

2022 AIAL National Administrative Law Conference

Administrative Law in Unprecedented Times

Thursday 21 and Friday 22 July 2022

Hotel Realm

18 National Circuit, Barton, Canberra, Australian Capital Territory



Paul Furness Auspic/DPS

The Conference invites discussion and debate on a number of themes and contemporary challenges in administrative law in these unprecedented times. It seeks to examine associated issues including response to the COVID-19 pandemic, climate change and the environment, determining and legislating the national interest, and major and ongoing challenges faced by Tribunals in addressing increased numbers and complexity of certain types of applications and associated timing pressures, particularly in the migration context. Ensuring the integrity of public institutions and public office-holders (including the proposal for a Commonwealth Integrity Commission) and recent developments in defence and national security will also be examined.

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

Bookings: <https://www.trybooking.com/BZXCF>

Thursday 21 July 2022

12.00pm Registration and arrival tea and coffee

1.00pm Welcome to Country by Paul House, Ngambri and Ngunnawal Elder
Welcome by Geoffrey McCarthy, President of the AIAL

1.15pm Opening Address by **The Hon. Justice Susan Kenny AM**, Federal Court of Australia.
Justice Kenny is also a Deputy President of the Administrative Appeals Tribunal and was previously President of the Administrative Review Council and a judge of the Victorian Court of Appeal.

1.30pm Plenary Session 1: Public Integrity

Speakers **Professor A J Brown**, Griffith University
Achieving a fit-for-purpose integrity commission: Fairness, independence and trust

Bruce McClintock SC, Barrister
An effective and accountable Commonwealth Integrity Commission

2.30pm Plenary Session 2: COVID-19 Response

Speaker **Associate Professor Andrew Edgar**, University of Sydney
Regulation-making during COVID: Exposing gaps in Commonwealth Parliamentary scrutiny

Speakers **Joshua Thomson SC**, Solicitor-General of Western Australia, and
Tristan Taylor, Research Associate to the Solicitor-General of Western Australia
Examining the intersection of constitutional review and administrative review under the Wotton approach — drawing on the COVID-19 context

Speaker **Caroline Edwards PSM**, former Associate Secretary, Commonwealth Department of Health
Implementing COVID measures: Does administrative law help or hinder?

3.45pm Afternoon Tea

4.15pm Plenary Session 3: Climate Change / Environment

Speaker **The Hon. Justice Brian Preston FRSN SC**, Chief Judge of the Land and Environment Court of New South Wales
The interaction of policy and law in environmental governance

Speaker **Dr Cristy Clark**, Law Program Director, Canberra Law School, University of Canberra
Is administrative law becoming less important in environmental law litigation?

5.00pm Plenary Session 4: National Lecture on Administrative Law—Lecture 2 *The future of administrative law: Tribunals*

Speaker **Emeritus Professor Robin Creyke AO**

Robin Creyke AO FAAL is an Emeritus Professor at the Australian National University where she was a long-standing administrative law academic and co-author, among other publications, of *Control of Government Action* (LexisNexis, 6th edition), a widely used text. Her practical experience as a member of multiple tribunals, including the Administrative Appeals Tribunal, has informed her numerous writings on tribunals, government and accountability and given her insights into this form of dispute resolution.

6.00pm Conference Drinks

7.00pm Conference Dinner and Administrative Law Trivia Quiz

Friday 22 July 2022

8.15am Registration and arrival tea and coffee

8.45am Plenary Session 5: National Defence and Security

Speakers **The Hon. Justice John Logan RFD**, Federal Court of Australia

Judicial power and national defence and security in practice

Dennis Richardson AC, former Director-General of ASIO, Ambassador to the USA, Secretary of the Department of Foreign Affairs and Trade and Secretary of the Department of Defence, and author of *Comprehensive Review of Australian Intelligence Legislation* (2019).

Executive power and national defence and security in practice

9.45am Concurrent Session 1

Stream 1.1 Practical considerations relating to technology assisted decision making

Katie Miller, PhD candidate and General Counsel AUSTRAC

Let's talk tech - a guide for administrative law practitioners in technology projects

Stream 1.2 Promoting integrity outcomes

Daniel Casey, PhD candidate, Australian National University

Access to official papers of a former Minister

Alice Tilleard, Student, Australian National University:

She will not be alright: The need for greater protection of integrity institutions

Stream 1.3 Perspectives on judicial review (1)

Judge Rolf Driver, Federal Circuit and Family Court of Australia, and **Giovanni Frischman**, Associate

The more it changes, the more it stays the same: reflections from two decades of judicial review in the Federal Circuit and Family Court and its predecessors

10.30am Morning Tea

11.00am Concurrent Session 2

Stream 2.1 Examining events shaping law reform

Peter Sutherland, Visiting Fellow, ANU College of Law

Developments in Australian Military Compensation Law

Stream 2.2 - Delegated legislation

Hollie Kerwin and **Brittini Dienhoff**, Environmental Justice Australia

Case study: motion to disallow regulations conferring functions to provide funding for fossil fuel technologies

Stream 2.3 Judicial oversight of discretionary payments

Dr Oscar Roos, Senior Lecturer, Deakin University and **Yee-Fui Ng**, Associate Professor, Monash University

Maintaining the integrity of 'act of grace' payments: judicial review of the discharge of the government's moral obligations

Friday 22 July 2022 (continued)

11.45am Plenary Session 6: Migration — Do “God-like powers” stop at the border? — Panel Discussion

Should the “God-like powers” in s 133C of the *Migration Act 1958* be a model for administrative action?

