



# Australian Government Legal Service Conference

THURSDAY, 14 OCTOBER 2021

CONFERENCE PROGRAM: **DNA OF A GOVERNMENT LAWYER**

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| 09.00 | <b>WELCOME</b><br><b>Caroline Rice</b> , Conference Committee Chair, Department of Defence<br><b>Ellen Fanning, MC</b>  |
| 09.05 | <b>WELCOME TO COUNTRY</b><br><b>Tina Brown</b>  |
| 09.10 | <b>AGLS OVERVIEW</b><br><b>Sarah Godden</b> , AGLS Board Chair & Assistant Secretary, Bargaining and Coverage Branch, Industrial Relations Legal Division, Attorney-General's Department  |
| 09.20 | <b>KEY NOTE ADDRESS: LAW, POWER AND GOVERNMENT RESPONSIBILITY</b><br><b>The Hon James Leslie Bain Allsop AO</b> , Chief Justice, Federal Court of Australia<br><br>Government lawyers occupy a unique position, one which requires a well-rounded awareness of power and how it is and should be exercised. Chief Justice Allsop will consider the indefinable nature of power and its reliance on public trust, confidence and transparency and respect for human dignity.<br><br>CPD guide: <a href="#">Core Area 1 – Legal Ethics and professional responsibility – 1 point</a>  |
| 10.20 | <b>Morning break</b>  |
| 10.35 | <b>SESSION: ROYAL COMMISSIONS AND DISCHARGING MODEL LITIGANT OBLIGATIONS</b><br><b>Jane Needham SC</b><br><br>Jane Needham SC will outline the considerations government lawyers should bring to their involvement in Royal Commissions and other inquiries, in the context of the scope and application of model litigant policies.<br><br>CPD guide: <a href="#">Core Area 4 – Substantive law and procedural law – 1 point</a>   |
| 11.35 | <b>SESSION: THE NEUROSCIENCE OF TOUGH CONVERSATIONS</b><br><b>Abby Reis</b> , Director, PunkPD<br><br>Abby Rees will facilitate a practical and workplace-based discussion on the 'invisible' human experience of engaging in tough conversations. While lawyers engage in tough conversations with clients and stakeholders daily, the emotional toll can be far greater when the need arises within one's own team or organisation. Engaging in tough conversations is necessary for thriving workplace cultures. Abby will highlight some winning tips to help normalise these conversations and engage in them productively and consciously. Weaving practical tools within foundational theory, this human-focussed session aims to increase visibility on why tough conversations are 'tough' and provide tangible ways to minimise their emotional toll and maximise their workplace impact.<br><br>CPD guide: <a href="#">Core Area 2 – Business skills – 1 point</a> |
| 12.35 | <b>Lunch</b>  |

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| <b>13.05</b>  | <p><b>PANEL DISCUSSION – PROVIDING LEGAL ADVICE IN A COMPLEX AND DYNAMIC ENVIRONMENT</b></p> <p><b>Katherine Jones PSM</b>, Secretary, Attorney-General’s Department<br/> <b>Michael Kingston</b>, Australian Government Solicitor, Attorney-General’s Department<br/> <b>Alice Linacre</b>, Chief Counsel, Department of Agriculture, Water and the Environment<br/> <b>Kathryn Haigh</b>, Chief Counsel, Services Australia</p> <p>The role of the government lawyer involves unique responsibilities. As lawyers and public servants, government lawyers’ obligations arise from different sources. Government lawyers discharge their role in a manner consistent with the law and the public interest, and apply a whole of government focus when providing advice, or identifying and managing legal risk. The context in which government lawyers work is changing rapidly. Our panel members will bring their perspectives, as highly skilled and experienced government lawyers, to the task of ‘providing legal advice in a complex and dynamic environment’.</p> <p>CPD guide: <a href="#">Core Area 1 – Legal Ethics and professional responsibility – 1 point</a></p> |   |   |
| <b>14.05</b>  | <p><b>CONCURRENT SESSIONS</b></p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top; padding: 5px;"> <p><b>Helping great minds unwind (plus guided meditation)</b></p> <p><b>Jenifer Lee Apps</b>,<br/>Owner and Coach, Physical Essence</p> <p>Jenifer Apps will provide foundational knowledge about the nervous system, the automatic stress response, and the fine balance that exists between the homeostatic (rest and digest) and alarm (fight or flight) nervous system responses. This educational session is followed by a short meditation, supporting participants to bypass the stressful analytical mind which is dominant in traditional legal practice, to find a sense of calm and peace.</p> </td> <td style="width: 50%; vertical-align: top; padding: 5px;"> <p><b>Speed networking – legal trivia</b></p> <p>Conference Committee</p> </td> </tr> </table>  | <p><b>Helping great minds unwind (plus guided meditation)</b></p> <p><b>Jenifer Lee Apps</b>,<br/>Owner and Coach, Physical Essence</p> <p>Jenifer Apps will provide foundational knowledge about the nervous system, the automatic stress response, and the fine balance that exists between the homeostatic (rest and digest) and alarm (fight or flight) nervous system responses. This educational session is followed by a short meditation, supporting participants to bypass the stressful analytical mind which is dominant in traditional legal practice, to find a sense of calm and peace.</p> | <p><b>Speed networking – legal trivia</b></p> <p>Conference Committee</p> |
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| <b>14.30</b>  | <p><b>Afternoon break</b></p>  |   |   |
| <b>14.45</b>  | <p><b>SESSION: PERSPECTIVES ON GOVERNMENT LEGAL PRACTICE</b></p> <p><b>Nikki Bensch</b>, General Counsel, Australian Commission for Law Enforcement Integrity<br/> <b>Stephen Bouwhuis</b>, General Counsel, Department of Health</p> <p>It is both a privilege and a challenge to be a government lawyer. During these challenging and uncertain times, the specialised skills of government lawyers have never been more important. Nikki Bensch and Stephen Bouwhuis will discuss the essential qualities of a government lawyer and provide advice on how you can develop those qualities. You will gain insights from the career paths of two Commonwealth General Counsel, hear how they have responded to the challenges they have faced and the future challenges they expect to face.</p> <p>CPD guide: <a href="#">Core Area 3 – Professional Development – 1 point</a></p>  |   |   |

