

Solicitor-General

In addition to the legal services delivered by the ACTGS, the Solicitor-General for the ACT acts as Counsel for the Territory, the Crown in right of the Territory and any other Territory entity, as well as performing other functions as directed by the Attorney-General. The Solicitor-General generally settles or reviews all significant advice provided by ACTGS including engaging in relation to major government and commercial transactions.

- The Solicitor-General appears in proceedings on the Attorney-General's behalf and for the Territory in the Supreme Court and High Court. Where required, the Solicitor-General also appears and advises on a wide range of matters including constitutional, human rights, public law, and other sensitive litigation.
- As the primary legal advisor for the Attorney-General and government, the Solicitor-General reviews all major submissions and matters which affect government operation. This includes briefing the Attorney-General on notices served under section 78B of the *Judiciary Act 1903* (Cth) (Judiciary Act). Section 78B of the Judiciary Act requires parties in court proceedings raising constitutional issues to give the Attorneys-General of the Commonwealth, States, and self-governing Territories a notice of the constitutional issues (section 78B notice). Each Attorney-General then decides whether to intervene in the proceedings under section 78A of the Judiciary Act.
- The Solicitor-General also represents the Attorney-General in legal proceedings in which he intervenes to make submissions on points of law under section 27 of the *Court Procedures Act 2004* and section 35 of the *Human Rights Act 2004* (HR Act) and has represented the Territory and the Attorney-General in judicial review proceedings. The HR Act expresses several rights drawn from international rights instruments, including the right to privacy, the right to humane treatment when deprived of liberty, the right to equality, the right to fair trial, the right to education and rights regarding wrongful conviction and unlawful imprisonment. It permits those rights to be raised in the context of legal proceedings against public authorities of the Territory in Territory courts and tribunals.
- The Attorney-General is advised in relation to notices given under section 34 of the HR Act of matters in the Supreme Court to which the Territory is not a party, but which involve the application of the HR Act or which may involve the making of a declaration of incompatibility under the HR Act. The Attorney-General has a right to intervene in any such proceeding under section 35 of the HR Act. The ACTGS assists the Attorney-General to discharge his role under the HR Act not only by formal intervention in the proceeding but also by promoting a proper articulation of human rights matters by the moving party and by assisting the responding party to address those matters in their submissions.
- The Solicitor-General actively provided guiding and timely legal response to clients to support Government in the navigation of complex statutory and operational matters.
- During the reporting period the Solicitor-General led the preparation of written submissions in the following High Court matters:
 - *Attorney-General for the State of Tasmania v. Casimaty & Anor* (H3/2023)
 - *Commonwealth of Australia v. Yunupingu (on behalf of the Gumatj Clan OR Estate Group) & Ors* (D5/2023)
- There were also the following High Court special leave applications in which written submissions were filed:
 - *McIver v The King & Attorney-General of the Australian Capital Territory* (C5/2024)
 - *Deng v Australian Capital Territory & Ors* (C6/2024)

- The Solicitor-General also reviewed legal submissions made on behalf of the Territory in several complex and sensitive legal proceedings.
- The Solicitor-General continued to participate in meetings of the Special Committee of Solicitors-General (the Committee) which reports to the Standing Council on Law and Justice (formerly the Standing Committee of Attorneys-General). The Committee meets regularly to review current constitutional cases across all Australian jurisdictions and consider current issues.