

Jason Lazarus SC

Jason was appointed Senior Counsel in 2019, having been called to the Bar in 2004, after spending a year as the associate to the Hon Justice John Lehane of the Federal Court, and then practising as a solicitor for 5 years in a leading law firm.

Although Jason practises predominantly in the Land and Environment and Supreme Courts (and the Court of Appeal in appellate matters), he is experienced in a wide range of jurisdictions and areas of law, ranging from general commercial litigation and equity to planning and environmental law and public / administrative law.

He has been recognised as a leader in the field of planning and environmental law, ranked as a "Leading" senior counsel in Doyle's Guide "Leading Planning & Environment Barristers – NSW" in every issue since taking silk in 2019, as well as being ranked as a leading silk in Construction, Infrastructure and Property in *The Legal 500*.

Jason has also been recognised for his commercial law expertise as a leading commercial disputes Senior Counsel by *The Legal 500*.

QUALIFICATIONS / ADMISSIONS

2019	Appointed Silk	
2004	Called to the Bar	
1998	Admitted to Practice	
1996	BA, LLB (Hons equiv.) (UNSW)	

PRINCIPAL AREAS OF PRACTICE

- commercial & equity
- environmental & planning law
- real property
- administrative law
- competition & consumer law



SIGNIFICANT CASES

Property/equity

- Theunissen v Barter [2025] NSWCA 30 (successful appeal in relation to an easement for recreation. Now one of the leading authorities on the construction of easements, and in particular what evidence may be taken into account in construing the easement)
- Sckaff v Sckaff [2024] NSWCA 207 (successful appeal in proprietary estoppel case, reversing the trial judge's conclusion that a brother was entitled to the full beneficial ownership of a property in Dulwich Hill notwithstanding that the other brother had paid for it)
- Alamdo Holdings Pty Ltd v Reece Australia Pty Ltd [2025] NSWSC 946 (significant lease dispute that concerned the validity of the purported exercise of the right to terminate the lease in circumstances where the lessee was held to have breached the lease by delaying the obtaining of development consent for fit-out)
- Cheng v Sydney Markets Ltd [2024] NSWSC 755 (successful defence of proceedings challenging the relocation of numerous stall-holders within Paddy's Markets Haymarket; now the leading case on the relocation provision (s 34A) of the Retail Leases Act 1994)
- Hanave Pty Ltd v Nomad Sydney Pty Ltd [2023] NSWSC 265 (the leading case on "current market rent" under the Retail Leases Act 1994; successful appeal on a question of law from a decision of the Appeal Panel of NCAT)
- Weissflog v Community Association DP 270159 (2022) 20 BPR 42,265 (application under s 88K of the Conveyancing Act relating to access over community title common property)
- 711 Hogben Pty Ltd v Tadros [2022] NSWSC 1259 and [2022] NSWSC 1653 (complex claim for damages and relief against forfeiture relating to a lease for the purposes of a child care centre)
- Wirth v Will [2022] NSWLEC 118 (successful application for removal of encroaching stairs overlooking the beach under the Encroachment of Buildings Act relating to neighbouring properties in Tamarama)
- Double Bay Bowling Club v Council of the Municipality of Woollahra [2020] NSWSC
 1861 (complex proceedings involving a successful application under section 89 of



the Conveyancing Act for extinguishment of a covenant on title, and successful defence to Council's cross-claim based on an alleged binding agreement)

