

RACHEL DE LUCHI

YEAR OF CALL: 2016

Rachel has a combined commercial and public law practice.

Her commercial dispute resolution practice covers a wide range of areas and industries, but with a particular focus on building and construction (from large infrastructure through to domestic building disputes), intellectual property, and media and defamation law. Her specialist expertise in this area is recognised by Australian Financial Review *Best Lawyers* who list Rachel as a leading Australian junior counsel in Defamation and Media Law.

Acting for both individuals and public bodies, Rachel's extensive administrative law practice, which is predominantly judicial and merits review, encompasses health, local government and regulatory law, as well as public law cases affecting the building regulator. With her expertise extending to professional discipline cases, most notably in the healthcare field, she regularly represents medical practitioners and other health professionals in Professional Services Review matters under the *Health Insurance Act 1973* and appeals of decisions of the Medical Board of Australia and AHPRA.

She is a versatile advocate, appearing regularly in Federal and State Courts and before a range of tribunals both as sole counsel and led by senior counsel at trials and hearings in civil, review and appeal jurisdictions. Further, she advises and represents clients in alternative dispute resolution processes and acts as Mediator in commercial disputes.

AREAS OF PRACTICE

Appellate, Building & Construction, Commercial Equity, Competition & Consumer, Contract, Corporate Insolvency & Bankruptcy, Corporations, Employment & Industrial, Intellectual Property, Judicial Review & Administrative, Land Law & Property, Media & Defamation, Planning & Environment, Professional Discipline & Regulatory, Professional Negligence, Succession, Tax.

CASES

Look Design and Development Pty Ltd v Edge Developments Pty Ltd & Flaton[2022] QDC 116
May 2022, Intellectual Property

LEVEL

TWENTY
SEVEN

CHAMBERS



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***Rosenbaum v Medical Board of Australia* [2022] QCAT 141**

May 2022, Professional Discipline & Regulatory

***Devine Constructions Pty Ltd v Stowe Australia Pty Ltd & Ors* [2022] QSC 51**

April 2022, Building & Construction, Contract, Professional Negligence

***Broadbent v Medical Board of Australia* [2022] QCA 46**

April 2022, Judicial Review & Administrative, Professional Discipline & Regulatory

***Coleman v Bicknell & Ors* [2021] QDC 302**

December 2021, Land Law & Property

***Karmakar v Minister for Health (No 3)* [2021] FCA 1254**

August 2021, Judicial Review & Administrative, Professional Discipline & Regulatory

***Karmakar v Minister for Health (No 2)* [2021] FCA 916**

August 2021, Judicial Review & Administrative, Professional Discipline & Regulatory

***Queensland Building and Construction Commission v Kooner & Ors* [2021] QDC 136**

August 2021, Building & Construction

***Civil Contractors (Aust) Pty Ltd v Galaxy Developments Pty Ltd & Ors; Jones v Galaxy Developments Pty Ltd & Ors* [2021] QCA 10**

February 2021, Building & Construction

***Queensland Building and Construction Commission v Buchanan* [2020] QCATA**

December 2020, Building & Construction

***Harbour Radio Pty Limited & Ors v Wagner & Ors* [2020] QCA 83**

April 2020, Media & Defamation

***Galaxy Developments Pty Ltd v Civil Contractors (Aust) Pty Ltd t/a CCA Winslow & Ors* [2020] QSC 51**

March 2020, Building & Construction

***Lee Anthony Crocker v Queensland Building and Construction Commission* [2020] QSC 24**

March 2020, Building & Construction, Judicial Review & Administrative

***Harbour Radio Pty Limited & Ors v Wagner & Ors* [2019] QCA 221**

October 2019, Appellate, Media & Defamation

***Melaleuca View Pty Ltd v Sutton Constructions Pty Ltd* [2019] QSC 226**

September 2019, Building & Construction

***Queensland Building and Construction Commission v Crocker* [2018] QCATA**

December 2018, Judicial Review & Administrative

***Opposition by Firstmac Limited to applications under section 92 of the Act by ZipMoney Payments Pty Ltd to remove trade mark number 1021128 (36) - ZIP - in the name of Firstmac Limited* [2018] ATMO 195**

December 2018, Intellectual Property

***Wagner v Harbour Radio Pty Ltd* [2018] QSC 201**

September 2018, Media & Defamation

***Wagner v Harbour Radio Pty Ltd* [2018] QSC 201**

September 2018, Media & Defamation

***Harper Property Builders Pty Ltd v Queensland Building & Construction Commission* [2018] QCATA 70**

May 2018, Building & Construction

***Cain v Seven Network (Operations) Ltd* [2018] QDC 2**

January 2018, Media & Defamation

***Instyle Homes Qld Pty Ltd v Middler* [2018] QCAT 376**

November 2017, Building & Construction, Contract

***Montserrat Holdings Pty Ltd v Wheeler* [2017] QCA 235**

October 2017, Land Law & Property

***Wagner v Harbour Radio Pty Ltd* [2017] QSC 222**

October 2017, Media & Defamation

***Queensland Building & Construction Commission v Casey* [2017] QCATA 100**

September 2017, Appellate, Building & Construction, Professional Discipline & Regulatory

