

# Zelie C F Heger

**Eleven Wentworth**  
Level 11, 180 Phillip St  
Sydney NSW 2000  
DX 377 SYDNEY

heger@elevenwentworth.com  
Tel: +61 2 9101 2307  
Fax: +61 2 9232 7626

## Outline

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**Areas of practice:** Public and commercial law, including statutory interpretation, judicial and merits review, constitutional law, environment and planning law, revenue law, corporations law, equity and contract.

**Admitted to practice:** 9 April 2010

**Called to the Bar:** May 2013 (Highest Aggregate Mark in June 2012 Exams)

**Qualifications:** BA LLB (University Medal in Law and Hons I) (USYD); LLM (Cambridge)

**Employment history:** Solicitor, A/Senior Solicitor – NSW Crown Solicitor’s Office (Administrative Law Group, Constitutional and Native Title Law Group)

Associate to the Hon. Chief Justice French AC, High Court of Australia

Associate to the Hon. Chief Justice Black AC, Federal Court of Australia

Lecturer in Evidence – University of Sydney, University of Technology Sydney

## Education

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2010 – 2011

### **Master of Law, University of Cambridge**

- Studied on a *John Monash Scholarship, Cambridge Commonwealth Trust Scholarship* and *University of Sydney Travelling Scholarship*
- Awarded First Class grade
- Glanville Williams Prize (best performing LLM student at Jesus College)
- Sir Peter Gadsden Prize (best performing Australian at Jesus College)
- Jesus College Foundation Scholarship
- Thesis focused on statutory interpretation and the separation of powers

2003 – 2007

### **Bachelor of Laws, University of Sydney**

- University Medal and First Class Honours
- Awarded various LLB prizes, including for Litigation (Evidence and Procedure), Third Year Law (Federal Constitutional Law; Law Lawyers & Justice) and International Law
- World Champions of Jessup International Law Moot (2007) with Dillard Award for Best Memorial; and awards for Best Applicant, Respondent and Overall Memorial in the Australian Rounds
- USYD Scholarship for Outstanding Achievement in the HSC
- Exchange Scholarship to Universiteit Utrecht

- 2003 – 2005      **Bachelor of Arts (Philosophy; Government), University of Sydney**
- Emeritus Prof FA Bland Prize, John S D’Arcy Prize for Third Year Govt
  - Tish Proctor Memorial Prize, Turner Prize for First Year Govt
- 2002                **Higher School Certificate, Pymble Ladies’ College**
- University Admissions Index: 100.00
  - Dux of the School
  - First in State for Classical Greek; Premier’s Award for All-Round Excellence; Australian Students’ Prize

## Employment

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- 2011 – 2013      **NSW Crown Solicitor’s Office**
- A/ Senior Solicitor, Constitutional and Native Title Law Group
    - Drafted advices on constitutional and native title law
    - Briefed Attorney General on intervention in constitutional law cases
    - Instructed in proceedings under the *Aboriginal Land Rights Act 1983*
  - Solicitor, Administrative Law Group
    - Drafted advices on administrative law and statutory interpretation
    - Appeared as solicitor advocate in proceedings before the Administrative Decisions Tribunal and for the Attorney General in *Kboury v Mental Health Review Tribunal* (2012) 84 NSWLR 445
    - Instructed in judicial review proceedings
- 2013                **Casual Lecturer in Evidence, University of Sydney**
- 2012                **Tutor in Evidence & Criminal Procedure, University of Technology**
- 2009 – 2010      **Associate to the Hon Chief Justice French AC, High Court of Australia**
- 2009                **National Human Rights Consultation, Attorney-General’s Department**
- Engaged by the Department to assist the Brennan Committee in writing its final report to Government
- 2008 – 2009      **Associate to the Hon Chief Justice Black AC, Federal Court of Australia**
- 2008 – 2009      **Researcher, UN Guidelines on Human Trafficking**
- Assisted Dr Anne Gallagher in drafting the legal commentary to the *UN Recommended Principles and Guidelines on Human Rights and Human Trafficking*

## Selected appearances

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### Constitutional law

*Re WS (No 2)* [2017] NSWSC 475 – adoption application – inconsistency between Cth Family Law Regulations and *Adoption Act 2000* (NSW) – appeared for Cth AG, instructed by AGS

*Bell Group NV & Anor v State of Western Australia* [2016] HCA 21 – validity of WA legislation removing funds from Bell Group liquidator and vesting them in WA State authority – inconsistency with Cth Tax and Corporations legislation – instructed by AGS – led by J Gleeson SC, J Watson and M O’Meara

*Duncan v Independent Commission Against Corruption* [2015] HCA 32 – validity of NSW legislation validating various corrupt conduct findings against Cascade Coal directors – instructed by NSW Crown Solicitor’s Office – led by B Walker SC, G Watson SC and S Free