## 15.45 SESSION: FEDERAL ADMINISTRATION AND ACCOUNTABILITY

### The Hon Michael Kirby AC CMG

The Hon Michael Kirby AC CMG will discuss his article on “The Changing Legal Framework of the Australian Intelligence Community: from Hope to Richardson” (2021) 95 ALR 700. His Honour will consider the expansion of national security, intelligence and anti-terrorism laws in Australia noting over the past few years the Australian Government has enacted more than 90 Bills on national security related matters, building up a significant and extremely complex body of laws with limited independent scrutiny. His Honour will consider what appears to be a shift towards self-assessment of the ‘National Intelligence Community’ in place of independent judicial examination, contrasting the methodology adopted by the Menzies, Whitlam, Fraser and Hawke governments (who favoured judicial scrutiny) to the more recent appointment of Executive Government officials adopted by the Howard, Turnbull and Morrison governments. His Honour will examine the above against his own early engagement with the Commonwealth Crown Solicitor, Attorney-General’s Department, ALRC and the judiciary while considering the privatisation of federal legal advising, the decline in funding of federal law reform and the increase in operational activities of the Commonwealth, including the Attorney-General’s Department.

CPD guide: [Core Area 4 — Substantive law and procedural law – 1 point](#)

## 16.45 CONCLUDING REMARKS

### Ellen Fanning, MC

#### **NOTE ON CPD POINTS:**

*Conference sessions may count towards CPD points for CPD purposes. Ultimately, attendees must make their own assessment as to whether a particular session is available to claim as CPD. For further guidance, attendees should refer to the CPD Guidance applicable in their jurisdiction of practice.*

## SPEAKERS BIOGRAPHIES



### ***Ellen Fanning, MC***

In her 20 years as an award winning public affairs journalist, Ellen Fanning has interviewed every Australian Prime Minister from Sir John Grey Gorton to Malcolm Turnbull. She has reported politics from Canberra to the White House while her broader career has taken her to locations as diverse as the North Pole, an airline refuelling fighter jets over Bosnia and a Collins Class submarine deep in the Indian Ocean. She spent the first ten years of her career at the ABC where she presented both the AM and PM current affairs radio programs. She also served as the ABC's Washington correspondent. She was later a reporter on the Nine Network's 60 Minutes and the last presenter of Nine's Sunday program. Ellen co-presents ABC TV's "The Drum" and is regularly seen and heard on ABC TV's 730 and on ABC Radio around Australia.



### ***Sarah Godden***

Sarah recently joined the Attorney-General's Department as Assistant Secretary of the Bargaining and Coverage Branch within the Industrial Relations Legal Division. She was previously General Counsel – Communications & Arts, at the Department of Infrastructure, Transport, Regional Development and Communications. Sarah is committed to giving back to the profession and has done this through her role as the Inaugural Chair of the AGLS Board and participation in the Australian Government Lawyer Training Working Group.

