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## Serious bullying now included in criminal stalking provisions

A new Bill which proposed to amend the *Crimes Act 1958* (Vic) by extending the definition of stalking to include serious bullying has been passed through the Victorian parliament earlier this month.

The legislative change commonly referred to as Brodie's law, is in response to the infamous Café Vamp case which resulted in an employee, Brodie Panlock, committing suicide. Brodie was subjected to serious and ongoing workplace bullying by her colleagues who spat on her, poured beer and oil on her and offered her rat poison after she had previously attempted to commit suicide.

In February 2010, the Café owner, manager and three employees were convicted of offences under the *Occupational Health & Safety Act 2004* (Vic) and fined a total of \$335,000. However, none of the perpetrators were jailed.

The *Crimes Amendment (Bullying) Bill 2011* ('Bill') now extends the definition of conduct that constitutes stalking to include behaviour associated with 'serious bullying'. The amendment broadens the 'course of conduct' engaged in by the offender to include behavior such as making threats to the victim, the use of abusive or offensive words in the presence of the victim, performing abusive or offensive acts in the presence of the victim and acting in ways that could reasonably be expected to cause the victim to engage in harm.

To be convicted of stalking, the offender must have intended to cause physical or mental harm to the victim. Mental harm includes psychological harm and suicidal thoughts. The harm requirement has been extended to include the intention to cause a victim to engage in self-harm.

The offence of stalking is set out in section 21A of the *Crimes Act* and is punishable by a maximum term of 10 years imprisonment.

The Bill also introduces amendments to the *Stalking Intervention Orders Act 2008* (Vic) and the *Personal Safety Intervention Orders Act 2010* (Vic) to allow victims to apply for intervention orders to protect themselves against situations of serious bullying.

In order for a victim to obtain a stalking intervention order, the court only needs to be satisfied of a civil standard, under the balance of probabilities that the respondent has engaged in stalking and is likely to continue to do so in the future.

These laws will operate in addition to the current provisions under the *Occupational Health and Safety Act* which create an obligation on employers' to provide a safe workplace which is without risk to employee's health, including their mental health.

The *Occupational Health and Safety Act* also creates an obligation on individual workers to take reasonable care for their own health and safety and those of others in the workplace.

These new legislative changes recognise the serious and damaging effect that bullying can have on workers. The implementation of significant criminal penalty provisions is anticipated to act as a deterrent to prevent and decrease the incidents and overall acceptance of bullying in the workplace.



## Victorian offices

Melbourne      Reservoir  
Dandenong      Ringwood  
Frankston      Sunshine  
Geelong      Traralgon  
Mildura      Wangaratta

## NSW & ACT offices

Sydney  
Parramatta  
Canberra

## Queensland offices

Brisbane      Rockhampton  
Browns Plains      Strathpine  
Cairns      Sunshine Coast  
Gold Coast      Townsville  
Mackay

## New local legal advice for Mackay



**Sarah Dennis**  
Lawyer, Mackay

National law firm Maurice Blackburn is now providing legal advice to the Mackay region with a newly opened office in Sydney Street.

The firm has been operating in Queensland for almost 15 years, in Rockhampton for four years and had been visiting Mackay regularly. "Maurice Blackburn is committed to providing expert legal advice to regional centres across Queensland. People should be given the opportunity to meet their lawyer face-to-face.

We are proud to now have a Mackay office that can service the local community," says Gino Andrieri, Principal and Manager of the Rockhampton office, who will also manage the Mackay office.

Lawyer, Sarah Dennis who was born and raised in Mackay will look after many of the cases in the Mackay area.

Sarah is from a large family and grew up in Moranbah. She attended Pioneer High School and completed her legal degree at Queensland University Technology in Brisbane. She has been involved in various community fundraising projects for local causes and in 2009 raised over \$7,000 to support the John E. Smith Respite Home, which provides overnight respite for children and young adults with a disability.

It was Sarah's passion for helping people who have been injured or are disadvantaged to get their lives back on track that drew her to working with Maurice Blackburn.

"Many people don't realise they have legal rights and are surprised when we tell them what we can achieve for them," said Ms Dennis.

"In most cases we offer a free first consultation and often work on a 'no-win no charge' basis.

"By becoming a client of Maurice Blackburn in Mackay you get the best of both worlds. You get local, dedicated service on your doorstep, with the support of some of Australia's top plaintiff lawyers."

"Sarah appreciates the issues affecting the local community and understands what it takes to get long term solutions for people who fall on hard times, usually through no fault of their own," says Mr Andrieri.

