HIGH COURT OF AUSTRALIA

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### Important Information

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IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY No. S39/2024

BETWEEN: **STATE OF NEW SOUTH WALES**
Appellant

and

**PAULINA WOJCIECHOWSKA**
First Respondent

**REGISTRAR OF NSW CIVIL AND ADMINISTRATIVE TRIBUNAL**
Second Respondent

**COMMISSIONER OF POLICE NSW POLICE FORCE**
Third Respondent

**SECRETARY OF NSW DEPARTMENT OF COMMUNITIES AND JUSTICE**

Fourth Respondent

**REGISTRAR OF DISTRICT COURT OF NEW SOUTH WALES**

Fifth Respondent

# SUBMISSIONS OF THE ATTORNEY-GENERAL FOR THE STATE OF SOUTH AUSTRALIA (INTERVENING)

## Part I: CERTIFICATION

1. These submissions are in a form suitable for publication on the internet.

## Part II: INTERVENTION

2. The Attorney-General for the State of South Australia (**South Australia**) intervenes pursuant to s 78A of the *Judiciary Act 1903* (Cth) to advance submissions in support of the Appellant.

## Part III: LEAVE TO INTERVENE

3. Not applicable.

## Part IV: SUBMISSIONS

### Overview

4. This appeal concerns the character of the power conferred on the New South Wales Civil and Administrative Tribunal (**the Tribunal**) by s 55(2)(a) of the *Privacy and Personal Information Protection Act 1998* (NSW) (**PPIP Act**). For the reasons advanced in the Appellant's Submissions, South Australia agrees that the power conferred by s 55(2)(a) of the PPIP Act is administrative.

5. These submissions are intended to supplement the Appellant's Submissions in relation to two discrete issues arising from the reasoning of the Court of Appeal concerning the application of the chameleon doctrine and the immediate enforceability of orders made under s 55(2)(a) of the PPIP Act by their registration pursuant to s 78 of the *Civil and Administrative Tribunal Act 2013* (NSW) (**CAT Act**).[1]

6. In relation to the chameleon doctrine,[2] South Australia submits that the fact that Parliament has chosen to repose a power in an administrative tribunal (particularly, in circumstances where the exercise of power is undertaken by lay-persons, invokes discretionary policy considerations and involves a departure from traditional judicial method), although not conclusive, provides a strong indication that the power so reposed is administrative. Just as the chameleon doctrine is relevant to the characterisation of a power conferred by the Commonwealth Parliament, it is also relevant to the characterisation of a power conferred under State law.

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1 *Wojciechowska v Secretary, Department of Communities and Justice; Wojciechowska v Registrar, Civil and Administrative Tribunal* [2023] NSWCA 191 (**Court of Appeal**), [135] and [136]-[144] (Kirk JA, Mitchelmore JA and Griffiths AJA agreeing).

2 See below, [9]-[16].

7. In relation to the question of immediate enforceability,[3] South Australia submits that there are some important points of difference between the legislative schemes considered in *Brandy*[4] and *Citta Hobart*[5] and those provided for by the PPIP Act when read together with the CAT Act. The registration provisions considered in *Brandy* and *Citta Hobart* operated unambiguously upon the power in question. By contrast, there is considerable ambiguity about whether the registration mechanism provided for by s 78 of the CAT Act is intended to apply to orders made under s 55(2)(a) of the PPIP Act. The many indicia that tend towards the conclusion that the power conferred by s 55(2)(a) PPIP Act is administrative also support a construction of s 78 of the CAT Act that it does not apply to orders made thereunder.

8. In the event that the Respondent is granted special leave to cross-appeal against the conclusion reached by the Court of Appeal that the powers conferred under the *Government Information (Public Access) Act 2009* (NSW) (**GIPA Act**) are administrative in character,[6] then South Australia submits that the conclusion arrived at by the Court of Appeal is correct for the reasons given.[7]

**Chameleon doctrine**

9. It has long been acknowledged that there are some powers conferred by statute that are exclusively judicial,[8] others that are exclusively administrative (or inherently non-judicial),[9] and between those exclusive categories a "*borderland*"[10] of powers

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3 See below, [17]-[21].

