

TOM HOWARD SC

FREDERICK JORDAN CHAMBERS

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Tom Howard has been practising at the NSW Bar for more than 25 years. He is recognised as a leading Senior Counsel in planning and environmental law in the Doyle's Guide and in the Legal 500. He is acknowledged for his particular expertise in urban planning and development, local government, environmental crime, waste regulation, civil enforcement and judicial review.

Tom has a wealth of experience representing a range of clients in the NSW Land and Environment Court and in the NSW Court of Appeal and Court of Criminal Appeal, having appeared in a number of cases which are now leading authorities. He has also appeared before juries in criminal trials of indictable offences.

Tom also has experience in other Australian States and Territories, having appeared in environmental and planning cases in the Supreme Court and Court of Appeal of Victoria and in the Supreme Court of the ACT and has represented clients in environmental litigation in Queensland and Tasmania.

Tom's broad-ranging client base consists of various State Government agencies and local councils and a wide range of private and corporate sector clients, including major mining and resource companies as well as non-government organisations conducting public interest litigation.

Tom has also represented clients in statutory inquiries and was appointed by the Minister for Local Government as Commissioner presiding in an inquiry into North Sydney Council in 2016.

Prior to being called to the Bar in 1999, Tom practised as a solicitor at top-tier law firm Allen Allen and Hemsley (now, Allens Linklaters) and later at the NSW Environment Protection Authority, where he received three New South Wales public service outstanding performance awards.

APPOINTMENTS AND ADMISSIONS TO PRACTICE

- 2013 Appointed as a Senior Counsel
- 1999 Admitted to the Bar of New South Wales
- 1991 Admitted as a Solicitor of the Supreme Court of New South Wales

PROFESSIONAL QUALIFICATIONS

- 1990 Bachelor of Laws: University of New South Wales
- 1990 Bachelor of Arts: University of New South Wales

PRINCIPAL AREAS OF PRACTICE

- Administrative Law
- Criminal Law
- Environmental, Local Government and Planning
- Environmental Crime

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PROFESSIONAL EXPERIENCE

- 2014 – 2016 Appointed as Environmental Counsel for the Environment Protection Authority
- 1999 – present Barrister, Frederick Jordan Chambers
- 1994 – 1999 Solicitor, NSW Environment Protection Authority
- 1992 – 1994 Solicitor, Allen Allen and Hemsley (now, Allens Linklaters)

ACCOLADES

- Recipient of three NSW Public Service outstanding performance awards while employed by the Environmental Planning Authority
- *Doyle's Guide*: Recognised as "Recommended" and "Leading" Senior Counsel - Planning and Environment Barristers – NSW 2017

PROFESSIONAL MEMBERSHIPS

- Member, New South Wales Bar Association

PUBLICATIONS

- *Local Government Planning and Environment Service* - Lexis Nexis, Volume D, current loose-leaf service: joint author with Lloyd QC of the commentary on the Protection of the *Environment Operations Act*
- *Liability of Directors for Environmental Offences* – The anything-but-level playing field in Australia: August 2000, Volume 17 Environmental and Planning Law Journal
- *Prosecution of Environmental and Planning Offences in New South Wales* – How Local Councils and other prosecuting authorities can meet the enforcement challenge: Local Government Law Journal of Australia - Volume 6, No 3, February 2001

SELECT CASES

- *Cunneen & Ors v Independent Commission against Corruption* [2014] NSWCA 421 - The NSW Court of Appeal found ICAC acted without jurisdiction in relation to its investigation of Ms Cunneen SC and others
- *Environment Protection Authority v Terrace Earthmoving Pty Ltd* (2013) 84 NSWLR 679 - Court of Criminal Appeal clarification of the ambit of "waste" as defined under the Protection of the Environment Operations Act
- *Caltex Australia Petroleum Pty Ltd* [2017] NSWLEC 8 - A tier 1 prosecution of a petroleum company for a pollution incident at a major petroleum storage facility
- *Inquiry into North Sydney Council under the Local Government Act 1993* - presided as Commissioner appointed by the Minister for Local Government

- *Delta Electricity Pty Ltd v Blue Mountains Conservation Society* (2010) 176 LGERA 424 - Major decision of NSW Court of Appeal on costs capping in public interest litigation
- *Blue Mountains Conservation Society v Delta Electricity Pty Ltd* (2011) 81 NSWLR 407 - concerned the ambit of the jurisdiction of the Land and Environment Court to grant injunctive relief under the *Protection of the Environment Operations Act*
- *Brown Brothers Waste Contractors v Pittwater Council* 90 (2015) NSWLR 717 - NSW Court of Appeal clarification of discretionary considerations applying where an accused seeks to withdraw a plea of guilty
- *Water NSW v Faulkner* (2016) 216 LGERA 353 - application of s 30 of the *Interpretation Act* preserving the right to commence proceedings under repealed regulations
- *Southon v Beaumont* (2008) 69 NSWLR 716 - clarification of the extent to which investigatory powers under the *Protection of the Environment Operations Act* permissibly derogate from rights recognised under the *International Covenant on Civil and Political Rights*