- Cohen v Double Bay Bowling Club [2021] NSWSC 872 and [2021] NSWSC 1020 (successful application for dismissal of proceedings based on s 177 of the Conveyancing Act, and indemnity costs)
- Tim Barr Pty Ltd v Narui Gold Coast Ltd (2010) 14 BPR 27,605 (long-running and complex dispute about enforceability of a lease, including numerous important interlocutory judgments, eg (2009) 75 NSWLR 380 and (2009) 258 ALR 598)
- Sydney Constructions & Developments Pty Ltd v Cumberland Council [2018] NSWSC 304 (successful application to have specific performance proceedings dismissed for plaintiff's failure to provide discovery; plaintiff company controlled by Salim Mehajer)
- Trust Co (Australia) Ltd v NextDC Ltd [2018] NSWSC 736, [2018] NSWSC 1361 and [2018] NSWSC 1384 (lease dispute concerning issues of access by landlord)
- Medi-Aid Centre Foundation Ltd v Joys Child Care Ltd [2018] NSWSC 1586 (proceedings for possession of leased premises, involving a dispute about the validity of the lease)
- Cohen v Double Bay Bowling Club [2019] NSWSC 1625 (successful defence of contempt application relating to the carrying out of works alleged to have been in breach of an undertaking)
- First Mortgage Managed Investments Pty Ltd v Pittman [2014] NSWCA 110 and [2012] NSWSC 1332 (successful challenge to loan agreement and mortgage under the Contracts Review Act 1980)
- Project 28 Pty Ltd v Barr [2005] NSWCA 240 and [2005] NSWCA 420 (maintenance and champerty)
- Bondlake Pty Ltd v Owners-Strata Plan No.60285 (2005) 62 NSWLR 158 (validity of caretaker agreement in a strata development)
- Colbert v MacDonald [2016] NSWSC 1291 (successful judicial review challenge to decision of Strata Schemes Adjudicator relating to an exclusive use by-law)
- Australian Leisure & Hospitality Group Pty Ltd v Stubbs [2012] NSWSC 215 (proceedings for injunctive relief for threatened use of confidential information by an expert witness)
- McDonald v Wills [2014] NSWSC 1183 and [2015] NSWSC 329 (action for enforcement of right of way in Mosman)



- Natura Pty Ltd v Cook [2007] NSWSC 121 (Supreme Court land development case)
- Dulhunty v Dulhunty [2010] NSWSC 1465 (complex trust dispute involving a family trust)
- Ferella v Otvosi (2005) 64 NSWLR 101 (enforceability of restrictive covenant and extinguishment under Conveyancing Act, s.89)
- Lennard v Jessica Estates Pty Ltd (2008) 71 NSWLR 306 [2008] NSWCA 121 (enforceability of restrictive covenant having regard to a s.28 clause in the LEP)
- Moorebank Recyclers Pty Ltd v Tanlane Pty Ltd (2012) 16 BPR 31,257 [2012] NSWCA 445 (complex s.88K application, including subsequent s.88K application in the LEC, Moorebank Recyclers Pty Ltd v Liverpool City Council (No.2) [2013] NSWLEC 93)
- Trevlind Pty Ltd v BMP Manufacturing Pty Ltd [2008] NSWSC 603 (easement and drainage dispute)
- *Dowidar v Bektas* [2008] NSWSC 1380 (conveyancing dispute concerning sale of child care centre)
- Public Trustee v Smith [2008] NSWSC 397 (case concerning validity of bequest of property in Randwick by way of conventional estoppel)
- Numerous current matters in the Real Property List of the NSW Supreme Court

Commercial

- Re Fogo Brazilia Holdings Pty Ltd (in liq) [2022] NSWSC 556 (complex application for removal of liquidator relating to impugned liquidator's examinations, apprehended bias and misleading the Court)
- Coffs Harbour City Council (2021) (series of commercial arbitrations relating to Council's waste contracts)
- Aquamore Credit Equity Pty Ltd v Pamada Pty Ltd [2021] NSWSC 1051 (successful application for interlocutory injunction restraining sale of large renewable power facility)
- Aquamore Credit Equity Pty Ltd v Von Somogy [2020] NSWSC 1493 (long-running commercial dispute relating to control of a wind-farm project; successful application for summary judgment relating to part of the proceedings)
- Amlin Corporate Member Ltd v Austcorp Project (No. 20) Pty Ltd (2014) 311 ALR 222
 [2014] FCAFC 78 (construction of insurance policy)



