

Michael Astill

Solicitor 1980

Barrister 2013

(02) 9151 2945

michael.astill@greenway.com.au



Michael Astill is a leading advocate and adviser, whose practice focuses on environmental and planning law, valuation of land law, property law, resources law, and public and administrative law. Regarded as one of Australia's leading specialists on the laws affecting use of land and compulsory acquisition, Michael represents clients on a range of issues concerning:

- mining and gas projects
- public infrastructure projects, including road, rail, airports and ports
- private developments
- easements and covenants
- contamination of land
- threatened species
- Aboriginal heritage sites and other heritage sites, and
- valuation following compulsory acquisition.

Michael's approach to detail is intensely forensic and he particularly enjoys making sense of very complicated facts. Michael adheres to the principles of logic to problem-solve, extract the most salient facts and strongest arguments, and achieve the best outcomes for his clients.

Before being called to the NSW bar, Michael had a long career as a solicitor. In 1987, he was appointed a partner at Sly & Russell (now Norton Rose Fulbright). In 1992, he moved firms to become a partner at Blake Dawson Waldron (now Ashurst).

Between July 2003 and November 2004, Michael was seconded to the NSW Department of Infrastructure Planning and Natural Resources (DIPNR) as corporate counsel, where he supervised the Department's litigation and helped develop legislation. This included overseeing the creation of State Water and the commencement of the Water Management Act 2000 via the passage of the 2004 Amending Act. As part of his role, Michael also acted as instructing counsel in Parliament for the 2003 natural resources cognate legislation, including the Native Vegetation Act, Natural Resource Commission Act and the Catchment Management Authorities Act.

Michael's experience gives him a first hand understanding of the pressures under which solicitors operate, as well as their requirements of counsel. He has a highly collaborative working style and implicit respect for his briefing solicitors' familiarity with the case. He understands his clients' imperatives, manages expectations with clarity and empathy, and instils confidence at every stage of the legal process.

SPECIALISATIONS

Environmental and planning law

Resources law

Property law

Public and administrative law

QUALIFICATIONS

Bachelor of Economics/Bachelor of Law
(University of Sydney)

PROFESSIONAL RECOGNITION

Michael is recognised as Pre-eminent Junior Counsel in Doyles Guides' Leading Planning & Environment Barristers - New South Wales 2025. He has been listed as leading counsel by the guide every year since 2013.

Michael has been awarded Best Lawyers in Australia's Planning and Environment Law 'Lawyer of the Year' multiple times. He is also recognised in Best Lawyers in Australia under the categories of:

- Construction/infrastructure law
- Government practice
- Litigation
- Natural resources law
- Planning and environment law
- Real Property

Environment and planning law

Michael has advised RMS on the State and Commonwealth Environmental approvals required for major projects, such as Pacific Highway upgrade, North West Transitway, Erskine Park Link Road Network, Cross City Tunnel, Bognor Bypass and Eastern Distributor. This included advising on new legislation and delegated legislation.

Michael has also appeared in several important planning law cases, including:

Georges River Council v Tyre Nation [2020] NSWLEC 172 in which he appeared for the Council in proceedings concerning the Exempt and Complying Development SEPP and its interaction with fire safety orders.

Local Democracy Matters Inc v Infrastructure NSW and ors [2019] NSWLEC 20;
Local Democracy Matters Inc v Infrastructure NSW and ors [2019] NSWCA 65 in which he appeared for the Sydney Cricket Ground Trust in defending a challenge to the consent to demolish Allianz Stadium.

DG of Planning v Glass Recovery Services (2015) 207 LGERA 397, in which he successfully defended a prosecution for carrying out development without consent. Arguments centred on existing use rights and statutory interpretation.

Lane Cove Council v Orca Partners (2015) 208 LEGRA 114, which concerned a challenge to the validity of a development consent.

Moore v Corowa Shire Council [2009] NSWLEC 113, in which the court considered the interaction between development and public authority works and environmental law.

Valuation of land law

Michael has appeared in several important valuation of land cases, including:

- more than 10 compulsory acquisition cases related to WestConnex.
- representing Transgrid in the NSW Land and Environment Court in four compulsory acquisition valuation cases. These concerned Transgrid acquiring an easement for transmission lines, and included EMF issues alleged to affect land values.

United Petroleum v RMS [2019] NSWCA 41 in which 5 members of the Court of Appeal comprehensively addressed disturbance claims overturning previous authorities.