4 *Brandy v Human Rights and Equal Opportunity Commission* (1995) 183 CLR 245 (***Brandy***).

5 *Citta Hobart Pty Ltd v Cawthorn* (2022) 276 CLR 216 (***Citta Hobart***).

6 Notice of Cross-Appeal, 10 April 2024.

7 Court of Appeal, [49]-[105] (Kirk JA, Mitchelmore JA and Griffiths AJA agreeing). The GIPA Act is relevantly similar in its substantive operation to the *Freedom of Information Act 1991* (SA).

8 *Waterside Workers' Federation of Australia v J W Alexander Ltd* (1918) 25 CLR 434, 467-468 (Isaacs and Rich JJ); *R v Bevan; Ex parte Elias and Gordon* (1942) 66 CLR 452, 466 (Starke J); *R v Cox; Ex parte Smith* (1945) 71 CLR 1, 23 (Dixon J); *R v Davison* (1954) 90 CLR 353, 369 (Dixon CJ and McTiernan J); *R v Kirby; Ex parte Boilermakers' Society of Australia* (1956) 94 CLR 254, 270, 296 (Dixon CJ, McTiernan, Fullagar and Kitto JJ), 314 (Williams J), 338 (Taylor J); *Polyukhovich v Commonwealth* (1991) 172 CLR 501, 537 (Mason CJ), 607 (Deane J); *Re Dingjan; Ex parte Wagner* (1995) 183 CLR 323, 360 (Gaudron J); *Palmer v Ayres* (2017) 259 CLR 478, 497 [47] (Gageler J).

9 *Federal Commissioner of Taxation v Munro* (1926) 38 CLR 153, 175, 178-179 (Jacobs J); *R v Gallagher; Ex parte Aberdare Collieries Pty Ltd* (1963) 37 ALJR 40, 43 (Kitto J); *Re Ranger Uranium Mines Pty Ltd; Ex parte Federated Miscellaneous Workers' Union of Australia* (1987) 163 CLR 656, 666 (the Court); *Precision Data Holdings Ltd v Wills* (1991) 173 CLR 167, 189 (the Court); *Sue v Hill* (1999) 199 CLR 462, 515-516 [132] (Gaudron J); *Palmer v Ayres* (2017) 259 CLR 478, 504 [69] (Gageler J); *Citta Hobart,* 230 [22] (Kiefel CJ, Gageler, Keane, Gordon, Steward and Gleeson JJ).

10 *The Queen v Trade Practices Tribunal; Ex parte Tasmanian Breweries Pty Ltd* (1969) 123 CLR 361, 373 (Kitto J), quoting *Labour Relations Board (Saskatchewan) v John East Iron Works Ltd* [1949] AC 134, 148 (Lord Simonds delivering the reasons for the Privy Council).

which bear a "*double aspect*"[11] such that they may be characterised as either judicial or administrative.[12] The range of powers falling within the "*borderland*" is extensive.[13]

10. The role of characterising powers that have been conferred on courts and tribunals, for the purpose of supervising adherence to Chapter III of the *Constitution*, falls to this Court.[14] The conferral of a power on an administrative tribunal is not, without more, determinative of the character of the power so assigned.[15]

11. Nonetheless, when considering the character of a "*borderland*" power, the nature of the repository upon which Parliament has conferred the power can be a strong indicator as to whether the power is intended to be judicial or administrative.[16] This principle has come to be known as the chameleon doctrine.[17] The doctrine will apply with greatest force where the conferral is upon an administrative tribunal in circumstances where the exercise of power invokes discretionary policy considerations and involves a departure from traditional judicial method.