- McHugh v Australian Jockey Club Ltd (2014) 314 ALR 20 [2014] FCAFC 45 (significant restraint of trade and Part IV case concerning the use of artificial insemination in the thoroughbred racing industry, High Court special leave application refused: [2014] HCA Trans 238)
- Sprayworx Pty Ltd v Homag Australia Pty Ltd [2016] NSWSC 51 and [2016] NSWSC 84 (highly complex dispute concerning a defective sanding machine, settled after 3 weeks of hearing)
- Ezystay Systems Pty Ltd v Link2 Pty Ltd [2016] NSWCA 317 (breach of confidence action against former director of student accommodation business company)
- Australian Performing Rights Association Ltd v Monster Communications Pty Ltd
 (2006) 71 IPR 212 (Federal Court copyright dispute concerning mobile ring tones)
- Rockdale City Council v Calibre Construction Corp Pty Ltd [2015] NSWSC 1980 (enforcement of expert determination relating to a works-in-kind agreement)
- Day v Mercedes-Benz Australia Pacific Pty Ltd [2011] FCA 454 (long-running franchise dispute, ultimately settled)
- Hawes v Dean [2014] NSWCA 380 (series of complex property development joint venture disputes)
- Gales Holdings Pty Ltd v Tweed Shire Council (2013) 85 NSWLR 514 [2013] NSWCA 382 (significant nuisance and foreseeability case; special leave refused [2014] HCATrans 142)
- Hornsby Shire Council v Valuer-General of NSW [2008] NSWSC 1179 and [2012] NSWSC 894 (long-running negligence, fraud and administrative law proceedings, ultimately settled)
- Hung v Warner [2013] FCAFC 48 (dispute about ownership of convertible bonds, special leave refused: [2013] HCA Trans 280])
- W&P Reedy Pty Ltd v Macadams Baking Systems Pty Ltd [2007] NSWCA 146 (statutory demand case)
- Ryding v Myles [2012] NSWSC 153 (contract dispute involving a lease of a quarry)
- Domaine Steel River Pty Ltd v Ocean Street Holdings Pty Ltd (specific performance and contempt proceedings brought by Mirvac against a Nathan Tinkler company)
- Staway Pty Ltd (in liq) (receivers and managers appointed) [2013] NSWSC 819 (successful application to commence Commercial List proceedings in the name of a company in liquidation)



- Sellar v Lasotav Pty Ltd [2008] FCA 1612 and [2008] FCA 1766 (oppression suit)
- Wylie v Tarrison Pty Ltd [2007] NSWCA 184 (contract construction suit concerning the sale of Sydney Harbour Seaplanes)
- Carr v Swart [2007] NSWCA 337 (international joint venture dispute and solicitor's liability case, special leave refused)

Planning/Environmental/Judicial Review

- Cameron v Woollahra Municipal Council (2024]) 115 NSWLR 239 [2024] NSWCA 216 (successful defence of first instance judgment invalidating a certifier's decision to issue a construction certificate in breach of a condition of the development consent. Now one of the leading authorities on legal unreasonableness in a planning context)
- Filetron Pty Ltd v Innovate Partners Pty Ltd [2024] NSWCA 41 (successful appeal in relation to the validity of a development consent for a significant residential development having regard to the limitation on a delegation to a council officer where there was an "unresolved submission by way of objection")
- EPA v Crush and Haul Pty Ltd [2024] NSWLEC 15 (successful defence of s 56A appeal by the EPA relating to the grant of an environment protection licence, and the Commissioner's finding that the client was a fit and proper person to hold such a licence)
- Muscat Developments Pty Ltd v Wollondilly Shire Council [2023] NSWLEC 121 (successful appeal on questions of law in particular regarding contamination issues associated with remediation works to large quantities of unlawful imported fill)
- Randwick City Council v Belle Living Pty Ltd [2023] NSWLEC 100 (successful challenge to complying development certificate and successful defence to crossclaim based on alleged unreasonableness)
- Peden v Lake Macquarie City Council [2024] NSWLEC 2 (successful defence to judicial review challenge to development consent for dual occupancy)
- Clarence Village Ltd v Clarence Valley Council [2023] NSWLEC 135 (judicial review challenge on behalf of a public charity to substantially increased charges levied by the Council)
- El Khouri v Gemaveld Pty Ltd [2023] NSWCA 78 (significant decision regarding whether development standards such as a height control are jurisdictional facts for the purposes of a judicial review challenge to a decision of a Commissioner after a section 34 conference)



