

Hamish McAvaney



Hamish McAvaney practises in all areas of commercial and public law.

QUALIFICATIONS

Bachelor of Arts
(French Studies Major) (Monash)
Bachelor of Laws (Hons) (Monash)

CORRESPONDENCE

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CHAMBERS

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COMMERCIAL LAW

Bankruptcy | Building & Construction | Class Actions | Competition | Consumer Law | Contractual Disputes | Corporate Insolvency | Corporations & Securities | Energy & Resources | Equity & Trusts | Insurance | Real Property | Residential & Retail Tenancies | Sports Law | Climate Change

EMPLOYMENT & INDUSTRIAL

Confidential Information | Discrimination | Employment Contracts

TORT LAW

Appellate | Class Actions | Commissions & Inquiries | Common Law | Defamation | Inquests | Major Torts | Negligence | Personal Injury | Product Liability | Professional Negligence

PUBLIC LAW

Administrative Law | Civil & Human Rights | Commissions & Inquiries | Constitutional Law | Discrimination | Environment | Freedom of Information | Judicial Review | Planning & Local Government | Privacy | White Collar Crime

Since coming to the bar, Hamish has advised and appeared in a range of commercial matters, involving contract, tort, the Australian Consumer Law, and the Corporations Act. Hamish has acted for numerous parties in oppression proceedings as well as for parties in insolvency, receivership and liquidation related disputes. Hamish has a particular interest in property, planning and environmental law matters, including building and construction.

Hamish offers instructors and clients considered and practical guidance at every stage of litigation. Prior to the bar, Hamish worked for more than seven years as a solicitor, most recently as a senior associate at Allens in Melbourne, and prior to that at Linklaters in London, where he worked in the environment and climate change team. Having benefited from working across all aspects of the profession, he knows the pressures facing solicitors, in-house counsel and clients. He prides himself on his commerciality and seeks to ensure he is easy to work with.

Hamish holds a Bachelor of Law (honours) and a Bachelor of Arts from Monash University, where he studied on a merit scholarship recognising academic excellence.

Hamish read with Tom Warner and his senior mentor is the Honourable Justice Claire Harris.

Liability limited by a scheme approved under Professional Standards Legislation.

Recent Cases

COMMERCIAL LAW

JBAM & Anor v LBA Capital Pty Ltd & Ors (VSC): acting for international lenders alleging almost \$400m was advanced to Australian entities following breaches of contract and the ACL, and subsequently dissipated to third parties. The case has involved freezing orders, resisting an application for a stay due to parallel criminal prosecutions and complex questions of insolvency/personal bankruptcy (led by Claire Harris SC (as Her Honour then was) and with Tom Warner, instructed by Allens and JWS)

Laurus Group Pty Ltd v Mitsui & Co (Australia) Ltd (VSCA and VSC): acting for Mitsui in contractual dispute regarding non-payment for the supply of in excess of \$7m in steel. Successful at trial. An administrator was subsequently appointed to the Plaintiff and the Honourable Justice M Osborne gave a novel decision about the intersection of the PPSA and the security for costs regime (led by Chris Brown SC, instructed by Corrs)

Jasper Nominees Limited (Seychelles Company Number 224224) v Kairouz and Murdaca (VSC): acting for guarantor of loan note subscription agreement in commercial trial involving complex questions regarding pre-contractual misrepresentation, execution formalities and penalty interest (led by J Ribbans, instructed by Melbourne Legal Chambers)

Numerous oppression, commercial, contract and corporations law matters (FCA, SCV, CCV and VCAT, led and unled, instructed by Mills Oakley, MST, Lamplugh McIntosh, T F Grundy solicitors and others) involving civil procedure questions such as joinder, security for costs, injunctions, freezing orders and winding up applications

BUILDING AND CONSTRUCTION

Biodiversity v Vaughan Constructions (HCA, VSCA, VSC and VCAT): acting for a builder in a large and complex construction dispute concerning allegations of breach of contractual warranties under a D&C Contract. Successfully defended an interlocutory appeal to the VSCA and a High Court Special Leave Application on a complex statutory

interpretation question under the Water Act. Settled five weeks into an estimated eight-week trial before the Honourable Justice Delany (led by Tim Margetts KC and with William Thomas and Justin Lipinski, instructed by Piper Alderman)

Owners Corporation Plan No. 445795 v CLARK (VCAT): acting for lot-owner in claim by an Owners Corporation under the Water Act and the OC Act for payment of a special levy associated with an insurance excess payable by the Owners Corporation to remediate a significant flooding event in multi-story apartment complex (unled, direct access brief)

PROPERTY LAW

Whitty v Talia (VSCA, VSC): acting for wife in recent Victorian Court of Appeal decision about severance of a joint tenancy (led by S Pitt SC at trial and D Collins KC on appeal, instructed by Mills Oakley)

Melbourne Yifang Group Pty Ltd v Guangao A Group Pty Ltd & Ors: acting for nominee purchaser in dispute with purchaser under contract of sale of land in large growth corridor in Melbourne. Case concerned interpretation of a contract of sale of land where date of settlement not identified with precision (led by G Costello KC, but did not appear at trial, instructed by Verge Legal)

PRO BONO

Acting for numerous pro bono clients in homelessness, housing law and residential tenancies matters, as well as advising on property and environmental law matters on a pro bono basis.