For over 90 years Maurice Blackburn has had a strong tradition of pursuing compensation, insurance claims and disability claims for people who have suffered losses.

"We have acted for thousands of individuals, recovering many millions of dollars from insurance companies and superannuation funds."

The new office premises are located at:

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69 Sydney St  
Mackay

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## State to pay damages for injured school girl

An 18-year-old woman was yesterday awarded \$120,000 in compensation after she was nearly blinded by another student at Braybrook Secondary School.

Tanjil Duan was 14 when another student threw a 20 cent coin which struck her in the left eye leaving her with major damage to her sight.

**"...the school breached its duty of care because the teachers failed to follow proper supervision policies."**

Maurice Blackburn principal Andrew Dimsey said the firm's lawyers demonstrated that the school breached its duty of care because the teachers failed to follow proper supervision policies.

"Ms Duan was sitting at lunch time when the coin was thrown and hit her in the left eye," Mr Dimsey said.

"She has sustained serious injury and while she has not lost the sight in her eye, her vision is now permanently impaired and she will need surgery to remove a cataract which has developed as a direct result of the injury to her eye.

"A doctor who gave evidence at the County Court civil damages trial said Ms Duan would need the surgery 'sooner rather than later'."

Mr Dimsey said Ms Duan had taken the civil action against the State of Victoria because teaching staff failed in their duty of care to her as a student.

"While the school had proper policies for the supervision of students during morning recesses and lunch-times, these were not followed through appropriately by staff leaving Ms Duan at risk of serious injury," Mr Dimsey said.

"All teachers have a duty of care to ensure that school children can socialise and play safely during their breaks without the risk of suffering life changing injuries.

"The compensation will now allow Ms Duan to undergo the necessary medical treatment and get on with the rest of her life."

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Mackay

# Fresh evidence boosts traditional owners legal challenge to Muckaty Station nuclear waste dump

National Archive documents unearthed by the legal team representing Aboriginal elders opposed to a nuclear waste dump at Muckaty Station in the Northern Territory provide compelling new evidence that the Northern Land Council (NLC) did not correctly identify and obtain consent from the traditional owners of the land before the site was nominated.

Law firm Maurice Blackburn, Surry Partners and Julian Burnside QC are representing traditional owners who are challenging the nomination in Federal Court proceedings.

"This is vital information for the case," said Martin Hyde, Maurice Blackburn senior associate.

By law, before a site on Aboriginal land can be nominated, the traditional owners must be identified, consulted with and provide their consent.

"The Muckaty Land Claim documents obtained from the National Archives show two things: first, that the nominated site is not exclusively owned by the Lauder family, as is claimed by the NLC and, secondly, that according to the NLC's own expert anthropological evidence tendered in the Muckaty Land Claim, all Ngapa land on Muckaty Station is owned in common by three Ngapa family subgroups and that no Ngapa land on Muckaty Station is owned by one family group."

"There are serious questions to be answered by the NLC in light of the information contained in these documents," said Mr Hyde.

Muckaty Station near Tennant Creek is the only site being openly considered for the construction of the radioactive waste facility. A group of Aboriginal traditional owners from the region mounted a Federal Court challenge to the nomination of their land in June 2010.

With the unearthing of the new documents, other prominent senior elders, including Lorna "Nanna" Fejo have applied to the

Federal Court to lead the Court challenge to the nomination. Ms Fejo is a member of the stolen generation and her story was recounted by Prime Minister Kevin Rudd in his National Apology in February 2008.

"Lorna feels very strongly about this. As a child she was taken away from her land by the government and now she feels the government is about to take her land away from her" said Mr Hyde.

Traditional owners are particularly outraged that a sacred male initiation site is being threatened by the move.

## Background

The Muckaty Land Claim was the subject of a final report in 1997 by the Aboriginal Land Commissioner, Federal Court Judge Peter Gray. Documents and evidence from the Muckaty Land Claim obtained by Maurice Blackburn from the National Archives include:

1. transcripts of evidence of senior men taken at Karakara, including Lorna Fejo's brother, Kumanjayi Jackson, confirming that Karakara belonged to the Japurla Japurla (aka Yapa Yapa) people and was a very important male initiation site;
2. the transcript of evidence given before Justice Gray by a senior member of the Lauder family, Geoffrey Lauder, pointing to Karakara and confirming that it belonged to the Yapa Yapa people and not to his family;
3. the NLC's own written submissions to Justice Gray in the Muckaty Land Claim confirming that that Karakara was an important male initiation site for which the Yapa Yapa people were the traditional owners;
4. a report by three senior anthropologists commissioned by the NLC for the Muckaty Land Claim which confirmed that that all Ngapa land on Muckaty station was held in common by the three Ngapa family groups and that no Ngapa land on Muckaty station was owned exclusively by any of the three Ngapa family groups.

