



Carol Webster SC

Telephone 02 9224 1550
Email carol.webster@stjames.net.au
Clerk Fiona Hayden
Clerk's telephone 02 9224 1501

Overview

Carol Webster has a substantial appellate and administrative law practice, with a focus on professional discipline. She has appeared for the NSW Director of Public Prosecutions in the Court of Appeal, Court of Criminal Appeal and Supreme Court in appeals and judicial review applications in criminal matters.

She has experience acting for State / Federal government, appeared for the ACCC in the Takata air bags Inquest and advises regulators. In 2023 Carol appeared in the Board of Inquiry into the Criminal Justice System in the ACT conducted by Mr Walter Sofronoff KC.

Carol also advises and appears in equity and property matters. She has experience in acting for the Registrar-General regarding the integrity of the land titles register.

In her professional discipline practice Carol advises regarding investigations and decisions under the legal profession and other legislation. She appears in the Court of Appeal, Supreme Court and NSW Civil and Administrative Tribunal, for the Bar Association, the Law Society and Legal Services Commissioner, for the Health Care Complaints Commission, and for respondents. She appears for respondents in discipline matters in the ACT.

Carol is a Fellow of the [Australian Academy of Law](#), a General Editor of the Thomson service *NSW Civil Procedure* and a Consultant Editor of the *Australian Bar Review* (see list of publications). She serves on numerous committees (as below).

Principal Areas of Practice

Appellate	Administrative law; judicial review applications
Professional disciplinary proceedings including defence disciplinary inquiries	Equity, property and succession law

Admissions & Qualifications

Appointed Senior Counsel 2012	BEC, LLB (Hons); LLM <i>University of Sydney</i>
Admitted to the NSW Bar 1997	Accreditation as a mediator (NSW Bar Association) 2014 – 2016
Admitted to the legal profession 1989	

Select cases

A detailed cases list is available from Carol Webster's clerk: clerk.10@stjames.net.au

Administrative / Judicial review (including appeals in criminal matters)

High Court appeal [DQU16 v Minister for Home Affairs \[2021\] HCA 10 \(7 April 2021\)](#) from [DQU16 v Minister for Home Affairs \[2020\] FCA 518](#) (Reeves J), grant of special leave [DQU16 & Ors v Minister for Home Affairs & Anor \[2020\] HCATrans 136 \(9 September 2020\)](#) Appeal contending that the principles in *Appellant S395/2002 v Minister for Immigration and Multicultural Affairs* (2003) 216 CLR 473 are applicable in considering complementary protection criterion, whether Immigration Assessment Authority can rely on findings re claim for refugee status – for the appellants

[CXZ v Children's Guardian \[2020\] NSWCA 338](#) – successful appeal by leave regarding Tribunal determination of whether a person poses a risk to the safety of children under s 18 *Child Protection (Working with Children) Act 2012* (NSW) – whether three-step process – whether lingering doubt to count against applicant – for the appellant

[Devitt v Ross \[2018\] NSWSC 1675](#) (Hoeben CJ at CL) appeal against Local Court sentence, appeal incompetent in challenge to Local Court order and District Court dismissal of application for leave to appeal – for the DPP as amicus

[Chen \(Yan Ping\) v Director of Public Prosecutions \[2018\] NSWSC 783](#) (Fagan J) opposing appeal from refusal of permanent stay of prosecution for offence of make false accusation with intent to subject a person to investigation, whether signature of Inspector of Crime Commission necessary on summons to give evidence – for the DPP

[Barr \(a pseudonym\) v Director of Public Prosecutions \(NSW\) \[2018\] NSWCA 47](#) (2018) 97 NSWLR 246 – judicial review of District Court bail decision, construction of the *Bail Act* – for the DPP

[Tarrant v R \[2018\] NSWCCA 21](#) appeal against sentence, allegation of apprehended bias in comments and questions by sentencing judge during trial and sentencing hearings – for the DPP

Property and equity matters

[The Owners – Strata Plan No 61233 v Arcidiacono; The Owners – Strata Plan No 17719 v Arcidiacono \[2019\] NSWSC 1307](#) (Henry J) proceedings seeking declarations as to easements created by prescription, alternatively creation under statute or by express grant or implication in old system deeds of conveyance, for one of the plaintiff Owners Corporations; and re costs [The Owners – Strata Plan 17719 v Arcidiacono \(No 2\) \[2019\] NSWSC 1800](#)

Appeal dismissed: [Arcidiacono v The Owners – Strata Plan No 17719; Arcidiacono v The Owners – Strata Plan No 61233 \[2020\] NSWCA 269](#) (2020) 104 NSWLR 199:

Special leave refused: [Arcidiacono & Anor v The Owners - Strata Plan No. 17719; Arcidiacono & Anor v The Owners - Strata Plan No. 61233 \[2021\] HCASL 89 \(15 April 2021\)](#)