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11 *R v Davison* (1954) 90 CLR 353, 369 (Dixon CJ and McTiernan J).

12 *Labour Relations Board of Saskatchewan v John East Iron Works Ltd* [1949] AC 134, 148 (Lord Simonds delivering the reasons of the Privy Council); *R v Davison* (1954) 90 CLR 353, 370 (Dixon CJ and McTiernan J); *R v Trade Practices Tribunal Ex parte Tasmanian Breweries Pty Ltd* (1970) 123 CLR 361, 373 (Kitto J); *R v Hegarty; Ex parte City of Salisbury* (1981) 147 CLR 617, 628 (Mason J); *Re Ranger Uranium Mines Pty Ltd; Ex parte Federated Miscellaneous Workers' Union of Australia* (1987) 163 CLR 656, 665-666 (the Court); *Harris v Caladine* (1991) 172 CLR 84, 93 (Mason CJ and Deane J), 147-148 (Gaudron J); *Precision Data Holdings Ltd v Wills* (1991) 173 CLR 167, 189 (the Court).

13 *Labour Relations Board of Saskatchewan v John East Iron Works Ltd* [1949] AC 134, 148 (Lord Simonds); *R v Trade Practices Tribunal Ex parte Tasmanian Breweries Pty Ltd* (1970) 123 CLR 361, 373 (Kitto J).

14 *R v Quinn; Ex parte Consolidated Foods Corporation* (1977) 139 CLR 1, 5 (Barwick CJ), 9 (Jacobs J); *R v Spicer; Ex parte Australian Builders' Labourers' Federation* (1957) 100 CLR 277, 305 (Kitto J); *Pasini v United Mexican States* (2002) 209 CLR 246, 268-269 [62] (Kirby J).

15 *R v Quinn; Ex parte Consolidated Foods Corporation* (1977) 139 CLR 1, 5 (Barwick CJ), 9 (Jacobs J); *Pasini v United Mexican States* (2002) 209 CLR 246, 268-269 [62] (Kirby J).

16 *Federal Commissioner of Taxation v Munro* (1926) 38 CLR 153, 175-177 (Isaacs J); *R v Davison* (1954) 90 CLR 353, 368-369 (Dixon CJ and McTiernan J); *R v Spicer; Ex parte Australian Builders' Labourers' Federation* (1957) 100 CLR 277, 305 (Kitto J); *Farbenfabriken Bayer AG v Bayer Pharma Pty Ltd* (1959) 101 CLR 652, 659-660 (Dixon CJ); *R v Quinn; Ex parte Consolidated Foods Corporation* (1977) 139 CLR 1, 8, 10 (Jacobs J); *R v Hegarty; Ex parte City of Salisbury* (1981) 147 CLR 617, 627-628 (Mason J); *Precision Data Holdings Ltd v Wills* (1991) 173 CLR 167, 189 (the Court); *Brandy*, 258 (Mason CJ, Brennan and Toohey JJ), 267 (Deane, Dawson, Gaudron and McHugh JJ); *HA Bachrach Pty Ltd v Queensland* (1998) 195 CLR 547, 562 [15] (Gleeson CJ, Gaudron, Gummow, Kirby and Hayne JJ); *Sue v Hill* (1999) 199 CLR 462, 481-482 [32]-[33] (Gleeson CJ, Gummow and Hayne JJ), 515-517 [132]-[135] (Gaudron J); *Pasini v United Mexican States* (2002) 209 CLR 246, 253-254 [12] (Gleeson CJ, Gaudron, McHugh and Gummow JJ), 265-267 [53]-[59] (Kirby J); *Luton v Lessels* (2002) 210 CLR 333, 386-387 [188] (Callinan J); *White v Director of Military Prosecutions* (2007) 231 CLR 570, 595 [48] (Gummow, Hayne and Crennan JJ); *Thomas v Mowbray* (2007) 233 CLR 307, 329 [17] (Gleeson CJ), 341 [59] (Gummow and Crennan JJ); *Attorney-General (Cth) v Alinta Limited* (2008) 233 CLR 542, 551-552 [5]-[6] (Gleeson CJ); *Palmer v Ayres* (2017) 259 CLR 478, 496 [44], 497-498 [48] (Gageler J).