EXPERIENCE

Since being called to the bar in 2016, Rachel has acted for clients in a wide variety of matters including:

MEDIA & DEFAMATION

- > appearing for broadcaster Alan Jones in a high-profile seven-week defamation trial (led by R Anderson QC);
- > opposing an appeal to the Court of Appeal of a decision to dismiss an application for summary judgment concerning whether a registrant of a domain is a publisher (led by R Anderson QC);
- > advising and appearing in an application seeking an extension of the limitation period for the purpose of commencing an action in defamation;
- > appearing with senior counsel opposing an application to dispense with a jury;
- > representing a plaintiff whose picture was wrongly used in news stories reporting a hit-and-run resulting in death;

- > advising and representing a wide range of corporate and private clients in both pursuing and defending defamation proceedings;
- > advising and appearing in an application for preliminary disclosure prior to the commencement of proceedings.

PUBLIC & ADMINISTRATIVE LAW

- > appearing (led by J Burnside AO QC) for a doctor in a three-day hearing in the Federal Court, seeking judicial review of decisions made in the Professional Services Review (PSR) scheme [judgment pending];
- > representing a doctor in a PSR Committee hearing;
- > advising and representing doctors under review by the Director of PSR;
- > acting for a doctor appealing decisions by the Medical Board of Australia and AHPRA;
- > advising and appearing for a film production company in relation to a challenge to local laws regarding filming;
- > advising and appearing on behalf of the Queensland building regulator in applications, hearings and trials (both led and as sole counsel) in the Supreme, District and Magistrates Courts, QCAT and its Appeal Tribunal in licensing matters, merits reviews, judicial reviews and appeals;
- > appearing for the Queensland building regulator in appeals, trials and applications for summary Judgment in proceedings relating to the statutory home warranty scheme.

BUILDING CONSTRUCTION

- > acting for construction companies (as sole counsel and with senior counsel) in proceedings for breach of contract, negligence and misleading and deceptive conduct;
- > appearing for construction companies opposing applications to set aside adjudicators' decisions made under the *Building Industry Fairness (Security of Payment) Act 2017*;
- > appearing (led by P Dunning QC) in an appeal of a decision to set aside an Adjudicator's decision;
- > acting for trade suppliers, construction and engineering companies in contract and debt recovery proceedings;
- > advising and representing construction companies in adjudication applications under the BIF Act (previously BCIPA) and expert determinations;
- > acting for homeowners and builders in private building disputes in QCAT.

COMMERCIAL & OTHER

- > acting for the opponent in proceedings under subsection 92(4)(b) of the *Trade Marks Act 1995* where a finance company sought the removal of a registered trade mark on the basis of non-use;

- > representing homeowners in a trial defending a claim for breach of copyright [judgment pending];
- > advising and representing an individual in relation to a claim for conspiracy and breach of fiduciary duties;
- > acting for a trade supplier as one of eighteen respondents in Federal Court proceedings brought by Liquidators of a building company;
- > advising Liquidators in relation to distribution of trust assets and applications for freezing orders;
- > appearing for owners of commercial premises in an application to remove and replace an Administrator of the body corporate;
- > advising and appearing on behalf of commercial property owners and business owners in relation to retail tenancy disputes in QCAT.

MEDIATION & ADR

- > representing companies, regulatory bodies and individuals in alternative dispute resolution processes including compulsory conferences, settlement conferences and mediations;
- > acting as Mediator in intellectual property, media and defamation and contract related matters.

Prior to her call to the Bar, Rachel practiced as a solicitor for five years at a boutique commercial litigation firm where she conducted dispute resolution and commercial litigation for corporations, builders and developers, government bodies and private clients, regularly appearing in State Courts, Federal Courts and Tribunals.

RECOMMENDATIONS

Australian Financial Review *Best Lawyers*®

2022-23 – Defamation and Media Law

Doyle's Guide to the Legal Profession

2021 – Leading Administrative & Public Law Barrister (Australia)

MEMBER

Bar Association of Queensland

LawRight

CAREER

2014-2016 Associate Solicitor, Robinson Locke Litigation Lawyers

2012-2013 Solicitor, Robinson Locke Litigation Lawyers

2011-2012 Solicitor, Forbes Dowling Lawyers

EDUCATION

Bachelor of Laws (QUT)

Graduate Diploma of Legal Practice (QUT)

PUBLICATIONS

Update on Defamation Law in Queensland

September 2021, Media & Defamation

Rules of Evidence & Affidavit Drafting

September 2021

Queensland Court of Appeal confirms late adjudication decisions are void and broadens work not subject to QBCC licence - Implications for adjudicators and contractors

March 2021, Building & Construction

Moral obloquy or commercial autonomy? Debating statutory unconscionability

May 2020, Competition & Consumer

Notes for a Scandal: is it worthwhile & how to justify what is said in defamation cases

March 2019, Media & Defamation

Building Industry Fairness (Security of Payment) Act 2017

March 2018, Building & Construction

Liability limited by a scheme approved under professional standards legislation