- Feldkirchen Pty Limited v Development Implementation Pty Limited [2022] NSWCA 227 (challenge to modification of substantial subdivision consent on the basis of breaches of s 4.55 of the Environmental Planning and Assessment Act)
- Hunters Hill Council v for Local Government (2017) 224 LGERA 1 [2017] NSWCA 188 (acted for 4 local councils in partially successful challenge to NSW Government's proposal to amalgamate them with other councils)
- Dincel Construction System Pty Ltd v Penrith City Council [2021] NSWCA 133 (partially successful appeal concerning significant and complex civil enforcement proceeding relating to the unlawful construction of earthworks and hardstand, and unlawful storage use, of land at Kemps Creek)
- RIG Consulting Pty Ltd v Queanbeyan-Palerang Regional Council [2021] NSWCA 130 (successful defence of judgment below concerning construction of subdivision provisions of the LEP)
- Moorebank Recyclers Pty Ltd v Tanlane Pty Ltd [2018] NSWCA 304 (important decision concerning judicial review challenge to a planning proposal on the basis of breaches of SEPP 55)
- Al Maha Pty Ltd v Huajun Investments Pty Ltd [2018] NSWCA 245 (significant case clarifying the law relating to owner's consent and validity of agreements reached at a section 34 conference)
- Local Democracy Matters Inc v Infrastructure NSW [2019] NSWCA 65 (unsuccessful challenge to development consent granted by the Minister for Planning for the demolition of the Sydney Football Stadium)
- Hunter Industrial Rental Equipment Pty Ltd v Dungog Shire Council (2019) 101 NSWLR 1 [2019] NSWCA 147 (highly complex civil enforcement and judicial review proceedings resulting in the longest judgment in the history of the LEC; appeal dismissed in the Court of Appeal)
- Zhiva Living Dural Pty Ltd v Hornsby Shire Council [2020] NSWCA 180 (successful
 appeal to the Court of Appeal on a question of law arising from the primary judge's
 refusal of a development application for a significant seniors living development in
 Dural)
- Crush and Haul Pty Ltd v Environment Protection Authority [2023] NSWLEC 60 (important decision regarding whether an application for an environment protection licence is subject to the integrated development provisions of the Environmental Planning and Assessment Act 1979)
- Council of the City of Sydney v Emag Apartments Pty Ltd [2023] NSWLEC 23 (successful appeal on a question of law from a decision of a Commissioner raising



issues concerning the proper construction of a design excellence clause as well as an owner's consent issue)

- Toga Penrith Developments Pty Ltd v Penrith City Council [2022] NSWLEC 117 (successful defence of s 56A appeal relating to a design excellence provision in the Council's LEP and the architectural design competition)
- Save Sydney Koalas (South West) Inc v Lendlease Communities (Figtree Hill) Pty Ltd [2021] NSWLEC 102 (successful defence to judicial review challenge to Council's koala plan of management and relevant provisions of its DCP)
- South East Forest Rescue Inc v Allied Natural Wood Exports Pty Ltd [2021] NSWLEC 89 (successful judicial review challenge to grant of development consent for expansion of existing chip mill at Eden, NSW)
- Anglican Church Property Trust Diocese of Sydney v Camden Council [2021]
 NSWLEC 118 (successful defence to proceedings for judicial review and claim for refund of development contributions paid by the Church to the Council)
- El Khouri v Gemaveld Pty Ltd [2023] NSWSC 25 (successful determination of separate questions relating to a challenge in the Court of Appeal to a development consent granted by the Land and Environment Court on the basis of a breach of the height standard)
- NSW Community Renewables (Gunnedah) Pty Ltd v Gunnedah Shire Council [2022] NSWLEC 1581 (first successful contested development application for a solar farm in NSW)
- Clarke v Shoalhaven City Council [2021] NSWLEC 8 (successful defence of s 56A appeal from decision regarding subdivision provisions in the LEP)
- Boomerang and Blueys Residents Group Inc v NSW Minister for the Environment, Heritage and Local Government [2019] NSWLEC 202 (successful defence of judicial review challenge to the making of Mid-Coast Council's Coastal Zone Management Plan)
- Woollahra Municipal Council v SJD DB2 Pty Ltd [2020] NSWLEC 115 (appeal on a question of law relating in particular to the nature of "desired future character")
- Omaya Investments Pty Ltd v Dean Street Holdings Pty Ltd (No 5) [2020] NSWLEC
 9 (lengthy and complicated civil enforcement proceeding arising out of a dispute between rival developers in Burwood)
- Friends of Tumblebee Inc v ATB Morton Pty Ltd (No. 2) (2016) 215 LGERA 157 [2016]
 NSWLEC 16 (successful challenge to development consent granted for clearing of



forest in the Hunter Economic Zone on the basis of failure to obtain an SIS relating to the Regent Honeyeater)

