

Peter Willis SC



Peter Willis SC appears and advises in a wide range of corporate and commercial and public law matters

QUALIFICATIONS

Bachelor of Laws (First Class
Hons) - Supreme Court Prize
Bachelor of Arts (Hons)

CORRESPONDENCE

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CHAMBERS

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COMMERCIAL LAW

Appellate | Banking & Finance | Contractual Disputes | Corporate Insolvency | Corporations & Securities | Energy & Resources | Equity & Trusts | Private International Law

PUBLIC LAW

Administrative Law | Appellate | Civil & Human Rights | Constitutional Law | Judicial Review | Native Title | Planning & Local Government | Public International Law

Peter's experience focuses on commercial law and equity, especially in financial services and resources, as well as public law (constitutional and administrative law, international law and native title) for Government and private clients. He has served as a director and compliance committee member of an Australian financial services licensee and as chairman of the Disciplinary Appeals Board of the Victorian Education department.

Prior to coming to the Bar, Peter was a partner of Mallesons Stephen Jaques and acted in corporations and securities, commercial, banking and finance and resources transactions in Melbourne and London. He also served as Ministerial Adviser to two Federal Attorneys-General.

He is an Executive Committee member of the International Law Association Victorian chapter and Australian representative on the ILA's International Securities Regulation Committee of experts and a Senior Advisor to Transparency International Australia.

Recent Cases

BANKING AND FINANCE

Burge v Commonwealth Bank of Australia [2016] HCATrans 224 - Loan - mortgagee in possession - determination of Financial Ombudsman Service Ltd - application in original jurisdiction for constitutional writs.

Argot (ACN 074 971 109 Pty Ltd) v The National Mutual Life Association of Australasia Ltd (2013) 305 ALR 722; (2013) 97 ACSR 63; [\[2013\] VSCA 241](#) - Life Insurance - unit linked investment policy - arbitration - contractual construction - repudiation - valuation of policy - administration of switching between portfolios - good faith.

Affirming *ACN v NMLA* [2011] VSC 519; varying *ACN v NMLA* [2012] VSC 177. Special leave to appeal successfully resisted: [2014] HCASL 172.

Smolle v Australia and New Zealand Banking Group Limited [2008] FCA 1065 - re-instatement of investment claim.

COMMERCIAL LAW AND INSOLVENCY

Jafari v Alderuccio (2015) VSCA [not public] - Receivers appointed by Court - principles.

Stewart v Atco Controls Pty Ltd (2014) 252 CLR 307; (2014) 307 ALR 562; (2014) 98 ACSR 601; [\[2014\] HCA 15](#) - Equity - insolvency - liquidators, receivers and administrators - equitable lien for costs, expenses and remuneration incurred in getting in, preserving and realising asset of company for benefit of creditors - lien has priority over mortgagor's security - lien not disapplied by conduct of liquidator in failed attempt to set aside security - lien not affected by section 564 of Corporations Act - *Re Universal Distributing Co* principle explained.

Reversing *Atco Controls Pty Ltd v Stewart* (2013) 31 ACLC 13-065; [2013] VSCA 132. Affirming *Re Newtronics Pty Ltd* (2011) 29 ACLC 11-054; [2011] VSC 349.

Newtronics Pty Ltd v Atco Controls Pty Ltd (2008) 69 ACSR 317; (2009) 25 VR 411, (2009) 78 ACSR 375 (CA); [2010] HCATrans 109 (HCASL) - Letters of comfort - Contract by parent company not to enforce security and to provide financial support to subsidiary - Whether promissory or merely representational - Whether circumstances surrounding the letters were sufficient to create legal obligations; Receivers - Whether validly appointed - Reasonable belief of valid appointment - Whether receivers relieved from liability on basis that conduct was honest and ought fairly be relieved - ss 419(3) and 1318 Corporations Act 2001 (Cth).

We Two Pty Ltd v Shorrock (No 2) (2005) 220 ALR 749 - Trade mark infringement - private international law - foreign judgment in breach of compromise - when party should be ordered to vacate judgment - discretionary factors; compromise of action - accord and satisfaction - enforcement of terms - summary procedure.