[Arcidiacono v The Owners – Strata Plan 61233 \[2019\] NSWCA 46](#) Opposing application for leave to appeal from decision as to whether easements created by conveyances in 1839 bind present-day registered proprietors – for one of the strata plans

[Rubino & Anor v Pineview Property Holdings Pty Ltd & Ors \[2016\] NSWSC 904](#) (White J) successfully opposing claim for compensation from Torrens Assurance Fund, plaintiffs claimed deceived into signing transfer documents, properties mortgaged – for the Registrar General

Discipline / Professional negligence

[Terepo v Council of the Law Society of New South Wales \[2022\] NSWCA 210](#) – appeal from Tribunal recommendation for removal from the Roll – Court satisfied as to appropriateness of agreed orders to set aside removal and findings on the basis Tribunal exceeded its jurisdiction

[Odlum v Friend & Anor \[2022\] NSWSC 574](#) (Cavanagh J) unsuccessful professional negligence proceedings against former solicitor and counsel, advice about settlement and costs consequences – breach and standard of care – for the former counsel

Various proceedings for removal from the Roll on the basis that the practitioner was not a fit and proper person to remain on the Roll, some where the practitioner had been convicted of offences: [Council of the Law Society of NSW v Clarke \[2022\] NSWCA 57](#); [Council of the Law Society of NSW v Hislop \[2019\] NSWCA 302](#); [Council of the Law Society of NSW v Parente \[2019\] NSWCA 33](#); [Council of the NSW Bar Association v Biscoe \[2017\] NSWCA 286](#); [Council of the Law Society of NSW v Kim \[2017\] NSWCA 292](#); [Council of the Law Society of NSW v Kinchington \[2017\] NSWCA 278](#); [Council of the NSW Bar Association v Franklin \(No 2\) \[2014\] NSWCA 428](#); [Council of the NSW Bar Association v Costigan \[2013\] NSWCA 407](#) – for the Bar Association or Law Society

[Council of the New South Wales Bar Association v EFA \(a pseudonym\) \[2021\] NSWCA 339](#) (2021) 106 NSWLR 383 – appeal from Tribunal decisions [Council of the New South Wales Bar Association v EFA \[2021\] NSWCATOD 21](#) (Stage 1) [Council of the New South Wales Bar Association v EFA \(No 2\) \[2021\] NSWCATOD 84](#) (Stage 2) – respondent engaged in demeaning, humiliating and inexcusable conduct towards a female clerk at a function, issue as to whether particular words were said – whether the Tribunal erred in not finding that the respondent had engaged in professional misconduct, and by imposing only a formal reprimand – for the Bar Association

[Determination in relation to Episcopal Standards Commission referral concerning Roger Herft](#)
Determination of questions relating to respondent's conduct, response as Bishop of Newcastle to allegations of child sexual abuse by clergy – Board satisfied that respondent unfit to remain in Holy Orders, determined that he be deposed – for the Episcopal Standards Commission of the Anglican Church of Australia

[XY v Council of the Law Society of New South Wales \[2021\] NSWSC 1263](#) (Adamson J) opposing application for stay of Council decisions to suspend practising certificate until determination of the summons appealing the decisions; [XY v Council of the Law Society of New South Wales \(No 2\) \[2021\] NSWSC 1353](#) variation to non publication orders to balance impact on principles of open justice and protection of the plaintiff's safety – for the Law Society

[Defence Inquiry](#) (Heard by the Hon TRH Cole AO RFD QC as Assistant IGADF in October 2019, determination not publicly available) – for the respondent

[Council of the Law Society of New South Wales v Levitt \[2018\] NSWCA 247](#) – appeal in judicial review proceedings challenging commencement of proceedings in NCAT on a complaint, construction of the *Legal Profession Act 2004*; Special leave refused: [Council of the Law Society of New South Wales \[2019\] HCATrans 78 \(12 April 2019\)](#) on the basis that the

question of statutory construction sought to be agitated was not of sufficient general importance to warrant the attention of the Court (Gageler, Gordon and Edelman JJ) – for the Law Society

[Potkonyak v Legal Services Commissioner \(No 2\) \[2018\] NSWCA 173](#) unsuccessful appeal by practitioner from NCAT findings of professional misconduct in respect of conduct of care proceedings, removal from the Roll; stay application [Potkonyak v Legal Services Commissioner \[2018\] NSWCA 1](#) (McColl JA) – for the Legal Services Commissioner

[Council of the Law Society of New South Wales v Bouzanis \[2017\] NSWCA 330](#) (2017) 97 NSWLR 488 – successful appeal from NCAT dismissal of disciplinary application, interpretation of legal profession legislation, whether client payment deposited into office account ‘trust money’ – for the Law Society

