

## TIMOTHY STUART HALE SC BARRISTER

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Appointed Senior Counsel in 1999, Tim is a highly experienced barrister who is widely recognised for his expertise in property law, development and property-related litigation, commercial law and equity, administrative law and defamation law. He is also widely recognised for his experience in appearing before ICAC, where he has represented witnesses in several high-profile inquiries before ICAC, in compulsory examinations and public inquiries.

Having appeared in over two hundred cases reported in the law reports, Tim brings a wealth of technical knowledge and strategic insight to complex and high value disputes. He has acted for Multiplex, Rio Tinto, CSR (Rinker), Co X Strata, Multiplex, Lendlease, Stocklands, Australand, Cole Myer, Frasers Property Group Westfields, Port Waratah Coal Service, Gujarat NRE Coking Coal, Monier PGH, Shroeders Australia Property Management, News Limited and Nationwide News. He has also acted for New South Wales Ministers, Departments and Agencies, including the Valuer General, together with local authorities, community groups, liquidators, receivers, managers and administrators, as well as individuals.

Tim has made significant contributions to the development of the law in his areas of specialty, having appeared in many seminal and high-profile cases that have shaped the law in the property development and resources sector, particularly in the Land and Environment Court jurisdiction. He has appeared extensively in the High Court of Australia, New South Wales Court of Appeal, Supreme Court of New South Wales, the Federal Court of Australia and in all classes of the Land and Environment Court of New South Wales.

Tim has a long history of advising and appearing in defamation proceedings, including a number of the leading cases. He has acted for plaintiffs, the media and other defendants in many jury defamation trials as well as judge alone trials, and has considerable experience in appearing when media and publication issues arise during the course of criminal trials. He has also appeared in many defamation appeals, including to the High Court of Australia. In 2004, Tim was a member of the Commonwealth Attorney General's Working Party in relation to a possible national defamation law. He was a member of, and played a prominent role in, the NSW Bar Association Defamation Working Party in relation to the *NSW Defamation Bill 2005*.

In addition to his appearance in prominent inquiries by ICAC and advising parties of their rights and obligations under the ICAC legislation, Tim has presented papers about the workings of ICAC, including being a co-presenter at a NSW Bar Association seminar in July 2022 with the then Chief Commissioner of ICAC the Hon Peter Hall QC, entitled "*The Role and Aims of the NSW ICAC and Issues for Barristers Appearing Before ICAC*". Tim was recently interviewed about ICAC on the ABC's "The 7:30 Report". In 1988 he was a member of an ad hoc committee of the NSW Bar Association to consider and make representations about the *Independent Commission Against Corruption Bill 1988*. Tim is also the Current Vice Chair and Director of the Australian Turf Club and former Convenor of the Racing NSW Appeal Panel, under the *Thoroughbred Racing Act 1996*.

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## ADMISSIONS TO PRACTICE

- 2000 Appointed Senior Counsel in Western Australia
- 1999 Appointed Senior Counsel in New South Wales
- 1980 Admitted as a Barrister of the Supreme Court of New South Wales

## PROFESSIONAL QUALIFICATIONS

- Bachelor of Laws / Bachelor of Arts: University of Sydney

## PROFESSIONAL EXPERIENCE

- Barrister, Sixth Floor Selborne Wentworth Chambers
- Solicitor, Allen Allen & Hemsley (now, Allens Linklaters), Freehill Hollingdale and Page (now, Freehills): Sydney and Durrant Piesse (now, Hogan Lovells): London

## PRINCIPAL AREAS OF PRACTICE

- Appellate
- Environmental Law
- Commercial Law
- Equity
- Property Law
- Insolvency
- Administrative Law
- Land Valuations
- Defamation Law
- Commissions of Inquiry

## APPOINTMENTS

- 2022 – present Vice Chair, Australian Turf Club
- 2021 – present Board Member, Australian Turf Club
- 1996 – 1998 Part-time Acting Judge of the District Court of New South Wales

## SELECTION OF CASES

The following is a non-exhaustive list of cases in which Tim has appeared. Tim has appeared in more than 200 cases that have been reported in the law reports and has also appeared in many cases decided in the New South Wales Court of Appeal which have not been reported. The following is a selection of some of the more important of Tim's reported cases.

Given the sheer volume of cases in which Tim has appeared in the Land and Environment Court of New South Wales and Supreme Court of New South Wales, those cases have not been included in the list below.

