



## National Phone Warning System Upgrade A First for Australia

The contract signed on 23 December 2011 between the Victorian Government and Telstra Corporation to procure location-based warning capability for the national Emergency Alert telephone warning system for the Australian community, is the result of months of intensive negotiations led by the Victorian Government with telecommunications carriers on behalf of all States and Territories. Telstra is the first carrier to sign. Ongoing negotiations are taking place with Optus and Vodafone Hutchison Australia.

Developed after Black Saturday, the Emergency Alert system provides warnings to landlines and mobile phones based on a customer's registered service address. The new location-based warning capability, to be rolled out in November 2012,

will significantly enhance the Emergency Alert system by allowing messages to be sent to mobile telephone handsets that are identified as being physically within the emergency zone. The technology is the first of its kind, both nationally and internationally and the contractual arrangements demonstrate how procurement can be undertaken by government on a national and shared service basis.

In a first, the Victorian Government Solicitor's Office (VGSO) and the office of the Australian Government Solicitor (AGS) worked closely together as legal adviser for the Emergency Alert project. The contract model was developed from the shared service arrangement the Victorian Government uses to procure communication services for Victorian emergency service organisations.

The Emergency Alert project also raised important legal questions about a State government contracting for and on behalf of other State and Territory governments, including risk management and liability issues, such as the duty to warn the community of impending emergencies, as well as having detailed governance arrangements between the Australian jurisdictions to make the contract workable for Victoria as the contracting party.

Sue Nolen, Assistant Victorian Government Solicitor, Commercial, Property & Technology Branch, coordinated the VGSO team over an intensive 18 month period.



Sue Nolen,  
Assistant Victorian  
Government Solicitor,  
Commercial, Property  
& Technology Branch

## Public Servant Obligations Following *Marijancevic*

The recent Victorian Court of Appeal decision in *DPP v Marijancevic* [2011] VSCA 355 highlights the importance of adhering to the legislative requirements for affidavits and statutory declarations.

Public servants may be required to make affidavits or statutory declarations as part of their duties and if they fall under one of the categories of persons in sections 123C or 107A of the *Evidence (Miscellaneous Provisions) Act 1958*,

they may also be asked to witness affidavits or statutory declarations made by others. It is essential that in making or witnessing these documents, they act in compliance with legislative requirements in all respects.

*Marijancevic* illustrates the serious consequences of failing to adhere to legislative requirements in the context of proceedings. The requirements attaching to the making or witnessing of affidavits and statutory declarations are set out in detail in the Honorary Justice Office's Guidelines for Authorised Witnesses (October 2011).

Before making or witnessing an affidavit or statutory declaration, it is strongly recommended that public servants familiarise themselves with these requirements. For further clarification, please contact Stephen Lee, Assistant Victorian Government Solicitor, Litigation and Dispute Resolution Branch (8684 0410) or, in the case of police officers, Assistant Victorian Government Solicitor, Police Branch, Shaun Le Grand. (9247 6797)



## VGSO Advocates

VGSO lawyers are able to appear for our clients in courts and tribunals. It's part of our approach in providing specialised and cost-effective legal services to government. Our in-house advocates have specialist expertise and in-depth understanding of client businesses, having worked closely with them over many years.

We are continuing to expand this area of our office to ensure our lawyers benefit from a full advocacy training program and continue to develop these skills throughout their careers. Currently, this includes secondments to the Child Protection Litigation Office and other departments. We are also working to develop a counsel-only service - our in-house advocate instructed by your lawyer.

Given our competitive rates and our willingness to embrace alternative fee structures, we can help clients achieve significant cost savings.

Our established track record includes appearances in all superior courts, including the High Court of Australia, tribunals such as VCAT and VOCAT, as well as a range of regulatory bodies.

With our uniquely government focus, we specialise in the following areas:

- Prosecutions (including acting for DPCD, the Local Government Inspectorate, the Victorian Electoral Commission, Building Commission, local government);
- Disciplinary hearings;
- Coronial inquests;
- Child Protection cases;

- Charter of Human Rights;
- Planning and Environment;
- Freedom of Information;
- Anti-discrimination;
- Guardianship;
- Licensing; and
- Merit reviews.

For a chat about how we can help your department or agency with its appearance work, please call Hayley Petrony on 9032 3011.



