

JAMES JOHNSON

Barrister

FREDERICK JORDAN CHAMBERS

Ground Floor, 53 Martin Place, Sydney NSW 2000

DX 450 Sydney

T +61 2 9229 7384 M +61 418 965 872

F + 61 2 9210 0558

E chambers@jamesjohnson.com.au

James advises and appears for Commonwealth, State and Local Government authorities, corporations, community and conservation groups, developers and individuals in significant planning, environmental, property and construction litigation.

Possessing specialised knowledge and expertise in his fields of practice and with considerable experience appearing in both State and Federal courts, James' practice has extended abroad to East Timor, where he was appointed a Consultant for the United Nations Development Program (UNDP). Notably, he was also a co-opted expert member of the Commonwealth Hazardous Waste Technical Working Group, providing legal and policy advice to the Minister for the Environment regarding the issue of licenses to export and import waste.

Prior to being called to the Bar, James practised as a solicitor in private practice and then held the position of Director of the Environmental Defender's Office, during which time he conducted public interest test case litigation, law reform and policy initiatives. James was also a member of the Commonwealth EPA Advisory Board, and an Alternate Commissioner, and then Commissioner, of the Legal Aid Commission of New South Wales.

A contributing author to the Environmental Law Handbook 5th Edition 2011 (Chapter 7 – Commonwealth Environmental Law), James has also delivered papers and education programmes internationally, regarding topical issues in his fields of practice. He holds a Masters in Public International Law from the University of Leiden, and a Bachelor of Laws and Bachelor of Science (Physics) from the University of New South Wales. He has also received accreditation as a mediator by LEADR and regularly appears on behalf of clients at conciliation conferences.

ADMISSIONS TO PRACTICE

- 1999 Admitted to the Bar of New South Wales
- 1984 Admitted as a Solicitor of the Supreme Court of New South Wales and High Court of Australia

PROFESSIONAL QUALIFICATIONS AND COURSES

- 2003 Masters in Public International Law: University of Leiden
 - 1991 LEADR Mediation Accreditation Course
 - 1984 Bachelor of Laws: University of New South Wales
 - 1984 Bachelor of Science (Physics): University of New South Wales
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PRINCIPAL AREAS OF PRACTICE

- Administrative Law
- Building and Construction
- Environmental Crime
- Environment, Local Government and Planning

PROFESSIONAL EXPERIENCE

- 1999 – present Barrister, Frederick Jordan Chambers
- 2001 (4 months) Advisor, United Nations Development Programme (UNDP), East Timor
- 1992 – 1999 Director, Environmental Defender's Office, Sydney
- 1990 – 1992 Solicitor, Environmental Defender's Office, Sydney
- 1985 – 1989 Raft and mountain bike guide and trek leader (Australia, Nepal, China)
- 1987 – 1988 Solicitor, in sole practice (personal injury and commercial practice)
- 1985 – 1986 Solicitor, Benjafield Coyle and Shanahan (general legal practice)

PROFESSIONAL MEMBERSHIPS AND APPOINTMENTS

- Present Member, New South Wales Bar Association
- 2011 – present Member, Environment & Planning Law Group - Law Council of Australia
- 2008 – present Member, Land and Environmental Court Users Group
- 2010 – 2015 Member/Convenor, Committee of Management - The Wilderness Society
- 2000 – 2013 Advisor/Advocate, Federal Court Refugee Legal Advice Referral Scheme
- 2004 – 2005 Executive Member International Public Interest Defenders, Geneva, Switzerland
- 2000 – 2006 Member, Management Committee - Total Environment Centre, Sydney
- 2001 – 2002 Expert Member, Commonwealth Hazardous Waste Technical Working Group
- 1996 – 2000 Alternate Commissioner and Commissioner, Legal Aid Commission of NSW
- 1995 – 1996 Member, Commonwealth EPA Advisory Board