- Hunter Development Corporation v Save Our Rail NSW Inc [2015] NSWCA 346 and (2016) 220 LGERA 73 [2016] NSWCA 375 (successful defence of challenge to truncation of the Sydney to Newcastle rail line; special leave refused)
- Friends of King Edward Park Inc v Newcastle City Council (No 2) [2015] NSWLEC
 76 (successful challenge to development consent and Plan of Management raising significant issues concerning State recreational reserves)
- Cheetham v Goulburn Motorcycle Club Inc (2017) 223 LGERA 43 [2017] NSWCA 83 (successful defence to judicial review challenge to permissibility of motorcycle facility)
- Lateral Estate Pty Ltd v Council of the City of Sydney [2017] NSWLEC 6 (successful application to dismiss proceedings based on deemed refusal application being lodged out of time)
- SHMH Properties Australia Pty Ltd v City of Sydney Council [2018] NSWLEC 66 (case determining the issue of whether BASIX certificates are required for boarding house developments)
- Rafailidis v Camden Council [2015] NSWCA 185 (appeal from finding of contempt in relation to orders requiring the demolition of part of a residence)
- Bankstown City Council v Ramahi (2016) 216 LGERA 385 (successful enforcement proceeding relating to issue of invalid complying development certificates)
- CSKS Holdings Pty Ltd v Woollahra Council (2014) 205 LGERA 207 (successful defence of claim for mandamus relating to the development of the Paddington Bowls Club)
- Council of City of Sydney v Wilson Parking Australia Pty Ltd [2015] NSWLEC 42 and [2015] NSWLEC 84 (significant existing use rights case relating to a carpark in Sydney)
- Benedict Industries Pty Ltd v Minister for Planning [2016] NSWLEC 122 (case relating to lapsing of development consent)
- Liverpool City Council v Moorebank Recyclers Pty Ltd [2018] NSWCA 7 (successful defence of merits appeal against a State significant materials recycling facility development)



- RTA v Ashfield Municipal Council (2005) 141 LGERA 278 [2005] NSWCA 234 (case concerning the respective powers of the RTA and local councils under the Roads Act 1993)
- Bat Advocacy NSW Inc. v Minister for Environment, Protection, Heritage and the Arts (2011) 180 LGERA 1999 [2011] FCAFC 59 (challenge to Minister's decision to relocate bats from the Sydney Botanical Gardens)
- Minister for Planning v Gales Holdings Pty Ltd (2006) 146 LGERA 450 [2006]
 NSWCA 212 (validity of State significant aquaculture facility development consent)
- Shellharbour City Council v Minister for Planning (2011) 189 LGERA 348 [2011] NSWCA 195 and (2012) 187 LGERA 427 (challenge to Part 3A concept plan approval on the basis of lack of high biodiversity significance)
- Castle Constructions Pty Ltd v North Sydney Council (2007) 155 LGERA 52 [2007] NSWCA 164 (appeal raising issues of inconsistency in planning instruments and principles of apprehended bias)
- *Drake-Brockman v Minister for Planning* (2007) 158 LGERA 349 (challenge to Part 3A concept plan approval for the CUB site at Broadway)
- Hunter Community Environment Centre Inc. v Minister for Planning (2012) 194 LGERA 255 (judicial review of approval of major power station rehabilitation project)
- Dobrohotoff v Bennic (2013) 194 LGERA 17 (significant case concerning legality of short-term holiday rental accommodation on the NSW Central Coast)
- Hill Top Residents Action Group Inc. v Minister for Planning (2009) 171 LGERA 247 and (2010) 176 LGERA 20 and subsequent decisions) challenge to validity to Part 3A approval for shooting range and subsequent litigation relating to enforcement of the approval)
- Ku-ring-gai Council v Sydney West Joint Regional Planning Panel (No.2) (2010) 181
 LGERA 11 (challenge to significant residential flat development consent granted by JRPP)
- Rivers SOS Inc. v Minister for Planning (2009) 178 LGERA 347 (challenge to Part 3A long wall mining project approval)
- Rossi v Living Choice Australia Ltd [2015] NSWCA 244 (complex proceedings for judicial review of JRPP development consent and its enforcement)
- Najask Pty Ltd v Palerang Council (2009) 165 LGERA 171 [2009] NSWCA 39 (case about caravan park permissibility)