Alexandria Landfill v Transport for NSW [2020] NSWCA 165 and [2019] NSWLEC 98 concerned a very large claim for the acquisition of an operational landfill using DCF approach.

G Capital v RMS [2019] NSWCA 234 concerned the approach to disturbance where the land was subject to land sale contracts at the date of acquisition.

Dial A Dump v RMS [2016] NSWLEC 39 and **Dial a Dump v RMS** [2017] NSWCA 73. This case in the Land and Environment Court and Court of Appeal concerned the concept of "interest in land" under the Land Acquisition (Just Terms Compensation) Act 1991, as well as interests in a discretionary trust.

Resources law

Michael has advised RMS on the relationship between the Roads Act and Mining Act, and the NSW Minerals Council on the interaction between the Mining Act and Environmental Planning and Assessment Act. He was also appeared in high profile resources law cases, including:

People for the Plains Inc v Santos Ltd, which concerned a challenge to the validity of approvals for coal seam gas exploration in Northern NSW.

Rivers SOS Inc v Minister, which concerned challenged the validity of approvals for underground coal mining in NSW.

Property law

Michael's career highlights include:

- advising the NSW Government on a number of major projects, such as the Parramatta Light Rail, Sydney Metro, WestConnex and Eastern Distributor. In many cases, this included advising on amendments to legislation and regulations.
- advising the Commonwealth Government on establishing an intermodal rail terminal in Sydney.
- advising Rio Tinto on land-swap and development rights over surplus mining land in Hunter Valley.
- advising RMS on works authorisation feeds where private developers' development rights were conditional on road work on classified roads.

Key property law cases in which Michael has appeared include:

Crown Sydney Property v Barangaroo Delivery Authority [2018] NSWSC 1931, which concerned a breach of good faith clauses in the development agreement for the Sydney Crown Resort development.

Mourched v Transport for NSW [2020] NSWSC 1766 concerned the required pleading for a s88K application.

Sertari v Quakers Hill [2014] NSWCA 338 CA, which concerned the interrelationship between private (easement) law and public (planning) law.

GMC Healthcare v Shao, which concerned the interpretation of a commercial lease.

Reynolds v Pond. These Supreme Court proceedings involved a contest between a possessory title claimant and the executor of a registered proprietor.

Boekeman v Aron [2019] NSWSC 990 in which he successfully defended a claim for obstruction of an easement by restricted access.

Sader v Langham [2018] NSWSC 727 in which he successfully defended a claim for obstruction of an easement by the carrying out of works.

Public and administrative law

Michael has advised the NSW Government on several major projects including the Parramatta Light Rail, Sydney Metro, WestConnex and Eastern Distributor. In many cases, this has included advising on amending legislation and regulations. He has also advised the Commonwealth Government on establishing an intermodal rail terminal in Sydney.

Michael has appeared in several high profile public and administrative law cases, including:

Owners SP 83556 v Dehsabzi [2020] NSWLEC 175. This successful judicial review proceedings concerned a CDC issued for building and change of use.

Trives v Hornsby Shire Council (2015) 89 NSWLR 268 (Court of Appeal) and **Hornsby v Trives** [2016] NSWLEC 28, [2015] NSWLEC 190. This was a judicial review concerning jurisdictional fact doctrine in the context of planning law.

Australian Skydive Pty Ltd v Wyong Council [2014] NSWLEC 185, in which the Land and Environment Court considered judicial review and constitutional issues around control of airspace and planning law.

Other high profile cases

Other high profile cases in which Michael has appeared include:

Watches of Switzerland v Transport for NSW [2018] NSWSC 1256, No.2 {2018] NSWSC 1940 in which he acted for Transport in relation to a claim for nuisance from construction of the Light Rail through the Sydney CBD.

RMS v Allandale Blue Metal [2015] NSWCA 167. This involved a stay application in the NSW Court of Appeal.

Watpac Pty Ltd V City of Sydney [2014] NSWLEC 163. This case concerned the interaction between the Access to Neighbouring Land Act and Local Government Act's classification of land.

Brinara Pty Ltd v Gosford City Council (2010) 177 LGERA 296. This case concerned existing use rights.

Barana Pty Ltd v City of Sydney [2007] NSWLEC 812. This case involved the statutory interpretation of transitional provisions in planning instruments.

PRESENTATIONS

Compulsory acquisition of land after United Petroleum

Developer Contributions after Buyozo