PUBLICATIONS

- *Prosecutions under the Environmental Planning and Assessment Act 1979 (NSW) - the new regime;* 2016, Australian Environment Review, Vol. 31 No. 4 p.211
- *Environmental Law Handbook* 5th Edition 2011 – chapter 7 on Commonwealth environmental law (Redfern Legal Centre Publishing)
- *Environmental Law Handbook* 4th Edition 2006 – chapter 7 on Commonwealth environmental law (Redfern Legal Centre Publishing)

SPEAKING ENGAGEMENTS

- *Environmental Prosecutions, an update on commencing and case managing proceedings, psychiatric evidence in the LEC and contempt proceedings:* Frederick Jordan Chambers - 2017
- *Directions hearings in the Land and Environment Court:* Law Society of NSW - 2016
- *Biodiversity Offsets in NSW:* Legalwise - 2015
- *Before Prosecution: Managing the critical steps before commencing a prosecution in the Land and Environment Court:* Legalwise – 2014

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- *The Future of Environmental Law: Biodiversity*: Environmental Planning Law Group Symposium, Law Council of Australia - 2011
 - *Encroachment of Buildings Access to Land and Easements*: College of Law - 2011
 - *Orders and Prosecutions*: College of Law - 2010
 - *Costs Orders in the Land and Environment Court*: College of Law - 2009
 - *Regular contributor: the Environmental Law Reporter*: 1999-2006, and to the Local Government Law Journal: 2005-2006
 - *Recent Developments in Commonwealth Environmental Jurisprudence*: EPLA Annual Conference - 2005
 - *Recent Developments in International Environmental Law*: EPLA Annual Conference - 2003
 - *Environmental Law and Development in East Timor*: EPLA Annual Conference - 2001
 - *ESD for the Practitioner*: address to the EPLA Annual Conference - 2000

SELECT CASES

NSW Court of Appeal

- *Cheetham v Goulburn Motorcycle Club Inc* [2017] NSWCA 83 – characterisation of a development for a motorcycle club
- *People for the Plains Inc v Santos NSW (Eastern) Pty Ltd* (2017) 220 LGERA 181 - a challenge to the proper characterisation of a CSG water treatment plant near Narrabri, and whether the Mining SEPP or the Infrastructure SEPP applied to the proposal
- *Burwood Council v Ralan Burwood Pty Ltd (No 3)* (2014) 206 LGERA 40 - defending a challenge to a construction certificate
- *Oshlack v Rous Water* (2013) 194 LGERA 39 – a challenge to a decision by a local authority to fluoridate water
- *Hoxton Park Residents Action Group Inc v Liverpool City Council* (2011) 81 NSWLR 638 – a challenge to the construction of a school, where the Council had deferred consideration of the environmental impact on an EEC of the construction of a bridge giving access to the school
- *Thaina Town (On Goulburn) Pty Ltd v City of Sydney Council* (2007) 71 NSWLR 230
- *Fordham v Fordyce* (2007) 154 LGERA 49
- *Alcoa Australia Rolled Products Pty Ltd v Weston Aluminium Pty Ltd* (2006) 148 LGERA 439 - James' client ultimately succeeded in the High Court
- *Lesnewski v Mosman Municipal Council* (2005) 138 LGERA 207
- *Dubler Group Pty Ltd v Minister for Infrastructure, Planning & Natural Resources* (2004) 137 LGERA 178

Land and Environment Court of NSW

- *The Council of the City of Sydney v Imaeda* [2017] NSWLEC 19; prosecution for using industrial site as accommodation; question of mental incapacity
- *Mosman Municipal Council v IPM Pty Ltd* (2016) 216 LGERA 252 – a challenge to a CDC
- *Environment Protection Authority v Wambo Coal Pty Limited* [2016] NSWLEC 125; plea in relation to fumes generated by mine blasting
- *Environment Protection Authority v Complete Asbestos Removal Pty Ltd; Environment Protection Authority v Endacott* [2016] NSWLEC 167; plea in relation to asbestos related offences