Hayley Petrony,  
Assistant Victorian  
Government  
Solicitor, Workplace  
Relations &  
Regulatory  
Compliance Branch

## VGSO Celebrates the Start of the Legal Year

The VGSO celebrated the start of the 2012 legal year with clients and staff at The Hotel Windsor on 21 February. It was a chance for Peter Stewart, Victorian Government Solicitor, to thank clients for their support over the last 12 months.

Pictured here:



Peter Stewart,  
Victorian Government Solicitor



Clients seen in the start of the legal year at The Hotel Windsor.





## New Facilities at Ararat Prison

Peter Stewart, Victorian Government Solicitor, together with John Champion, Director of Public Prosecutions, and representatives from the Office of Public Prosecutions toured the new facilities currently under construction at Ararat Prison, including those for sex offenders who are on detention and under supervision orders. The inspection was organised by Corrections Victoria.



Pictured here from L to R:

Liz Goss, General Manager, Sex Offender Management Branch, Corrections Victoria

Lisa Chesswas, Solicitor, Policy and Advice, Office of Public Prosecutions

John Champion, Director of Public Prosecutions

Jan Shuard, Deputy Commissioner, Offender Management, Corrections Victoria

Kaitlyn Heng, Principal Solicitor, Policy and Advice (Continued Detention), Office of Public Prosecutions

Peter Stewart, Victorian Government Solicitor, Victorian Government Solicitor's Office

Pat McCormick, General Manager, Grampians Region Prisons

## VCAT Appoints Senior VGSO Lawyers

Former Assistant Victorian Government Solicitor Jonathan Smithers was recently appointed a Senior Member and General Counsel Dr Rebecca French a Member of the Victorian Civil and Administrative Tribunal. Rebecca French commenced on 30 November 2011 and Jonathan Smithers on 23 January 2012.

Each has had a distinguished legal career. Jonathan led the Government & Public law team at VGSO and, with over 20 years' experience, excelled in planning, environmental and heritage matters, land compensation, freedom of information (FOI) and privacy, summary prosecutions, and general administrative law. He was the Co-ordinating Solicitor for the government in high-profile cases such as the Pyramid litigation in the 1990s, and the Longford Royal Commission.



Dr Rebecca French, Member, Victorian Civil & Administrative Tribunal



Jonathan Smithers, Senior Member, Victorian Civil & Administrative Tribunal

Dr French's areas of practice at VGSO included statutory interpretation, delegations, FOI and privacy, prosecutions, disciplinary proceedings, complaint handling, writing policies on investigations and prosecutions, and delivering training on those policies. She was the inaugural recipient of the Attorney-General's J.C Finemore Award and holds a PhD in constitutional law from the University of Melbourne.

Says Victorian Government Solicitor, Peter Stewart: "This is a wonderful accomplishment for both Jonathan and Rebecca and demonstrates the high regard in which they are held in the Victorian legal community. Both appointments are a great credit to the Office as a whole. We wish them well but they will be greatly missed, as each has contributed significantly to the success of the VGSO."

General Counsel Alison O'Brien was recently appointed Assistant Victorian Government Solicitor, Government & Public Law Branch. More about Alison's appointment will appear in the next VGSO in Focus.



## Workplace Relations & Regulatory Compliance Workshops

### Public Sector Workplace Relations

Friday 20 April 2012

10:30am - 1:30pm

The Public Sector presents a unique tapestry of Workplace Relations informed by:

- (a) *The Public Administration Act 2004*;
- (b) Specific legislation, such as the *Education & Training Reform Act 2006* and the *Metropolitan Fire Brigade Act 1950* to name just two;
- (c) The Code of Conduct;
- (d) Workplace policies;
- (e) Government policies such as 'Sustainable Victoria' and 'Fair Work'; and
- (f) Common law.

The interplay between these creates legal uncertainties that need to be carefully navigated.

This workshop will be of assistance to those dealing with coalface issues as well as people interested in appreciating the many relationships and what they mean for both employees and employers. Examples of issues to be discussed include the *Paras v Quinn* decision and the ramification for executive contractors, redeployment, Workcover and machinery of government transfer to name just a few.

There are still places available for the workshop.

Book by e-mailing your contact details to: [julie.jeremiah@vgso.vic.gov.au](mailto:julie.jeremiah@vgso.vic.gov.au) or 9032 3016.

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