17 This metaphor was first invoked by Justice Aickin; *R v Quinn; Ex parte Consolidated Food Corporation* (1977) 138 CLR 1, 18.

12. The foundation of the chameleon doctrine is ultimately practical, rather than formalist. In *Thomas v Mowbray*, Chief Justice Gleeson said:[18]

> Deciding whether a governmental power or function is best exercised administratively or judicially is a regular legislative exercise. If … Parliament decides to confer a power on the judicial branch of government, this reflects a parliamentary intention that the power should be exercised judicially, and with the independence and impartiality which should characterise the judicial branch of government.

Conversely, the conferral of a power upon a tribunal suggests a legislative intention that a less constrained exercise of power is called for. The chameleon doctrine recognises that the "*skills and professional habits*"[19] of tribunal members, engaged in discretionary decision-making about what legal rights and obligations "*should be created*",[20] are different to those employed by judicial officers in "*the ascertainment of legal rights and obligations.*"[21]

13. Given the practical underpinnings of the chameleon doctrine, it is relevant to the characterisation of a power conferred under State law just as it is to the characterisation of powers conferred by the Commonwealth Parliament.[22]

14. Further, in so far as the chameleon doctrine may also be understood to be founded upon the principle that Parliament must be presumed not to have legislated in a manner that is unconstitutional,[23] the application of the doctrine to the characterisation of state powers draws further support from this Court's decision in *Burns v Corbett*.[24]

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18 *Thomas v Mowbray* (2007) 233 CLR 307, 326-327 [12] (Gleeson CJ), cited with approval in *Palmer v Ayres* (2017) 259 CLR 478, 513 [92] (Gageler J).

19 *R v Davison* (1954) 90 CLR 353, 382 (Kitto J).

20 *Precision Data Holdings Ltd v Wills* (1991) 173 CLR 167, 189 (the Court)

21 *Re Ranger Uranium Mines Pty Ltd; Ex parte Federated Miscellaneous Workers' Union of Australia* (1987) 163 CLR 656, 666 (the Court).

22 Court of Appeal, [89] (Kirk JA, Mitchelmore JA and Griffiths AJA agreeing), citing *Attorney-General for State of South Australia v Raschke* (2019) 133 SASR 215, 238-239 [71]-[73] (Kourakis CJ, Kelly and Hinton JJ agreeing); *K-Generation Pty Ltd v Liquor Licensing Court* (2009) 237 CLR 501, 528-529 [83] (French CJ), 566 [230] (Kirby J); *Wainohu v New South Wales* (2011) 243 CLR 181, 201-202 [30] (French CJ and Kiefel J). Cf *Meringnage v Interstate Enterprises Pty Ltd* (2020) 60 VR 361, 405 [135] (Tate, Niall and Emerton JJA).

23 *D'Emden v Pedder* (1904) 1 CLR 91, 119-120 (the Court); *Federal Commissioner of Taxation v Munro* (1926) 38 CLR 153, 180 (Isaacs J); *Attorney-General (Vic) v The Commonwealth* (1945) 71 CLR 237, 267 (Dixon J); *Lim v Minister for Immigration Local Government and Ethnic Affairs* (1992) 176 CLR 1, 14 (Mason CJ); (*New South Wales v The Commonwealth* (2006) 229 CLR 1, 161-162 [355] (Gleeson CJ, Gummow, Hayne, Heydon and Crennan JJ); *K-Generation v Liquor Licensing Court* (2009) 237 CLR 501, 519 [46] (French CJ); *North Australian Aboriginal Justice Agency Ltd v Northern Territory* (2015) 256 CLR 569, 604-605 [76]-[79] (Gageler J); *Clubb v Edwards* (2019) 267 CLR 171, 314 (Edelman J). See also s 31(1) of the *Interpretation Act 1987* (NSW).