### High Court of Australia

*Aktas v Westpac Banking Corp Ltd* (2010) 241 CLR 79 – defamation; qualified privilege; banking

*Aktas v Westpac Banking Corp Ltd (No 2)* (2010) 241 CLR 570 – variation of orders

*Marcolongo v Chen* (2011) 242 CLR 546 – Section 37A of the *Conveyancing Act 1919* (NSW); intent to defraud creditors

*Koompahtoo Local Aboriginal Land Council v Sanpine Pty Ltd* (2007) 233 CLR 115 – contract; established as the law of Australia discharge of contract for serious breach of an intermediate term

*Bateman's Bay Local Aboriginal Land Council v Aboriginal Community Benefit Fund Pty Ltd* (1998) 194 CLR 247 – standing in administrative law

*North Sydney Council v Ligon 302 Pty Ltd* (1996) 185 CLR 470 – validity of development consent

*Sydney City Council v Garbett Pty Ltd* [1995] HCA 2(1995) 69 ALJR 616 – council rates

*Registrar-General v Behn* (1981) 148 CLR 562 – the assurance fund under the *Real Property Act* 1900 (NSW)

### New South Wales Court of Appeal / New South Wales Court of Criminal Appeal

*Sydney Metro v Expandamesh Pty Ltd* (2023) 256 LGERA 174 – compulsory acquisition

*NSW Trustee and Guardian v Togias* (2022) 110 NSWLR 86 – equity / constructive trusts

*North Parramatta Residents Action Group Inc v Infrastructure New South Wales (No 2)* (2021) 248 LGERA 54 – validity of Part 5 approval for Powerhouse at Parramatta

*Arcidiacono v Owners of Strata Plan No 17719* (2020) 104 NSWLR 199 – easements

*Fyna Projects Pty Ltd v Chief Commissioner of State Revenue* (NSW) (2018) 99 NSWLR 673 – payroll tax

*Bayside Council v Karimbla Properties (No 3) Pty Ltd* (2018) 99 NSWLR 66 – valuation / rates

*Hakea Holdings Pty Ltd v Louisiana Properties Pty Ltd* (2018) 98 NSWLR 439 – planning / building / development

*Snowy Monaro Regional Council v Tropic Asphalts Pty Ltd* (2018) 362 ALR 359; (2020) 245 LGERA 219 – appeal from the Land and Environment Court of New South Wales to the Court of Criminal Appeal of NSW whether an offence known to the law was disclosed in the charge and duplicity

*Moorebank Recyclers Pty Ltd v Tanlane Pty Ltd* (2018) 236 LGERA 176 – validity of council resolution

*Minister for Resources and Energy v Gold and Copper Resources Pty Ltd* (2015) 89 NSWLR 134 – abuse of process

*Health Administration Corporation v George D Angus Pty Ltd* (2014) 88 NSWLR 752 – compulsory acquisition / valuation

*Burwood Council v Ralan Burwood Pty Ltd* (No 3) (2014) 206 LGERA 40 – validity of a construction certificate

*Moorebank Recyclers Pty Ltd v Tanlane Pty Ltd* (2012) 16 BPR 31,257;[2012] NSWCA 445 – easements

*Tobin v Ezekiel* (2012) 83 NSWLR 757 – wills / probate

*Valuer-General (NSW) v Perilya Broken Hill Ltd* (2013) 195 LGERA 416 – valuation

*Valuer-General (NSW) v New South Wales Golf Club* (2012) 192 LGERA 105 – valuation

*Botany Bay City Council v Saab Corp Pty Ltd* (2011) 82 NSWLR 171 – validity of conditions of development consents / personal liability of directors

*Sevenex Pty Ltd v Blue Mountains City Council* (2011) 183 LGERA 1 – existing use

*Halley v Minister Administering the Environmental Planning & Assessment Act 1979* (2010) 178 LGERA 327 – compulsory acquisition

*AMP Capital Investors Ltd v Transport Infrastructure Development Corporation* (2008) 163 LGERA 245 – valuation

*ISPT Pty Ltd v Valuer General (NSW)* (2009) 165 LGERA 25 – valuation

*Maitland City Council v Anambah Homes Pty Ltd* (2005) 64 NSWLR 695 – validity of conditions of development consent

*Hunter Development Brokerage Pty Ltd v Cessnock City Council* (2005) 63 NSWLR 124 – whether development consent had lapsed / physical commencement

*Woolworths Ltd v Pallas Newco Pty Ltd* (2004) 61 NSWLR 707 – seminal decision on jurisdictional fact and jurisdiction of the Land & Environment Court

*Weal v Bathurst City Council* (2001) 111 LGERA 181 – development consent; proper consideration

*National Parks & Wildlife Service v Stables Perisher Pty Ltd* (1990) 20 NSWLR 573 – jurisdiction of Land & Environment Court

### Federal Court of Australia

*Roozendaal v Fairfax Digital Australia and New Zealand Pty Ltd* (2015) 232 FCR 487 – defamation

*Dale v Veda Advantage Information Services and Solutions Ltd* (2009) 176 FCR 456 – defamation

*Digiplus Pty Ltd v RSL COM Partners Pty Ltd* (2003) 132 FCR 482 – section 171 of the Conveyancing Act

Independent Commission Against Corruption (ICAC)

Operation Whitney (2021)

Operation Aero (2019 – 2020)

Operation Acacia (2013)

Operation Jasper (2012 – 2013)

Operation Jarilo (2011 – 2012)