

**The AIAL invites you to a presentation by
Dr Janina Boughey, Senior Lecturer
UNSW Faculty of Law**

**“Jurisdictional error and remedies: is a coherent
approach possible?”**

Students, practitioners, scholars and even some judges have lamented the ‘centrality’ of jurisdictional error to judicial review in Australia. The concept is accused of being confusing, pointless and incoherent. Various suggestions have been made as to why it should be replaced or abolished, as it has been in some other common law jurisdictions.

The High Court, however, has made it quite clear that the distinction between jurisdictional and non-jurisdictional errors is here to stay. Its decisions in *Probuild Constructions (Aust) Pty Ltd v Shade Systems Pty Ltd* [2018] HCA 4 and *Maxcon Constructions Pty Ltd v Vadasz* [2018] HCA 5 confirm the centrality of the concept, and Gageler J’s judgment in particular articulates a coherent theory of why the concept of jurisdictional error is required in Australian law. However, those cases and another recent NSW case—*Kaldas v Barbour* [2017] NSWCA 275—highlight some of the difficult questions that this theory of judicial review and jurisdictional error raises for the scope and nature of judicial review’s remedies.

Janina will explore the issues raised in these recent cases and what they might mean for the future directions of judicial review of administrative action in Australia.

Date: Thursday 17 May 2018

Time 12.30 pm – 2.00 pm (12.30 pm: sandwich lunch; 1pm: start of presentation)

Venue: Monash Law Chambers, Ground floor Auditorium Room, 555 Lonsdale Street,
Melbourne

Cost: Free (bookings essential for seating/catering purposes)

RSVP: by **Thursday 10 May 2018** via this link bit.ly/2HxDv3l

This presentation qualifies for one CPD unit for solicitors and barristers

BIOGRAPHY

Janina is a Senior Lecturer in the UNSW Faculty of Law, and a member of the Gilbert + Tobin Centre of Public Law. Janina teaches and researches in Australian, Canadian and UK public law. Her work focuses on the interaction between human rights and judicial review of administrative action, comparative administrative law, statutory interpretation, and the nature and limits of the constitutional powers of the judiciary and legislature to hold the executive to account.

Janina's book, 'Human Rights and Judicial Review in Australia and Canada: The Newest Despotism?' (Hart, 2017), examines the effect of judicially-enforceable human rights charters on the development of the principles of judicial review of administrative action in Australia and Canada. She is also a co-author of 'Public Law and Statutory Interpretation: Principles and Practice' (Federation Press, 2017), a student-focused text which examines fundamental public law principles together with the principles and process of statutory interpretation. Her current projects include a collaborative research project examining trends in the use of legislation and its interpretation and their implications for the scope and review of executive power and a forthcoming book on Australian government liability and remedies (with Greg Weeks).

Janina holds a PhD from Monash University (for which she received the 2014 Mollie Holman doctoral medal), undergraduate degrees in Law and Economics (social science) from Sydney University (both with first class honours), and an LLM in government law from the Australian National University. She has previously worked in a number legal, policy and research positions including in the Administrative Law section of the Commonwealth Attorney-General's Department, as a researcher in the Department of the Senate, and as Chair of Social Security Rights Victoria (a Community Legal Centre focussed on social security law). Janina is the reviews editor of the Australian Journal of Administrative Law.