24 (2018) 265 CLR 304.

15. Applying the above principles to the present case, the power conferred on the Tribunal by s 55(2)(a) of the PPIP Act should be understood to be a "*borderland*" power for the reasons advanced in the Appellant's Submissions.[25] The Court of Appeal acknowledged the relevance of the chameleon doctrine in characterising powers conferred by State legislatures.[26] However, it appeared to give insufficient weight to this principle in considering the nature of the power conferred on the Tribunal by s 55(2)(a) of the PPIP Act (although, in light of its conclusion that s 78 of the CAT Act applied to orders made under s 55(2)(a), the Court of Appeal did not ultimately reach a conclusion on this question).[27]

16. South Australia submits that the chameleon doctrine weighs heavily in favour of the conclusion that the power conferred by s 55(2)(a) of the PPIP Act is administrative, particularly in circumstances where the Tribunal's procedures involve substantial departures from those of a court,[28] the Tribunal is constituted by members who need not be legally qualified,[29] and the Tribunal is charged with giving effect to Government policy.[30]

**Immediate enforceability**

17. Bindingness has long been recognised as a hallmark of judicial power.[31] The relevant notion of bindingness in this context means that the exercise of power finally and authoritatively resolves a controversy over legal rights and obligations.[32] Upon the

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25 Appellant's Submissions, [51]-[65].

26 Court of Appeal, [89] (Kirk JA, Mitchelmore JA and Griffiths AJA agreeing), citing *State of South Australia v Raschke* (2019) 133 SASR 215, 238-239 [71]-[73] (Kourakis CJ, Nicholson and Stanley JJ agreeing).

27 Court of Appeal, [89] and [135] (Kirk JA, Mitchelmore JA and Griffiths AJA agreeing).

28 CAT Act, s 38.

29 CAT Act, ss 13(6) and 27(1)(d).

30 *Administrative Decision Review Act 1997* (NSW), s 64(1).

31 *Huddart, Parker & Co Pty Ltd v Moorehead* (1909) 8 CLR 330, 357 (Griffith CJ) cited approvingly in *Brandy*, 256 (Mason CJ, Brennan and Toohey JJ), 267-268 (Deane, Dawson, Gaudron and McHugh JJ) in and *Citta Hobart*, 227 [13] (Kiefel CJ, Gageler, Keane, Gordon, Steward and Gleeson JJ).

32 It is not sufficient that a decision can be described as in some form binding. As Chief Justice Latham (McTiernan J agreeing) observed in *Rola Company (Australia) Pty Ltd v Commonwealth* (1944) 69 CLR 185, 196-197: "it should not be forgotten that the word 'binding' is used in more than one connection and that it is not a word limited to the description of obligations created by judicial action. A man is 'bound' by a statute which applies to him: he is 'bound' by a contract which he makes: he is 'bound' by an award of an arbitrator pursuant to a submission by him: he is 'bound' by an industrial award which applies to him"; cf 205, 207 (Rich J), 212 (Starke J). See also *Brandy*, 268 (Deane, Dawson, Gaudron and McHugh JJ). Such uses of the word do not import the degree of finality and conclusiveness distinctive to an exercise of judicial power. Among other matters, when attempting to rely on administrative decisions in subsequent proceedings, they remain susceptible to collateral attack: *Huddart, Parker & Co Pty Ltd v Moorehead* (1909) 8 CLR 330, 383-384 (Isaacs J); *R v Trade Practices Tribunal; Ex parte Tasmanian Breweries Pty Ltd* (1970) 123 CLR 361, 375-376 (Kitto J); *Attorney-General (Cth) v Breckler* (1999) 197 CLR 83, 108 [36], 110 [41], 111-112 [46]-[47]

exercise of judicial power, the legal question as between the parties has been determined such that, subject to review upon appeal, there is no further question to be asked or answered.

