is the Senior Lawyer at the First Peoples' Assembly of Victoria



where she is working on Victoria's treaty process. Prior to this, Karri worked as a commercial lawyer at Arnold Bloch Leibler. She is the recipient of the 2023 John Monash Scholarship, and intends to pursue a Master of Laws at Columbia University.

Rueben Berg, a proud Gunditjmara man and a member of the First Peoples' Assembly of Victoria representing the Metropolitan region. He was a founder and director of Indigenous Architecture Victoria. He was a



Commissioner for the Victorian Environmental Water Holder and Chair of Westernport Water. In 2012 he was awarded the Fellowship for Indigenous Leadership.

The flyer is available [here](#). Please register [here](#).

Please join us for light refreshments after the presentations.

Two seminars in March on legal aspects of The Voice referendum

The proposal in its present form is:

Referendum question:

Do you support an alteration to the Constitution that establishes an Aboriginal and Torres Strait Islander Voice?

The words to be inserted in the Constitution are proposed to be:

*In recognition of Aboriginal and Torres Strait Islander Peoples as the First Peoples of Australia:**

1. *There shall be a body, to be called the Aboriginal and Torres Strait Islander Voice.*
2. *The Aboriginal and Torres Strait Islander Voice may make representations to Parliament and the Executive Government on matters relating to Aboriginal and Torres Strait Islander Peoples.*
3. *The Parliament shall, subject to this Constitution, have power to make laws with respect to the composition, functions, powers and procedures of the Aboriginal and Torres Strait Islander Voice.*

*These words were proposed to be added in February 2023.

Thursday, 9 March 2023 5.30 pm - 7.30 pm

New South Wales free public event: Legal Issues relating to the Aboriginal and Torres Strait Islander Voice

Place: Allens, Deutsche Bank Place, conference room, level 28, 126 Phillip Street, Sydney and online

I am very grateful to **the Hon Justice Anna Mitchelmore** of the New South Wales Court of Appeal who has agreed to chair the event.

The speakers will be:

The Hon Robert French AC, formerly Chief Justice of the High Court of Australia;

The Hon Tom Bathurst AC KC, formerly Chief Justice of New South Wales;

Ruth Higgins SC, of the New South Wales bar and Senior Vice President of the NSW Bar Association.

Issues to be addressed may include:

- Why amend the Constitution? What is the general effect of so doing?
- What are the legal requirements for a referendum?
- How many times is the Parliament involved in the process?
- Under the proposal, what are the words which would be added to the Constitution?
- Does the Parliament presently have power to enact those words without adding the proposed

words to the Constitution?

- Does the amendment, if passed, ensure consultation?
- Does the amendment, if passed, ensure consultation on matters that directly affect Indigenous Australians?
- Under the amendment, if passed, would the Parliament or the Executive Government be under a legal obligation to consult the Aboriginal and Torres Strait Islander Voice?
- Under the amendment, if passed, would the Parliament or the Executive Government be under a legal obligation to act on/give effect to a representation to it made by the Aboriginal and Torres Strait Islander Voice?
- Does “matters relating to Aboriginal and Torres Strait Islander Peoples” mean matters which particularly or specially affect such Peoples?
- What would be the role of the courts? For example, would the courts have a role in deciding whether a matter was one relating to Aboriginal and Torres Strait Islander Peoples?
- Do the words “Aboriginal and also Torres Strait Islander Peoples” have a specific meaning or would it be for the courts to decide?

The flyer is [here](#).

Please join us for light refreshments after the presentations.

I am very grateful to **Fiona Crosbie**, Chair of Allens, for her assistance in putting on this event at Allens.

15 March 2023 6.00 pm - 7.30 pm AEDT

Victoria free public event

Legal Aspects of The Voice

Place: Norton Rose Fulbright, level 38, 477 Collins Street, Melbourne and online

Chair: The Hon Pamela Tate AM KC

The speakers will be:

Jill Gallagher AO, a proud Gunditjmara woman.



She is the CEO of the Victorian Aboriginal Community Controlled Health Organisation (VACCHO). She was the Victorian Treaty Advancement Commissioner for two years, from 2018-2019.

Peter Hanks KC, who practises predominantly in



public law – administrative law and constitutional law. He appears regularly for Commonwealth and State government agencies, and against those agencies, in the Federal Court, High Court, Supreme Court, Commonwealth AAT and VCAT. He has published several books on constitutional law and administrative law.

Chris Horan KC, who specialises in public law,



migration, revenue, equity and trusts. He previously worked in the Commonwealth Attorney-General's Department, in the office of General Counsel and as Counsel

Assisting the Commonwealth Solicitor-General. He is currently co-editor of the Commonwealth Law Reports.

Frances Gordon SC, who practises in commercial



and public law, with a particular expertise in constitutional law. She regularly appears in constitutional cases in the High Court, for plaintiffs, defendants and the Commonwealth and State Attorneys-General. Before coming to the Bar, Frances was an Associate to a Justice of the High Court of Australia, and she is co-author of Constitutional Law in Australia (4th ed, 2017)

The flyer is [here](#).

I am very grateful to AAL Fellow and Board Member **Nuncio D'Angelo** of Norton Rose Fulbright for his assistance in putting on this event at Norton Rose Fulbright's offices.

If you wish to ask a question, at either the New South Wales or Victorian event, please send the question to Jennifer.Farrell@fedcourt.gov.au

22 March 2023, 5.30PM

Court 1, Federal Court of Australia, Queens Square, Sydney

The UK Independent Reviewer of Terrorism Legislation **Jonathan Hall KC** will be in Australia in March. He and



Dr James Renwick CSC SC,

Australia's third Independent National Security Legislation Monitor, joined in a friendly debate at the Inner Temple in London in November 2022 "Is it Better to Review or Monitor Terror Laws? The UK and Australian Positions Compared", see:

<https://www.innertemple.org.uk/education/education-resources/social-context-of-the-law-recordings/is-it-better-to-review-or-monitor-terror-laws-the-uk-and-australian-positions-compared/>

We are very fortunate to be able to hear a reprise of that debate in Sydney.