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- *Environment Protection Authority v Custom Chemicals Pty Ltd* [2016] NSWLEC 146; plea in relation to significant water pollution
 - *Lend Lease Communities (Wilton) Pty Ltd v Wollondilly Shire Council* [2016] NSWLEC 111; 12 day Class 1 appeal involving endangered ecological communities
 - *Environment Protection Authority v Hunter Water Corporation* [2016] NSWLEC 76; plea in relation to water pollution and breach of licence conditions
 - *Council of the City of Sydney v Adams* [2015] NSWLEC 206; prosecution relating to damage to listed heritage terraces at the Rocks
 - *Lane Cove Council v Orca Partners Management P/L (No 2)* (2015) 208 LGERA 114 – defending a challenge to a staged development consent granted under s.83B of the Environmental Planning and Assessment Act
 - *Environment Protection Authority v Sydney Water Corporation* [2015] NSWLEC 80; plea in relation to water pollution and breach of licence conditions
 - *Hoxton Park Residents Action Group Inc v Liverpool City Council (No.3)* (2012) 190 LGERA 119
 - *Oshlack v Rous Water* (2013) 194 LGERA 39
 - *Oshlack v Rous Water (No.2)* (2012) 189 LGERA 243
 - *Hoxton Park Residents Action Group Inc v Liverpool City Council* (2011) 81 NSWLR 638
 - *Oshlack v Rous Water* (2011) 184 LGERA 365 - the interaction of the Fluoridation Act with the Environmental Planning and Assessment Act
 - *Jeffman Pty Ltd and Lawrence Dry Cleaners Pty Ltd v Environment Protection Authority of NSW, Sydney Water Corporation and Douglas and Hilary Hutchinson* [2011] NSWLEC 89; appeal against contaminated land management order
 - *Hoxton Park Residents' Action Group Inc v Liverpool City Council* (2010) 178 LGERA 275
 - *Pittwater Council v A1 Professional Tree Recycling Pty Ltd (No 3)* (2009) 165 LGERA 6
 - *Pittwater Council v A1 Professional Tree Recycling Pty Ltd* (2008) 165 LGERA 1
 - *Robson v Lieschke* (2008) 72 NSWLR 98 - the leading authority on the principles of liability under the Trees Act
 - *Tegra (NSW) Pty Ltd v Gundagai Shire Council* (2007) 160 LGERA – a leading authority on interlocutory injunctions in the Land and Environment Court
 - *Walsh v Parramatta City Council* (2007) 161 LGERA 118
 - *The Pindimar Bundabah Community Association Incorporated v Great Lakes Council* (2007) 153 LGERA 113
 - *Elali v Campbelltown City Council* (2004) 135 LGERA 85
 - *Engadine Area Traffic Action Group Inc v Sutherland Shire Council* (No 2) (2004) 136 LGERA 365 – a leading authority on costs in public interest matters in the Land and Environment Court
 - *Engadine Area Traffic Action Group Inc v Sutherland Shire Council* (2004) 134 LGERA 75
 - *Billgate Pty Ltd v Woollahra Municipal Council* (2004) 136 LGERA 356
 - *Thornpast Pty Ltd v Parramatta City Council* (2004) 137 LGERA 409
 - *Australand Holdings Ltd v Parramatta City Council* (2003) 128 LGERA 411
 - *Holroyd City Council v Abouantoun* (2003) 140 LGERA 250
 - *Wyong Shire Council v Thomas Hughes Homes Pty Ltd* (2000) 111 LGERA 371

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- *Wyong Shire Council v Hughes* (2000) 106 LGERA 228
 - *Berowra RSL Community and Bowling Club Ltd v Hornsby Shire Council* (2000) 114 LGERA 345
 - *Berowra RSL Community and Bowling Club Ltd v Hornsby Shire Council* (2000) 109 LGERA 328
 - *Ambercone Pty Ltd v Rockdale City Council* (2000) 108 LGERA 171
 - *Connery v Manly Council* (1999) 105 LGERA 451