18. Additionally, an exercise of judicial power that is finally and authoritatively binding may be immediately enforced. Where the judicial power is exercised by superior court, a judicial determination may be immediately enforced by invoking the court's contempt powers. Where the exercise of judicial power is not undertaken by a superior court, the provision of means for immediate enforcement "is a powerful indicator that a binding norm has been created."[33]

19. One ready means by which a legislature may make the orders of inferior courts or tribunals binding in the relevant sense is by providing for their registration in courts possessing the necessary powers to give immediate effect to them.[34] Accordingly, in *Brandy* and *Citta Hobart* the provision of mechanisms by which orders of administrative tribunals were to be registered for their enforcement in superior courts confirmed the exercises of power in question to be judicial. In each case, the registration mechanism was incorporated into the same enactment providing for the hearing and determination of the orders in question, such that there could be no question that those orders would be binding and rendered enforceable without further intervention.

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(Gleeson CJ, Gaudron, McHugh, Gummow, Hayne and Callinan JJ), 131-132 [92]-[96], 133-134 [101] (Kirby J); *Attorney-General (Cth) v Alinta Ltd* (2008) 233 CLR 542, 550 [1] (Gleeson CJ), 552-553 [9], [14] (Gummow J), 579 [100] (Hayne J), 594 [158] (Crennan and Kiefel JJ).

33 *Citta Hobart*, 240 [56] (Edelman J). See also, *Waterside Workers' Federation of Australia v JW Alexander Ltd* (1918) 25 CLR 434, 451 (Barton J); *Rola Co (Australia) Pty Ltd v Commonwealth* (1944) 69 CLR 185, 199 (Latham CJ); *Brandy*, 257-259 (Mason CJ, Brennan and Toohey JJ), 268-269 (Deane, Dawson, Gaudron and McHugh JJ). A good example of immediate enforceability is provided by the scheme considered in *Attorney-General (SA) v Raschke*, where the power of the South Australian Civil and Administrative Tribunal to issue an order for vacant possession under s 93 the *Residential Tenancies Act 1995* (SA) was immediately enforceable by a bailiff appointed under s 99: *Attorney-General (SA) v Raschke* (2019) 133 SASR 215, 227-228 [41]-[44] (Kourakis CJ, Kelly and Hinton JJ agreeing). Conversely, a lack of power in a body to enforce its own decisions is a significant, though not conclusive, indication that it is not exercising judicial power: *R v Trade Practices Tribunal; Ex parte Tasmanian Breweries Pty Ltd* (1970) 123 CLR 361, 408-409 (Owen J); *Waterside Workers' Federation of Australia v J W Alexander Ltd* (1918) 25 CLR 434, 451 (Barton J); *Federal Commissioner of Taxation v Munro* (1926) 38 CLR 153, 176 (Isaacs J); *Rola Co (Australia) Pty Ltd v Commonwealth* (1944) 69 CLR 185, 198-199 (Latham CJ); *Brandy*, 257 (Mason CJ, Brennan and Toohey JJ); 268-269 (Deane, Dawson, Gaudron and McHugh JJ); *Attorney-General (Cth) v Alinta Ltd* (2008) 233 CLR 542, 599 [175] (Crennan and Kiefel JJ, Gleeson CJ and Gummow J agreeing).

34 See e.g. *Fourmile v Selpam Pty Ltd* (1998) 80 FCR 151, 154-155 (Burchett J), 173-176 (Drummond J), 187 (Cooper J); *Mitsubishi Motors Australia Ltd v Kowalski* [2004] SASC 302, [15]-[16] (Duggan J, Besanko and Anderson JJ agreeing); *Attorney-General (NSW) v 2UE Sydney Pty Ltd* 236 ALR 385, 397-399 [64]-[80] (Spigelman CJ); *Sunol v Collier* (2012) 81 NSWLR 619, 622-624 [10]-[18] (Bathurst CJ, Allsop P and Basten JA).

