

RACHEL DE LUCHI

YEAR OF CALL: 2016

Rachel has a combined commercial and public law practice. Her commercial practice covers a wide range of industries, with a particular focus on defamation and media law and construction law. Rachel's specialist expertise is recognised by Australian Financial Review *Best Lawyers* who list Rachel as a leading Australian junior counsel in Defamation and Media Law.

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. She acts for individuals, regulators and public bodies. With her expertise extending to professional discipline cases, most notably in the healthcare field, she regularly represents health practitioners as well as the various health practitioner Boards, AHPRA and OHO. Rachel's experience extends to advising and representing medical practitioners in Professional Services Review matters under the *Health Insurance Act 1973* including review proceedings.

Rachel regularly appears both led and unled, in state and federal courts and tribunals in civil, review and appeal jurisdictions. Rachel also acts as Mediator in commercial disputes.

Before being called to the bar, Rachel worked as a solicitor for six years in private practice advising and representing clients in litigation and dispute resolution and administrative law.

AREAS OF PRACTICE

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

CASES

***Podiatry Board of Australia v XBR* [2024] QCAT 312**
October 2024, Professional Discipline & Regulatory

***Medical Board of Australia v Torres* [2024] QCAT 459**

LEVEL

TWENTY
SEVEN

CHAMBERS



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October 2024, Professional Discipline & Regulatory

***Nursing and Midwifery Board of Australia v Alisha Ann Reed*[2024] QCAT 380**

August 2024, Professional Discipline & Regulatory

***MG v PJ & Anor* [2024] QDC 119**

August 2024, Media & Defamation

***Medical Board of Australia v Grajn* [2023] QCAT 433**

November 2023, Judicial Review & Administrative, Professional Discipline & Regulatory

***Dental Board of Australia v Anderson* [2023] QCAT 245**

July 2023, Judicial Review & Administrative, Professional Discipline & Regulatory

***Psychology Board of Australia v Dunne* [2023] QCAT 242**

July 2023, Judicial Review & Administrative, Professional Discipline & Regulatory

***Queensland Motorways Pty Limited v CPB Contractors Pty Limited & Ors* [2023] QSC 107**

May 2023, Building & Construction

***Medical Board of Australia v QLX* [2023] QCAT**

February 2023, Professional Discipline & Regulatory

***Denjim Pty Ltd v National Gold Pty Ltd; Denjim Pty Ltd v AU Gold Pty Ltd* [2023] QSC 18**

February 2023, Contract

***Denjim Pty Ltd v National Gold Pty Ltd; Denjim Pty Ltd v AU Gold Pty Ltd* [2022] QSC 295**

December 2022, Contract

***Devine Constructions Pty Ltd v Stowe Australia Pty Ltd & Ors (No 2)* [2022] QSC 272**

December 2022, Building & Construction, Contract

***Madden Developments Pty Ltd t/as Stroud Homes v Queensland Building and Construction Commission* [2022] QCATA 95**

July 2022, Building & Construction, Judicial Review & Administrative

***Look Design and Development Pty Ltd v Edge Developments Pty Ltd & Flaton* [2022] QDC 116**

May 2022, Intellectual Property

***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

***Health Ombudsman v Salvador* [2022] QCAT 28**

February 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 Middel* [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 KC);
- > 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 KC);
- > advising and appearing in an application seeking an extension of the limitation period for the purpose of commencing an action in defamation;
- > appearing in a hearing to determine the serious harm element under the *Defamation Act 2005*;
- > appearing with senior counsel opposing an application to dispense with a jury;
- > advising and 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 and injurious falsehood 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 KC) 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;
- > advising and representing doctors and other health practitioners under review by the Director of PSR;
- > representing medical practitioners, health practitioners and specialists in PSR Committee hearings;
- > representing the Medical Board of Australia, Nursing and Midwifery Board of Australia, Paramedicine Board of Australia, Pharmacy Board of Australia, AHPRA and OHO in referrals to the Tribunal and appeals of immediate action decisions;
- > acting for doctors, specialists and other health practitioners in referrals and appeals of decisions by the various health practitioner boards, OHO 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;
- > advising a medical professional indemnity insurer and medical practitioner in relation to professional obligations under the *Health Insurance Act 1973*.

BUILDING CONSTRUCTION

- > acting for construction companies (as sole counsel and with senior counsel) in proceedings for breach of contract, negligence, restitution 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 KC) in an appeal of a decision to set aside an Adjudicator's decision;
- > representing a building certifier in proceedings for breach of contract and misleading and deceptive conduct;

- > representing a builder in proceedings for negligence and misleading and deceptive conduct;
- > 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;
- > representing a building company in a proceeding for breach of copyright;
- > acting for private individuals in actions for trespass and nuisance;
- > representing an energy company responding to proceedings concerning a compensation agreement for land compulsorily acquired under the *Acquisition of Land Act 1967*(Qld);
- > 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.

RECOMMENDATIONS

Australian Financial Review *Best Lawyers*®

2022-25 – Defamation and Media Law

Doyle's Guide to the Legal Profession

2024 – Leading Construction & Infrastructure Junior Counsel (QLD)

2023 – Leading Construction & Infrastructure Junior Counsel (QLD)

2021 – Leading Administrative & Public Law Junior Counsel (Australia)

MEMBER

Bar Association of Queensland

LawRight

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