



THE VICTORIAN BAR INCORPORATED

**COMIMBAR PUBLIC LAW SECTION – CPD SYMPOSIUM FOR
BARRISTERS AND INSTRUCTING SOLICITORS**

THURSDAY, 9 FEBRUARY 2023

Time	Event	Location	Format	Topic	Speaker(s)	CPD category
1.45–2.00pm	Registration	Level 1 ODE				
2.00–2.05pm	Welcome	Neil McPhee			The Hon Justice Kristen Walker	
2.05–2.35pm	Session 1	Neil McPhee	In person seminar	Constitutional law update	Minh-Quan Nguyen Shawn Rajanayagam	Substantive law*
2.35–3.05pm	Session 2	Neil McPhee	In person seminar	Dos, Do Nots and Maybe Dos: Lessons from recent Charter cases	Sarala Fitzgerald Dr Nicholas Petrie	Substantive law*
3.05–3.45pm	Session 3	Neil McPhee	In person seminar	Materiality and non-compliance with statutory conditions	Andrew Yuile Angel Aleksov	Substantive law*
3.45–4.05pm	Afternoon tea	Level 1 ODE				
4.05–4.45pm	Session 4	Neil McPhee	In person panel discussion	Review for legal unreasonableness and irrationality	Claire Harris KC Georgina Rhodes Rebecca McEwen	Substantive law*
4.45–5.25pm	Session 5	Neil McPhee	In person workshop	Statutory interpretation: a practical approach	Kathleen Foley SC Rowan Minson Edwina Smith	Substantive law*
5.25–5.30pm	Closing	Neil McPhee			The Hon Justice Richard Niall	
5.30–6.30pm	Drinks	The Essoign				* 180 MINUTES = 3 CPD POINTS

In **Session 1**, **Minh-Quan Nguyen** and **Shawn Rajanayagam** will provide an overview, and discuss the potential implications, of pending constitutional law cases in the High Court's docket, including:

- *Davis v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs*
- *DCM20 v Secretary of Department of Home Affairs*
- *Unions NSW v New South Wales*
- *Vanderstock v Victoria*

Session 2 sees **Sarala Fitzgerald** and **Dr Nicholas Petrie** present lessons from recent cases on the Victorian *Charter of Human Rights and Responsibilities*, with a view to providing practitioners with tips on how to best utilise the Charter in their practice, as well as common traps to avoid. The cases to be discussed include:

- *Loiello v Giles* (2020) 63 VR 1; [2020] VSC 722
- *Thompson v Minogue* [2021] VSCA 358
- *Yarran v Magistrates' Court of Victoria* [2022] VSC 531
- *Donohue v Westin* [2022] VSC 37

In **Session 3**, **Andrew Yuile** and **Angel Aleksov** will explore the development, theoretical underpinnings and implications of the High Court's recent jurisprudence on materiality of error in judicial review proceedings, including:

- *Hossain v Minister for Immigration and Border Protection* (2018) 264 CLR 123
- *Minister for Immigration and Border Protection v SMZTA* (2019) 264 CLR 421
- *MZAPC v Minister for Immigration and Border Protection* (2021) 95 ALJR 441
- *Nathanson v Minister for Home Affairs* (2022) 96 ALJR 737

In **Session 4**, **Claire Harris KC** will lead **Georgina Rhodes** and **Rebecca McEwen** in a discussion of practical approaches to formulating and arguing grounds of judicial review based on unreasonableness and irrationality. Cases to be discussed include:

- *Minister for Immigration and Citizenship v SZMDS* (2010) 240 CLR 611
- *Minister for Immigration & Citizenship v Li* (2013) 249 CLR 332
- *ABT17 v Minister for Immigration and Border Protection* (2020) 269 CLR 439

Session 5 involves **Kathleen Foley SC**, **Rowan Minson** and **Edwina Smith** giving a practical workshop on applying the principles of statutory construction, including by demonstrating how text, context and purpose can be deployed in a thorough (and strategic) manner. Recent statements of the core principles of statutory construction will also be identified in order to provide attendees with take-aways that can be applied in their practice.