CORPORATIONS AND SECURITIES

Kinarra Pty Ltd v On Q Group Ltd (2008) 65 ACSR 438; (2008) 26 ACLC 182 - Listed company - Financial assistance for purchase of shares in contravention of s 260A of Corporations Act 2001.

Australian Securities & Investments Commission v GDK Financial Solutions Pty Ltd [2006] FCA 1415 - Managed investment schemes - unregistered scheme - winding up - court ordered - effect of "winding up" - procedure for winding up - receiver appointed - powers of receiver - whether powers should be the same as those of a company liquidator.

Paint Horse Association of Australia Ltd v Holobradek [2003] VSC 411- Companies - Directors - Application for interlocutory injunction to restrain defendant from representing herself as being director of plaintiff - Alleged irregularities in calling of meeting at which existing directors were voted out of office and replaced by other directors including defendant.

TRADE PRACTICES

Australian Competition & Consumer Commission v BMW Australia Limited [2003] FCA 727; (No. 2) [2003] FCA 864; [2004] FCAFC 167 - Trade Practices - Consumer protection - s 61C of the Trade Practices Act 1974 (Cth) - compliance with prescribed product safety standard - wording of warning to be placed on vehicle jacks - whether warning is dangerous - meaning of "words to the same effect" - Compliance program - whether appropriate to order by way of relief.

TRUSTS

George v Kollias [2007] VSC 46 - Trusts - Trustee Act 1958, s 63A - Multifamily, multi-generation discretionary trust - Application for approval of variation arrangement - Consented to by all beneficiaries of full age and capacity - Whether for benefit of minors and persons unborn - Whether to be approved.

CONSTITUTIONAL AND ADMINISTRATIVE LAW

Victoria v Construction, Forestry, Mining and Energy Union (2013) 218 FCR 172; [2013] FCAFC 160 - Construction Law - States - power of the Executive to adopt policies and guidelines for the exercise of power to enter contract and award tenders for public works - Victorian Code of Practice for Building and Construction Industry and Implementation Guidelines - relationship with federal *Fair Work Act 2009*. Reversing *CFMEU v Victoria* [2013] FCA 445; *CFMEU v McCorkell* [2013] FCA 446; and *CFMEU v Victoria* [2013] FCA 1034.

Mark Lane Jangala v The Commonwealth, Northern Land Council and others [2014] FCA - Administrative Law - Aboriginal Land Rights - nomination of land by Land Council for purposes of radioactive waste management facility - identification of traditional Aboriginal owners - consultation with traditional owners - what is required - whether right people were consulted - good faith and proper purpose - conflict of interests - effect of "no validity" clause.

NATIVE TITLE

Griffiths v Northern Territory [2014] FCA 256 - Native Title - Compensation for extinguishment - preliminary questions - vacant Crown Land covered by claimant applications - effect of Crown to Crown grants.

Mullett on behalf of the Gunai/Kurnai People v State of Victoria (No. 2) [2010] FCA 1514; [2010] FCA 1144

Edwards on behalf of the Wamba Wamba, Barapa Barapa, Wadi Wadi People v State of Victoria [2010] FCA 744- Native Title - change of government policy - Victorian Native Title Settlement Framework - concerns about delay

Rose on behalf of the Kurnai Clans v State of Victoria [2010] FCA 460- Native Title - overlapping claims - issue of group composition - whether application as currently defined includes all persons who hold native title

Lovett on behalf of the Gunditjmara People v State of Victoria [2007] FCA 474

Yorta Yorta v Victoria (2002) 214 CLR 422

Memberships

AMPLA (Australian Mining & Petroleum Law Assoc)

American Society of International Law

Australian Institute of Administrative Law

International Bar Association (Sections on Business Law and Energy, Environment & Resources Law)

International Law Association (Vice-President, Victorian Committee)

Law Council of Australia (Business Law and International Law sections)

Member of the Board of Directors of List G Barristers

Victorian Bar - Commercial Bar Association (chair, Equity Section)

Victorian Bar - Human Rights Committee (chair)

Victorian Bar - Indigenous Justice Committee

Victorian Planning & Environmental Law Association