*Duncan v State of NSW; Cascade Coal Pty Ltd & Ors v State of NSW; Nucoal Resources Ltd v State of NSW* [2015] HCA 13 – validity of NSW legislation cancelling Cascade Coal exploration licences - instructed by NSW Crown Solicitor’s Office – led by M G Sexton SC and S Free

### **Administrative law / statutory construction**

*Banerji v Minister for Immigration and Border Protection & Ors* [2017] HCATrans 101 – application for summary dismissal – judicial review of termination of employment – instructed by Ashurst

*Duncan v Independent Commission Against Corruption* [2016] HCATrans 305 (application for special leave); [2016] NSWCA 143; [2014] NSWSC 1018 – judicial review of ICAC’s corrupt conduct findings against Cascade Coal directors – instructed by NSW Crown Solicitor’s Office – led by B Walker SC/G Watson SC and S Free

*Boele v Rinbac Pty Ltd* [2015] HCATrans 156 – application for special leave – judicial review of District Court’s decision made in exercise of appellate jurisdiction under *Consumer, Trader and Tenancy Tribunal Act 2001* (NSW) – instructed by Fox & Staniland Solicitors – led by B Walker SC

*Board of Studies, Teaching & Educational Standards v Vandendovenkamp* [2016] NSWCA 268 – construction of *Education Act 1990* (NSW) – s 109 inconsistency with parenting orders made under *Family Law Act 1975* (Cth) – direct brief – led by J K Kirk SC

*Stuart v A/Deputy Secretary of Department of Justice* [2016] NSWSC 1179 – application for judicial review of declaration applying lock out laws to Sydney CBD Bar – instructed by NSW Crown Solicitor’s Office

*SZTWD v Minister for Immigration and Border Protection* [2015] FCAFC 3 – application for judicial review of refusal of protection visa – pro bono direct brief

*Petch v ICAC & Minister for Local Government*, Ex tempore, 2 December 2014 – application to restrain Minister from advising Governor on Councillor Petch’s dismissal – instructed by NSW Crown Solicitor’s Office

*Seven West Media Ltd v Commissioner, Australian Federal Police* [2014] FCA 263 – application for judicial review of warrants issued to Channel Seven under *Proceeds of Crime Act 2002* (Cth) in respect of interviews with Schapelle Corby – instructed by Atanaskovic Hartnell – led by A Bell SC, G Jones and D Thomas

*EY v Guardianship Tribunal NSW* [2013] NSWCA 349 – application for leave to appeal – appointment of guardian under *Guardianship Act 1987* (NSW) – instructed by NSW Crown Solicitor’s Office

### **Environment and planning**

*Local Democracy Inc v Minister for Local Government & Ors* [2018] NSWLEC 9 – separate question – whether applicant should be granted an extension of time to challenge proposed amalgamation of Woollahra, Waverley and Randwick Councils – instructed by NSW CSO – led by A S Bell SC

*Residents Against Intermodal Development Moorebank Incorporated v Minister for Planning* [2017] NSWLEC 115 – summary dismissal – whether plaintiff inherited objector rights under *Associations Incorporation Act 2009* – instructed by Norton Rose Fulbright – led by A S Bell SC

*Millers Point Fund Inc v Lendlease (Millers Point) Pty Ltd & Ors* [2016] NSWLEC 166 – application for judicial review of modification to concept plan and SSD consent regarding Crown’s proposed casino at Barangaroo – instructed by Clayton Utz – led by I Pike SC

*Dravin Pty Ltd v Blacktown City Council* [2017] NSWLEC 38; [2016] NSWLEC 1447 – appeal from refusal to grant modification to development consent under s 96 of *Environmental Planning and Assessment Act 1979* (NSW) – instructed by Sparke Helmore

*Community Action for Windsor Bridge Inc v Roads and Maritime Services* [2015] NSWLEC 167 – application for judicial review of approval for demolition and reconstruction of Windsor Bridge under Part 5.1 of *EP&A Act* – instructed by Dept of Planning – led by J K Kirk SC

*Trustee for the Gerald & Catherine Barnard Family Trust t/as Walkabout Wildlife Park v Minister for Planning and Infrastructure* [2015] NSWLEC 1465 – merits review of approval for Calga sand mine – instructed by Dept of Planning – led by J Hutton

*Darkinjung Local Aboriginal Land Council v Wuyong Coal Pty Ltd* [2014] NSWLEC 71 – statutory construction – validity of application for State significant development – instructed by Ashurst – led by S Free