Sarah is committed to mentoring and developing junior lawyers, dedicated to technical excellence and values the ability to combine integrity with high standards of client service.



### ***The Hon James Leslie Bain Allsop AO***

From 1981 to 2001, Chief Justice Allsop practiced at the Bar in NSW and elsewhere in Australia. He was appointed Senior Counsel in NSW in 1994 and Queen's Counsel in WA in 1998. In May 2001, he was appointed a judge of the Federal Court and then in 2008, President of the NSW Court of Appeal. The Chief Justice commenced as Chief Justice of the Federal Court in March 2013. The Chief Justice is an Honorary Bencher of the Middle Temple, fellow of the Australian Academy of Law and President of the Francis Forbes Society for Australian Legal History.



### ***Jane Needham SC***

Jane Needham SC practises at the Sydney Bar with a national and international practice in estate and succession law. She also has a significant practice in Royal Commissions and inquiries, both for interested parties and as counsel assisting. She has represented large institutions in the Royal Commission into Institutional Responses to Child Sexual Abuse and the Aged Care Royal Commission, and individual parties or government appointees in the Disability Royal Commission and the Newcastle Special Commission of Inquiry. She has represented State and Federal government agencies in both litigation and in inquiries and often appears for the New South Wales Police Force in inquests. She was President of the NSW Bar Association in 2014-2015 where her interests focused on diversity, gender equality, and flexible work.



### **Abby Reis**

Abby is PunkPD's Director, a self-confessed 'Education Junkie', University Lecturer, Education and Empowerment Writer, Behaviour and Change Specialist, Executive Meta-Coach and artistic thinker. Energy, Excellence and Tenacity are not mere words on PunkPD's banner, they capture Abby's drive and personality.

Thriving on new challenges, Abby leads with a level of energy that earned her the nickname '240' [240 Volt] in 2008 from her former colleagues. With the tenacity of a Rottweiler, Abby lives and breathes her design projects, providing her clients with a commitment to excellence that is unparalleled. Abby has a lively personal presence, strong interpersonal skills and uses a wide range of innovative and inventive techniques. With rich experience in facilitating diverse groups, Abby has delivered a range of corporate training and developed education, change and communication tools to meet individual needs.



### **Katherine Jones**

Katherine Jones PSM is Secretary of the Attorney-General's Department. Katherine commenced in this role in August 2021. Prior to her appointment as Secretary, Katherine was the Associate Secretary of the Department of Defence. She was appointed to that position in June 2020, where her portfolio included oversight of the Chief Information Officer, Chief Finance Officer, Deputy Secretary of Defence People and Deputy Secretary of Estate and Infrastructure. In addition, Katherine was responsible for Defence enterprise planning, performance and risk management functions, and the integration of all corporate enabling services which included the delivery of the Defence Transformation Strategy and the Defence Data Strategy.

Before joining the Department of Defence, Katherine was the Deputy Secretary for Business Enabling Services in the Department of Finance. She held that role since October 2017. Katherine has practical experience in delivering shared services in government and was responsible for delivering whole of government digital systems to support collaboration and customer service, including the innovative GovTeams platform.

Katherine has also held senior positions in the Attorney-General's Department including as the Deputy Secretary responsible for National Security, Criminal Justice and Emergency Management, the head of the International Crime Cooperation Division and the head of the Social Inclusion Division with responsibility for policy and programs across Indigenous justice, native title, legal assistance and human rights.

In 2017, Katherine received a Public Service Medal for her outstanding contribution in the field of national security.

She has a Bachelor of Arts from La Trobe University and a Bachelor of Laws from the University of New South Wales. Before joining the public service in 1999, Katherine spent more than a decade in educational and academic publishing as a sponsoring editor and publisher at the McGraw Hill Book Co.



### **Michael Kingston**

Michael Kingston is the Australian Government Solicitor, a position he has held since December 2016. Prior to joining AGS, Michael was Chief Legal Officer of the Australian Securities and Investments Commission for 8 years. Between 1989 and 2003 Michael was a partner of Mallesons Stephen Jaques, practising in company and commercial law. Michael has also worked as a solicitor with Slaughter and May in London, as a government lawyer in Papua New Guinea and as in-house counsel for BHP.



### **Alice Linacre**

Alice Linacre is the Chief Counsel of the Department of Agriculture, Water and the Environment (DAWE). She has held that position since January 2017. Alice leads a team of over 110 lawyers and staff delivering legal services to the department, its executives, and ministers.