- Sharples v Minister for Local Government (2008) 166 LGERA 302 (challenge to Minister's decision to increase council rates)
- Wollongong City Council v Vic Vellar Nominees Pty Ltd (2010) 178 LGERA 445 (series of disputes concerning permissibility of development)
- Woolworths v Wyong Shire Council [2005] NSWLEC 400 (challenge to grant of development consent granted in favour of rival of Woolworths)
- Numerous current matters in Classes 1, 3 and 4 of the LEC's jurisdiction

Compulsory acquisitions/strata renewal

- Telado Pty Ltd v Sydney Metro [2025] NSWLEC 42 (compulsory acquisition case relating to two blocks acquired in the Sydney CBD for the Metro. The Court adopted Sydney Metro's submissions almost in their entirety)
- *Tolson v RMS* [2014] HCATrans 263 (High Court special leave application concerning offsets in resumption statutes)
- RTA v Leichhardt Council [2007] HCATrans 260 and (2008) 158 LGERA 218 (important case dealing with construction of the Land Acquisition (Just Terms Compensation) Act 1991)
- El Boustani v Minister Administering the Environmental Planning and Assessment Act 1979 (2014) 199 LGERA 198 [2014] NSWCA 33 (significant decision on construction of s.61 of the Just Terms Act)
- Owners Strata Plan 49574 v Scorpio Holdings (Aust) Pty Ltd [2018] NSWLEC 54 (strata renewal case, ultimately settled prior to hearing)
- Canal Aviv Pty Ltd v RMS [2018] NSWLEC 52 (valuation of land at Alexandria acquired for the purposes of WestConnex (the new M5 project))
- Sutherland Shire Council v Sydney Water [2008] NSWLEC 303 (valuation of open space land)
- Breen v Sutherland Shire Council [2008] NSWLEC 15
- Penrith City Council v Sydney Water Corp [2009] NSWLEC 2 (valuation of open space land)
- Chircop v Transport for New South Wales [2014] NSWLEC 63 (acquisition for north-west rail link)



- Taylor v Port Macquarie-Hastings Council [2010] NSWLEC 113 and (2010) 175 LGERA 189 (significant acquisition case raising issues of proper analysis of comparable sales and effect of offers of compromise in resumption cases)
- Numerous current resumption cases relating to various projects

Other

- Accord Pacific Properties Pty Ltd v Matthai [2022] NSWCATCD (successful defence to application relating to a large commercial strata scheme where there were rival strata committees, strata agents and building managers)
- Australians for Sustainable Development Inc. v Barangaroo Delivery Authority
 [2013] NSWADT 252 (complex GIPA Act proceedings relating to the Barangaroo project)
- Hall v van der Poel [2009] NSWCA 436 (personal injury case raising significant issues of construction of the Civil Liability Act 2002)
- Aleksic v The Secretary, Department of Defence [2016] AATA 239 (representative action in the AAT for compensation arising out of the use of the Salt Ash Weapons Range)
- Minister Administering the Crown Lands Act v New South Wales Aboriginal Land Council [2009] NSWCA 151 (claim under the Aboriginal Land Rights Act 1983 concerning residential land)
- Darkinjung Local Aboriginal Land Council v Minister Administering the Crown Lands Act (2006) 149 LGERA 162

PREVIOUS EXPERIENCE

1998

Associate to the Hon. Justice John Lehane of the Federal Court of Australia.

1999 - 2004

Solicitor and Senior Associate, Clayton Utz. Involved in a number of high profile matters, including:

- acting for the Reserve Bank in its successful defence of Federal Court proceedings brought by Visa and MasterCard challenging the Reserve Bank's reforms of credit card schemes.
- acting for Sydney Airport in substantial Federal Court proceedings brought by a number of international



airlines relating to landing charges and the SA2000 redevelopment of Sydney Airport.

- acting for the SRA in relation to claims brought by the Airport Link Company in connection with the Airport Line train service.
- acting for the NSW racing industry in a series of commercial arbitrations against the TAB.

INTERESTS OUTSIDE THE LAW

- Tennis (member of the Sydney Maccabi Tennis Club)
- Golf (member of The Lakes Golf Club)
- Travel
- Politics and history
- Music of all kinds

October 2025