The flyer is available [here](#). Please register [here](#).

Light refreshments will be available at the conclusion of the debate.

I thank the **Hon James Allsop AC**, Chief Justice of the Federal Court of Australia, for agreeing to make the courtroom available for this event.

Queensland Event - 27 April 2023 at 5.30 PM

Venue: the Banco Court, Supreme Court of Queensland, Brisbane

Michael McHugh's Casebook: enduring issues in defamation law

Join co-presenters the **Hon Justice Peter Applegarth AM** and **Professor David Rolph** with commentary by the **Hon Michael McHugh AC KC**.

I thank **Chief Justice Helen Bowskill** for agreeing to chair this event and for making the courtroom available.

A flyer and registration details will be available soon. Please put the date in your diary and join us for light refreshments after the event.

ACT Event - Wednesday 17 May 2023, an after work public event in Canberra

Venue: ACT Supreme Court ceremonial court

This event will be a reprise by **Graeme Neate AM** of his address: *Where There's a Will There's a Lawyer: The Dobell Case and Subsequent Litigation about the Archibald Prize*.

Graeme Neate has been President of the ACT Civil and Administrative Tribunal since 2017.

He will address the issues arising under Archibald's bequest adjudicated on by the court, commencing with Roper J's decision in the Dobell Case, interspersing slides of the art works that prompted the controversies and anecdotes drawn from his close study of the circumstances in which the controversies arose.

A flyer and registration details will be available soon. Please put the date in your diary.

I thank **Chief Justice Lucy McCallum** for making the courtroom available.

8 – 10 September 2023

Joint event with the *Australian Law Journal* and the Australasian Institute of Judicial Administration: *Enduring courts in changing times*

To mark some important national legal bicentenaries, a 2½ day joint event with the Australian Law Journal (ALJ) and the Australasian Institute of Judicial Administration (AIJA) will be held on Friday 8–Sunday 10 September 2023. Those legal bicentenaries are, for New South Wales, the Third Charter of Justice promulgated on 13 October 1823 establishing the Supreme Court and, for Tasmania, the first sitting of the Supreme Court of Van Diemen's Land on 10 May 1824.

I thank **Justice François Kunc** of the Supreme Court of New South Wales (and General Editor of the ALJ) for this initiative. **Emeritus Professor David Barker AM** and **Justice Geoff Lindsay** are on the subcommittee, as is AAL Fellow **Justice Steven Rares**, as a member of the Council and immediate past President of the AIJA. I am pleased to say that **Chief Justice Alan Blow AO** and **Justice Stephen Estcourt AM** of the Supreme Court of Tasmania have also joined the small committee.

Andrew W Smith of the New South Wales Bar has also accepted my invitation to assist with the planning.

The idea is to have one part of the event physically in Tasmania and another part in New South Wales, but with a commingling of speakers and topics.

The Chief Justice of Tasmania, the **Hon Alan Blow AO**, and the Chief Justice of New South Wales, the **Hon Andrew Bell**, fully support the project. The Chief Justice of Australia, the **Hon Susan Kiefel AC**, has agreed to give the opening address.

A number of distinguished speakers, judges and former judges, academics and practitioners have been invited and have agreed to participate in the conference. These speakers, commentators and chairs now include:

The Hon Susan Kiefel AC, Chief Justice of Australia

The Hon Alan Blow AO, Chief Justice of Tasmania

The Hon Andrew Bell, Chief Justice of New South Wales

The Hon Justice Joe Williams of the Supreme Court of New Zealand

Justice Robert Beech-Jones, JA and Chief Justice at Common Law, Supreme Court of New South Wales

Justice Stephen Estcourt AM, Supreme Court of Tasmania

The Hon Brian Preston, Chief Judge of the NSW Land and Environment Court

Professor Liz Fisher, Professor of Environmental Law, Faculty of Law and Corpus Christi College, University of Oxford

Justice Sarah Derrington AM, Federal Court of Australia

Justice Sarah McNaughton, Supreme Court of New South Wales

The Hon Virginia Bell AC

The Hon Keith Mason AC KC

The Hon Robert Benjamin AM SC

The Hon Duncan Kerr Chev LH

Emeritus Professor the Hon Kate Warner AC

Prof Val Napoleon, Dean of Law, University of Victoria, British Columbia

Professor Lisa Ford

Emeritus Professor Bruce Kercher

Emeritus Professor Stefan Petrow

Emeritus Professor David Barker AM

Professor David Rolph

The Hon Michael McHugh AC KC

Professor Gabrielle Appleby

Professor Andrew Mowbray

Mr Malcolm Schyvens, President, Tasmanian Civil & Administrative Tribunal

Professor Hamish Maxwell-Stewart

Ms Una Doyle, NSW Judicial Commission

Associate Professor Philip Chung

Ms Marcelle Burns, Associate Dean Indigenous Leadership and Engagement, Faculty of Law, UTS

This will be a major event, similar to the “*Future of Australian Legal Education*” conference held by the AAL and the ALJ in 2017.

The organising committee met on 27 February 2023 to fill in the detail of the conference and a draft program will soon be available.

New Fellows

Please join me in extending a warm welcome to the following distinguished lawyers who have accepted the Board’s invitation to become Fellows of the Academy:

The Hon Justice Marcus Solomon, Justice of the Supreme Court of Western Australia.

The Hon Justice Andrew Beech, Judge of the Court of Appeal, Supreme Court of Western Australia.



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