

# Derek Hand

Barrister

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Derek Hand is a specialist commercial barrister with particular expertise in construction & infrastructure law and land law.

Derek advises on and appears in disputes concerning infrastructure projects, commercial projects and 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 firsthand experience of the legislative process. 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 and the Family Law Section of the Law Council of Australia.

## QUALIFICATIONS

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- Bachelor of Laws (UNSW)
- Master of Policy Studies (UNSW)

## SPECIALISATIONS

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- Commercial law and equity
- Infrastructure and construction law
- Land and property law
- Family law
- Alternative dispute resolution

## PROFESSIONAL RECOGNITION

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- Recognised in *The Best Lawyers in Australia* 2019 - 2024 for work in Construction / Infrastructure Law
- Doyles Guide 2020 - 2024, Leading Construction & Infrastructure Junior Counsel, Australia -- Leading
- Doyles Guide 2019 - 2024, Leading Construction & Infrastructure Junior Counsel, NSW -- Leading
- Doyle's Guide 2019, Leading Construction & Infrastructure Junior Counsel, Australia -- Recommended
- Doyle's Guide 2015 - 2018, Leading Construction & Infrastructure Junior Counsel, NSW -- Recommended

## NOTABLE CASES

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### Building and construction

**Owners of Strata Plan No 30791 v Southern Cross Constructions Pty Ltd (In liq) [2020] NSWCA 199.** Appeared at first instance and on appeal on behalf of a firm of civil engineers in a construction dispute arising from a residential development in Sydney.

Appearing on behalf of an international infrastructure consulting firm in a dispute before the NSW Supreme Court arising from the construction of major road infrastructure.

**Dyldam Developments Pty Ltd v The Owners Strata Plan No 85305 [2020] NSWCA 327.** Appeared at first instance and on appeal in a dispute about the effect of occupation certificates under NSW law.

**Bandelle Pty Ltd v Sydney Capitol Hotels Pty Ltd [2020] NSWCA 303.** The Court of Appeal considered the application of the long-stop limitation period under planning laws. Advised Acciona Infrastructure Australia in relation to the delivery of the Sydney Light Rail project (2017-2019).

Appeared on behalf of an international contractor in Supreme Court proceedings concerning the construction of a rail dump station for a coal terminal at Port Waratah, Newcastle.

## Commercial law and equity

**The Owners Strata Plan 97121 v RCBS Devco Pty Ltd [2020] NSWSC 1247.** Appeared on behalf of the plaintiff in a dispute over a transfer of land. The Supreme Court held that the defendants had alienated the property with the intent to defraud the plaintiff as a creditor.

**In the matter of Elsmore Resources Ltd [2016] NSWSC 856, 114 ACSR 297.** 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.

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

## Commercial law and equity - continued

**Helou v Nguyen [2014] NSWSC 22.** 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.** Proceedings 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.** Appeared for an Australian wine producer in a successful claim against its agent in China for misleading conduct by silence.

## Real property

Advised landlords and tenants about the application of the National Cabinet Mandatory Code of Conduct for commercial leasing during COVID-19, and of the NSW legislation giving effect to the Code of Conduct (2020).

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

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

**Ocean Star Resort Pty Ltd v David Hokyoon Kwon & Anor [2012] NSWSC 318.** Appeared 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.** The NSW Court of Appeal considered the nature of an owners corporation's interest in common property and its standing to make a claim on an insurance policy in its own right.