Speakers **Sanmati Verma**, Clothier Anderson, Immigration Lawyers
Arran Gerrard, Senior Executive Lawyer, Australian Government Solicitor, Perth Office
Samuel White, Postdoctoral Research Fellow & RUMALE Associate Researcher, University of Adelaide

1:00pm Lunch

1.45pm Concurrent Session 3

Stream 3.1 Responses to and lessons from the pandemic

Sven Bluemmel, Victorian Information Commissioner

Stretched or broken – Has our system of information rights stood up to the COVID 19 pandemic?

Stream 3.2 Examining merits review outcomes through statistics

Rohan Simpson, Allens Linklaters
Measuring political bias at the AAT

Daniel Ghezelbash, Associate Professor, Macquarie Law School and
Keyvan Dorostkar, MRES Candidate, Macquarie Law School

Statistical analysis of administrative decision-making: Evaluating Australia’s fast-track refugee status determination procedures

Stream 3.3 Perspectives on judicial review (2)

Dr Steven Churches, Barrister
Are expectations legitimate, and if so, do they run to international conventions?

Emily Hammond, Associate Lecturer, University of Sydney
‘Second actor problems’, Australian style

2.45pm Plenary Session 7: Diversity in Administrative Law — Panel Discussion

Speakers **Emeritus Professor Rosalind Croucher AM**, President of the Australian Human Rights Commission
The Hon. Justice Janine Pritchard, Court of Appeal, Supreme Court of Western Australia and President of the State Administrative Tribunal
Professor Farrah Ahmed, Melbourne Law School

4.15pm Closing comments

4.30pm Conference Close

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.

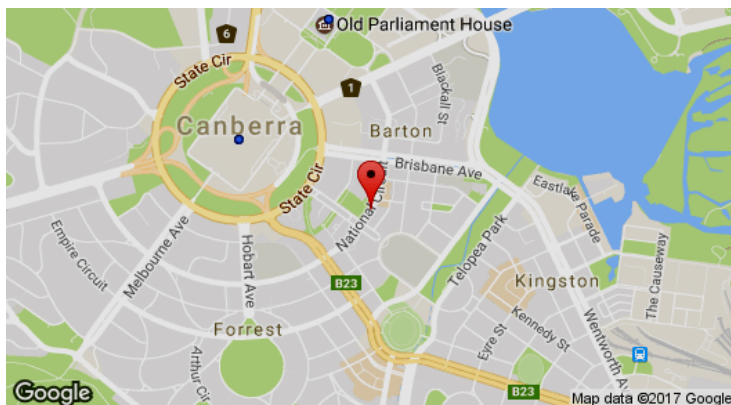
For more information, contact the AIAL Secretariat on 02 6290 1505 or email aial@commercemgt.com.au.

Conference venue

The Hotel Realm is located at 18 National Circuit, Barton, just outside the Parliamentary Triangle. It is approximately seven minutes drive from the City Centre and Canberra Airport is only 10 kms away.

There is a limited amount of paid parking under the Hotel Realm. Conference delegates are entitled to a discounted day rate which can be obtained by presenting your parking ticket at the Hotel reception desk prior to departure. Access to the car park is via Burbury Close directly off either Bourke Street or Sydney Avenue.

For more information about the Hotel Realm, visit www.hotelrealm.com.au



There are a number of bus stops close to the hotel. For route and timetable details see <https://www.transport.act.gov.au/>

Accommodation information

Accommodation is available at the Hotel Realm and its associated properties (The Burbury, The Little National Hotel, The Brassey). To make a reservation and to access the special conference rate, please contact reservations on 02 6163 1888 and mention '**EVENT**' in order to gain a flat 15% off the best available rate of the day across any of Hotel Realm's properties.

Accommodation options in Barton:

- The Burbury Hotel & Apartments, 1 Burbury Close, Barton (behind Hotel Realm)
Phone: 02 6171 4005; www.burburyhotel.com.au
- The Little National Hotel, 21 National Circuit, Barton (across the road from Hotel Realm)
Phone 02 6188 3200; www.littlenationalhotel.com.au
- The Brassey of Canberra, Belmore Gardens & Macquarie Street, Barton (behind Hotel Realm)
Phone: 02 6273 3766; www.brassey.net.au
- Hotel Kurrajong, 8 National Circuit, Barton
Phone: 02 6234 4444; www.hotelkurrajong.com.au
- Rydges Capital Hill, 17 Canberra Avenue, Forrest
Phone: 02 6295 3144; www.rydges.com

How to Register

Register online via Trybooking link below:

<https://www.trybooking.com/BZXCF>

Registration deadline: **COB Thursday 14 July 2022.**

Registration Fees:

Note: *Conference dinner is included in the registration fee for delegates to this Conference with the exception of the concession and student registration fee.*

Member	\$820.00
Non-Member:	\$920.00
Group (3 or more)	\$740.00
Community & Academic:	\$490.00
Student & Concession:	\$60.00 (Dinner not included)
Conference Dinner only:	\$130.00

Delegates will receive confirmation of their registration and payment.

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

CLE/CPD points are available if this educational activity is relevant to your immediate or long term needs in relation to your professional development and practice of the law. Please contact your local Law Society for further details.

WA practitioners should contact the AIAL WA Chapter Secretary for details of the WA CPD points allocation for each session.

Inquiries: All inquiries should be directed to:

AIAL National Secretariat: aial@commercemgt.com.au. Phone: (02) 6290 1505.

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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 Thursday 14 July 2022 and may incur an administrative fee of \$60.00 (incl. GST). No refunds will be provided after COB Thursday 14 July 2022.
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.
5. All attendees must comply any COVID-19 Venue restrictions at the time of the event.