Lawyers have been working with traditional owners of the land to collect evidence for the case. Traditional owners from five different groups are part of the legal claim.

A mediation held earlier this year failed to reach agreement over the land. The Senate is due to debate the National Radioactive Waste Management Bill, on Tuesday May 10. The Muckaty Station site is the only nominated site in the new Bill.

According to Mr Hyde, "the Muckaty Station nomination is untenable in light of the National Archive documents". The legal case will still proceed regardless of the passage of this legislation.



# It pays to check the fine print of your superannuation policy

Craig Reynolds was a truck driver but could no longer drive after rupturing his Achilles tendon during a work place accident.

With his income gone, things were getting stressful for Craig and he considered declaring bankruptcy because he couldn't work anymore.

Then Maurice Blackburn staff came to the rescue, helping Craig make a successful super claim in a very short amount of time.

"Maurice Blackburn saved the house and my car," Craig said.

He was paid almost \$10,000 from his super policy, plus more than \$30,000 for his permanent disability through a clause in the same policy.

Craig couldn't be happier from his experience with Maurice Blackburn. "I was referred to them by the union and the solicitor was really terrific; she went in hammer and tong," Craig said.

"My lawyer kept me in the loop and she fought for me. I would recommend them to anyone."

Many people don't give much thought to their superannuation – it's just something nice for when they reach retirement age; the pot of gold at the end of the rainbow.

Maurice Blackburn has helped hundreds of people across Australia get millions of dollars in super disability benefits from their super funds.

It's good to know that if your rainy day comes earlier, chances are your super policy will include a disability payout clause in the fine print, and we can help you access this and your super lump sum earlier than your normal retirement age if you can't work anymore.

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## Know your rights before you're shown the door

As the repercussions of the global financial crisis continue to linger, it is having an affect on major employers and small businesses across Victoria.

Job losses and redundancies are occurring and workers who are affected should act now to make sure their entitlements are protected if they lose their jobs.

**'Workers should know their rights as the global financial crisis continues to hit' says Maurice Blackburn principal Rachel Schutze.**

In the absence of an accepted WorkCover claim you don't have any rights or entitlements under the Accident Compensation Act. If you submit the claim after you leave your job the employer may use this as a basis to deny your claim. So, if you've acquired any injuries on the job, now is the time to do something about it.

Here's a checklist to make sure you've got your bases covered:

1. Have you been injured at work but not put in a workers compensation claim? If you have been injured, it is important you

submit your claim before your employment is terminated.

2. Check the small print if you are made redundant or accept a separation package. It's important that your rights under WorkCover, common law and any superannuation claims are not affected.

3. Talk to a lawyer about whether you have any lump sum entitlements flowing from your work injury.

4. Seek expert advice from a financial planner in relation to rolling funds over, preservation rules and protecting superannuation and insurance entitlements.

5. Check whether you are entitled to make any superannuation claims for permanent disability or income protection if you are hurt at work or lose your job.

6. Get advice as to whether you have entitlements for a lump sum industrial hearing loss claim. If you have a claim, it is important to lodge it prior to or shortly after you leave your place of employment.

7. Contact Centrelink to discuss whether there are any benefits that you or your family maybe entitled to claim.

Taking the time to find out your rights may make a huge difference to your life after you leave your current job.

The more information you have about your employment rights and entitlements if you're forced to leave your job, the better equipped you'll be to start a new chapter in your life.

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## Maurice Blackburn extends its roots out West



**Phillip Gleeson**  
Principal, Perth

Class action and plaintiff litigation firm Maurice Blackburn has extended its roots to Perth.

The firm opened its Hamilton Hill Perth office on 6 June with Phillip Gleeson appointed as head Principal and will be managing the office.

Maurice Blackburn selected the Hamilton Hill location, which according to Geoff Donogue, is in line with the firm's objectives to have offices reasonably close to clients.

Although Gleeson will be the sole lawyer in the Perth office, Donogue says the firm is in discussions with various people and will be "ramping up" the office accordingly.

"Our business has been on a fairly rapid growth trajectory for the past few years. We have had our eyes on the West as part of our growth plans, and we are delighted to be there – we see a lot of potential market."

The new office premises are located at:

Unit 1, 328 Carrington Street  
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