She promotes continuous improvement and innovation to ensure that the Legal Practices maintain their reputation as a unified, high performing and highly respected team. Under Alice's leadership the Legal Division operates as a key enabler for the department to achieve its strategic objectives. Alice has extensive experience in both Government and Private legal practices, and in 2018 was the recipient of the Association of Corporate Counsel's (ACC) Australian Government Lawyer of the year.



### **Kathryn Haigh**

Kathryn Haigh is the Chief Counsel of Services Australia. Kathryn commenced this role in September 2020. Before joining Services Australia, Kathryn was General Counsel at AUSTRAC, Australia's anti-money laundering and terrorism financing regulator. Kathryn has held other senior legal positions in the Australian Public Service and worked in private practice.



### **Jenifer Lee Apps**

Jenifer Lee Apps is the owner and coach of Physical Essence. With 20 years of experience in the health and wellness industry, Jenifer support clients globally both in person and online. The foundations of what she does is based on educating and supporting men and women to live healthy, happy and productive lives. This is achieved through a combination of holistic health-centred practices, including mindfulness, subconscious reprogramming work, physical exercise, nutrition, and strength training.



### **Nikki Bensch**

Nikki Bensch commenced her legal career in the Northern Territory working as a Solicitor for the North Australian Aboriginal Family Violence Legal Service (NAAFVLS) and the North Australian Aboriginal Justice Agency (NAAJA). Following a move south, Nikki spent the next 3 years as a Legal Policy Officer in the Criminal Law Group for the ACT Justice and Community Safety Directorate. Nikki then returned to legal practice, spending 7 years with the Australian Federal Police's (AFP) Legal Team, specialising in litigation where she managed the AFP's dispute resolution legal team.

In November 2019, Nikki commenced her current role as General Counsel for the Australian Commission for Law Enforcement Integrity (ACLEI). ACLEI's legal team provides legal advice on a range of issues relating to detecting, investigating and preventing corrupt conduct in Australian Government agencies with law enforcement functions. Advice is provided on the Integrity Commissioner's extensive powers, including appearing as Counsel Assisting and instructing in coercive hearings.

In 2019 Nikki was named the ACT Volunteer of the Year for her work with Share the Dignity, a national charity dedicated to ending period poverty by providing woman and girls with access to free sanitary items.



### ***Stephen Bouwhuis***

As a General Counsel in the Commonwealth Department of Health Stephen Bouwhuis is responsible for the department's legal advice, legislative program and freedom of information requests. This includes the design of the COVID-19 emergency instruments applying to persons under the Biosecurity Act. His work is a mix of crisis response, standard business and pre-emptive work to develop solutions for difficulties being experienced across the department.

Stephen has worked on a range of different challenges across government at agencies including PM&C and AGD. He holds a Masters of Public Administration from Harvard and a Masters of International Law from the ANU.



### ***The Hon Michael Kirby AC CMG***

The Hon Michael Kirby is an international jurist, educator and former judge. He served as a Deputy President of the Australian Conciliation and Arbitration Commission (1975-83); Chairman of the Australian Law Reform Commission (1975-84); Judge of the Federal Court of Australia (1983-4); President of the New South Wales Court of Appeal (1984-96); President of the Court of Appeal of Solomon Islands (1995-96) and Justice of the High Court of Australia (1996-2009).

He has undertaken many international activities for the United Nations, the Commonwealth Secretariat, the OECD and the Global Fund Against AIDS, Tuberculosis and Malaria. He has also worked in civil society, being elected President of the International Commission of Jurists (1995-8). His recent international activities have included member of the Eminent Persons Group on the Future of the Commonwealth of Nations (2010-11); Commissioner of the UNDP Global Commission on HIV and the Law (2011-12); Chairman of the UN Commission of Inquiry on DPRK (North Korea) (2013-14); and Member of the UN Secretary General's High Level Panel on Access to Essential Healthcare (2015-16). He is also heavily engaged in international arbitrations; domestic mediations; and teaching law. He is Honorary Professor at 12 Australian and overseas universities.

In 1991 he was awarded the Australian Human Rights Medal. In 1998, he was named Laureate of the UNESCO Prize for Human Rights Education. In 2010 he was named co-winner of the Gruber Justice Prize. In 2011 he received the inaugural Australian Privacy Medal. The honorary degrees of Doctor of Letters, Doctor of Laws and Doctor of the University have been conferred on him by universities in Australia and overseas. He lives in Sydney with his partner since 1969, Johan van Vloten.