20. The present case may be distinguished. For the reasons advanced by the Appellant,[35] there is considerable doubt about whether the registration mechanism contained in s 78 of the CAT Act applies to orders made pursuant to s 55(2)(a) of the PPIP Act. South Australia submits that the range of indicia that support the conclusion that the power conferred by s 55(2)(a) should be characterised as an administrative power, as detailed in the reasons of the Court of Appeal[36] and the submissions of the Appellant,[37] also support a construction of s 78 that results in it having no application to orders made thereunder. Parliament should not be taken to have intended that orders made pursuant to s 55(2)(a) of the PPIP Act are binding and immediately enforceable exercises of judicial power in circumstances where such orders are: collocated with other powers in s 55(2) of the PPIP Act which are directed to the conduct of public sector agencies that plainly cannot be immediately enforced;[38] decided by Tribunal members who need not be legally qualified;[39] directed to public sector agencies which can be expected, subject to the exercise of appeal rights, to comply with any order made by the Tribunal;[40] and, taken to be decisions of the relevant administrative agencies such that the decisions of the Tribunal should be taken to fall within the province of Government administration.[41]

21. The Court of Appeal erred by concluding that s 78 applied to orders made pursuant to s 55(2)(a), without having regard to the many indicia that support the conclusion that s 55(2)(a) confers administrative power.

## Part V: TIME ESTIMATE

22. It is estimated that up to 15 minutes will be required for the presentation of South Australia's oral argument.

Dated: 22 May 2024

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35 Appellant's Submissions, [67]-[72].
36 Court of Appeal, [106]-[119], [122]-[134] (Kirk JA, Mitchelmore JA and Griffiths AJA agreeing).
37 Appellant's Submissions, [66]-[72].
38 PPIP Act, s 55(2)(b)-(g).
39 CAT Act, ss 13(6), 27(1)(d), Sch 3, cl 3(1)(b).
40 Appellant's Submissions, [70].
41 ADR Act, ss 63, 64 and 66(2).

IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY No. S39/2024

BETWEEN: **STATE OF NEW SOUTH WALES**
Appellant

and

**PAULINA WOJCIECHOWSKA**
First Respondent

**REGISTRAR OF NSW CIVIL AND ADMINISTRATIVE TRIBUNAL**
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**COMMISSIONER OF POLICE NSW POLICE FORCE**
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**SECRETARY OF NSW DEPARTMENT OF COMMUNITIES AND JUSTICE**
Fourth Respondent

**REGISTRAR OF DISTRICT COURT OF NEW SOUTH WALES**
Fifth Respondent

## ANNEXURE OF PROVISIONS REFERRED TO IN THE SUBMISSIONS OF THE ATTORNEY-GENERAL FOR THE STATE OF SOUTH AUSTRALIA (INTERVENING)

| No. | Description | Date in Force | Provision |
|---|---|---|---|
| Constitutional provisions | | | |
| 1. | *Commonwealth Constitution* | Current | ss 75-77 |
| State statutory provisions | | | |
| 1. | *Administrative Decisions Review Act 1997* (NSW) | Current | ss 63-66 |
| 2. | *Civil and Administrative Tribunal Act 2013* (NSW) | Current | ss 13, 27, 38, 78, Sch 3 |
| 3. | *Freedom of Information Act 1991* (SA) | Current | |
| 4. | *Government Information (Public Access) Act 2009* (NSW) | Current | |
| 5. | *Interpretation Act 1987* (NSW) | Current | s 33 |
| 6. | *Privacy and Personal Information Protection Act 1998* (NSW) | Current | s 55 |