[Appeal of Keith Francis Slater](#) Determination of the Appellate Tribunal of the Anglican Church of Australia re determinations (Diocese of Grafton) leading to deposition of the appellant from Holy Orders – Appellate Tribunal lacked appellate jurisdiction in the matter but concluded that the deposition was null and void on various grounds – for the appellant

Acting for government

[Inquest into the death of Huy Neng Ngo](#) Decision of Deputy State Coroner Truscott – defective Takata airbags, product safety, voluntary recalls – for the ACCC

Briefed for the State defendants in Supreme Court proceedings:

[Warragamba Winery Pty Ltd v State of New South Wales \(No 9\) \[2012\] NSWSC 701](#)

(Walmsley AJ) claim against public authorities for negligence – bushfire caused by lightning strike near national park; part of a team led by Larry King SC, responsible for quantum;

[Thredbo Commercial Claims](#): more than ten proceedings re 1997 Thredbo landslide, heard by Grove J between 2002 and 2003. Most matters resolved by mid 2003, remaining matters heard between 2003 and 2006, main judgment [Aymost Pty Ltd v State of New South Wales & Ors; Hecher & anor v State of New South Wales & Ors \[2004\] NSWSC 1309](#); part of a team led by Peter Garling SC, the only junior for mediations during 2003, responsible for quantum; [2001 Goobang bushfires](#) proceedings (*Atkinson & Ors v State of NSW*) – part of a team led by Bret Walker SC, responsible for quantum; those proceedings resolved in 2006.

Publications

“Victor Windeyer (1900-1987)” in Lindsay G C and Hudson W A (eds) *Australian Jurists and Christianity*. Federation Press, 2021

“The High Court of Aust and Expense Reduction – Achieving Civil Procedure Reform in Practice” in Kumar M and Legg M (eds), *Ten years of the Civil Procedure Act 2005 (NSW) : A Decade of Insights and Guide to Future Litigation*. Thomson Reuters, 2015

“The New NSW Barristers’ Rules” (2011 Summer) *Bar News* 61

“Legal Profession Act 2004: Complaints Procedures and Show Cause Requirements” (2005 Summer) *Bar News* 65

“Dealing with Complaints and Notification Requirements under the Legal Profession Act 1987” (2004 Summer) *Bar News* 55

“The Notification Provisions of the Legal Profession Act” (2002 Winter) *Bar News* 43

Lindsay, G C & Webster, C A (eds) *No mere mouthpiece: servants of all, yet of none*;
LexisNexis Butterworths, 2002 (A collection of essays for the NSW Bar Association centenary)

A General Editor of the Thomson subscription service *NSW Civil Procedure*, having been a contributing author to the service since 2005.

Professional memberships, other roles and committees

Head of Chambers, Tenth Floor St James Hall (since June 2023)

Fellow of the [Australian Academy of Law](#) (since April 2022)

Member of the NSW Bar Association Silk Selection Committee (2020)

A Consultant Editor of the *Australian Bar Review* (from 2019)

Barrister member of the Uniform Rules Committee and Supreme Court Rules Committees

NSW Bar Association nominee to NCAT Liaison Group and Occupational Division –
Professional Discipline Group Consultative Forum (from 2014)

Represented the Bar Association on the Reference Group advising the Steering Committee overseeing the establishment of NCAT (2013); and *Civil Procedure Act* Statutory Review Reference Group, convened by the Department of Attorney General and Justice (2011)

Bar Association nominee on Public Defenders Appointments Committees (2012 – 2019)

Francis Forbes Society for Australian Legal History: founding Council member, Honorary Treasurer www.forbessociety.org.au

Review Board Chair under the Professional Standards Ordinance 2012 of the Anglican Diocese of Newcastle (2017 – 2022)

Member of the Australian Association of Constitutional Law; Australian Institute of Administrative Law; Australasian Institute of Judicial Administration; Environment and Planning Law Association; Women Barristers Forum; Women Lawyers’ Association NSW; Diverse Women in Law

Mentoring: under the Diverse Women in Law Barrister Shadowing Program; and the Sydney University Law Society King & Wood Mallesons Women’s Mentoring Program (since 2014); under the mentoring program established by the Bar’s EEO committee (2005 – 2009 & and 2012); regularly judging Sydney University Law Society moots and other student competitions.

Bar Association Education Committee (2011 – 2017, Chair 2016 – 2017); subcommittees: Examination Working Party Chair and Bar Ethics examination Moderator (2009 – 2016); Working Party member (2002 – 2016); member former Education Committee Exams subcommittee (2001 – 2002); continuing involvement with the Bar Practice Course including judging applications and mock trials

Member of a Bar Association Professional Conduct Committee (2001 – 2007), and the Bar News Committee (2005 – 2012).