



GREENWAY CHAMBERS



DEREK HAND

SOLICITOR 2004

BARRISTER 2005

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BACKGROUND

Derek has a commercial practice with particular interests and expertise in construction/infrastructure law and land law.

He is recognised in the Doyle's Guide to the Australian Legal Profession and Best Lawyers Australia as a leading junior counsel in construction and infrastructure law.

He regularly advises and appears in disputes concerning infrastructure projects and commercial/residential developments, at both first instance and on appeal, in NSW, Queensland, the ACT and Victoria. He also regularly appears in private arbitrations and mediations.

His interest and expertise in property law incorporates all aspects of modern land law, from commercial leases to strata title, and he has appeared in several leading cases in the area.

Derek also accepts briefs to advise and appear in property and financial disputes in the family law arena, where his clients benefit from his extensive experience in real property, equity and

commercial law. He regularly appears for third-party intervenors whose property interests may be affected by family law proceedings.

Before being called to the Bar, Derek worked as a solicitor with the law firm, Freehills, and spent several years as a legal policy adviser in Federal Parliament, Canberra, where he gained first-hand experience of the legislative process. Prior to that, he worked as a print journalist in Dublin and London. He has lectured in real property on a part-time basis at Sydney University.

Derek holds the degrees of Bachelor of Laws (UNSW) and Master of Policy Studies (UNSW), and a Diploma in Journalism (Dublin Institute of Technology).

He is a member of the Society of Construction Law Australia, the Family Law Section of the Law Council of Australia and the Family Law Committee of the NSW Bar Association.

FOCUS AREAS + SELECT CASES

BUILDING + CONSTRUCTION

Acted for an international construction firm in proceedings in the Supreme Court of New South Wales concerning the construction of a rail dump station for a coal terminal at Port Waratah, Newcastle.

Appeared for private construction firms in separate proceedings in the Supreme Court of New South Wales arising from the construction of large municipal facilities in Sydney's inner-western and northern suburbs.

Grave v Blazevic Holdings Pty Ltd (2010) 79 NSWLR 132, a case involving the interpretation of provisions of the Building and Construction Industry Security of Payments Act 1999.

Building Insurers' Guarantee Corporation v The Owners Strata Plan 60848 [2012] NSWCA 375, in which the Court of Appeal considered the jurisdiction of the Supreme Court to order a writ of certiorari and the scope of the statutory warranties under the Home Building Act 1989.

Lucas Stuart Pty Ltd v Hemmes Hermitage Pty Ltd [2010] NSWCA 283, a case concerning the circumstances in which a principal under a construction contract may call on a performance bond.

COMMERCIAL LAW + EQUITY

In the matter of Elsmore Resources Ltd [2016] NSWSC 856, a corporate law case that raised legal issues relating to the Contracts Review Act 1980, innocent misrepresentation, the second limb of *Barnes v Addy*, and trusts law generally.

Appearing for a franchisee in a class action brought against it and Cash Converters (as franchisor) in the Federal Court of Australia.

Helou v Nguyen [2014] NSWSC 22, in which the Supreme Court considered the remedies at law and in equity for stolen monies, including constructive trusts and tracing.

Lindsay-Owen v Schofields Property Development Pty Ltd [2014] NSWSC 1177, concerning the construction of the terms of a joint venture agreement for the development of large parcels of residential land in northwestern Sydney.

James Australia Group Pty Ltd v Ling Kui Yu [2012] NSWSC 892, appearing for an Australian wine producer in a successful claim against its agent in China for misleading conduct by silence.

REAL PROPERTY

Fitness First Australia Pty Limited v Fenshaw Pty Limited [2016] NSWSC 47, appearing for a landlord in resisting a claim by Fitness First about the construction of the terms of a lease of commercial property in Sydney.

Regularly appearing for owners corporations and property developers in cases involving the interpretation of the NSW strata schemes legislation.

Ocean Star Resort Pty Ltd v David Hokyoon Kwon & Anor [2012] NSWSC 318, appearing for the developer of a casino resort on Christmas Island in a case involving the construction of the terms of a Crown lease.

Vero Insurance Ltd v The Owners - Strata Plan No 69352, (2011) 81 NSWLR 227, in which the Court of Appeal considered the nature of an owners corporation's interest in common property and its standing in its own right to make a claim on an insurance policy.

Appeared for stall holders at Sydney's Paddy's Markets in a case about the construction of the terms of licence agreements for the sale of accessories for Apple products.