*Northern Inland Council for the Environment Inc v Minister for Environment, Heritage and the Arts* [2013] FCA 1419; [2013] FCA 993 – application for judicial review of Maules Creek Coal Project approval under *Environment Protection and Biodiversity Conservation Act 1999* (Cth) – instructed by Ashurst – led by N Williams SC and S Free

### **Tax / revenue law**

*Al-Jaafari Society Inc v Chief Commissioner of State Revenue* [2017] NSWCATAD 283 – merits review of Chief Commissioner’s decision to reject application for exemption from stamp duty – appeared for Chief Commissioner – instructed by NSW Crown Solicitor’s Office

*Commissioner of Taxation v Primary Health Care* [2017] FCAFC 131 – appeal from AAT decision (below) – instructed by King & Wood Mallesons – led by M Richmond SC

*Primary Health Care Limited and Commissioner of Taxation* [2017] AATA 393 – merits review of Commissioner’s refusal to extend time for objection to notice of assessment under s 14ZX of *Taxation Administration Act 1953* (Cth) – instructed by King & Wood Mallesons – led by M Richmond SC

*Soong v Commonwealth Department of Public Prosecutions* [2014] NSWSC 1030 – appeal from Local Court conviction under *Taxation Administration Act 1953* (Cth) – instructed by Diamond Conway Lawyers – led by I Pike SC

### **Corporations law**

*ASIC v Whitebox Trading Pty Ltd* [2017] FCAFC 100 – whether *Criminal Code* (Cth) applies in civil penalty proceedings under Pt 9.4B of *Corporations Act 2001* (Cth) – appointed by the Court to act as contradictor, instructed by Quinn Emanuel – led by J Gleeson SC

*Wambo Coal Pty Ltd & Anor v Sumiseki Materials Co Ltd* [2015] HCATrans 56 – application for special leave – construction of constitution, oppression – instructed by Allens – led by N C Hutley SC

### **Contract**

*Dispute between two resources companies* (2017) – arbitration before the Hon Kevin Lindgren – instructed by Piper Alderman – led by A Sullivan QC

*Woolworths Limited v About Life Pty Ltd* [2017] NSWSC 1117 – priorities dispute between Woolworths and Harris Farm regarding lease of premises at Kiaora Lane shopping centre in Double Bay – construction of right of first refusal granted to Woolworths – instructed by Corrs Chambers Westgarth – led by M J Darke SC

*Owners Corporation of SP 71623 v Waldorf Apartments Hotel The Entrance Pty Ltd* [2015] NSWSC 1658 – breach of fiduciary duties – construction of building management agreement – instructed by Paul Bard Lawyers – led by M Izzo

*AAI Limited t/as Vero Insurance v Solarus Projects Limited (in liq)* [2014] NSWCA 168 – application for leave to appeal from order for separate question hearing – construction of insurance policy – instructed by DLA Piper Australia – led by A Leopold SC

*Lend Lease Project Management & Construction (Australia) Pty Ltd v Kellogg Brown and Root Pty Ltd* [2013] NSWSC 1142 – construction of professional services agreement – instructed by Curwoods Lawyers – led by P Greenwood SC

### **Equity / trusts / property**

*Walsh v Attorney General of NSW* (2018, resvd) – application for judicial advice under s. 63 of *Trustee Act 1925* – questions affecting charitable trusts – appeared for NSW AG, instructed by NSW CSO

*Woolworths Limited v About Life Pty Ltd* [2017] NSWSC 1117 – priorities dispute between Woolworths and Harris Farm regarding lease of premises at Kiaora Lane shopping centre in Double Bay – instructed by Corrs Chambers Westgarth – led by M J Darke SC

*Glasby & Ors as trustees of the BCS Foundation v Attorney General of NSW* [2017] NSWSC 837 – charitable trusts – application for cy-près scheme – appeared for NSW AG, instructed by NSW CSO

*Owners Corporation of SP 71623 v Waldorf Apartments Hotel The Entrance Pty Ltd* [2015] NSWSC 1658 – breach of fiduciary duties – construction of building management agreement – instructed by Paul Bard Lawyers – led by M Izzo

### **Tort**

*Sparks v Hobson* (2018, resvd) – application for special leave – medical negligence – application of ss. 51 and 50 of the *Civil Liability Act 2002* – instructed by Avant Law – led by J K Kirk SC, K Burke

*Wright, Glen bht James Stuart Wright v Optus Administration Pty Limited & Anor* [2017] HCATrans 159 – application for special leave – negligence – reasonable foreseeability – aggregation of corporate employees' knowledge – instructed by Firths – led by B Walker SC

*Norris v Routley* [2017] HCASL 104 (application for special leave, decided on papers); [2016] NSWCA 367; [2015] NSWSC 883; [2015] NSWSC 1875 – hearing on quantum – action under *Compensation to Relatives Act 1897* (NSW) for damages arising from death of husband due to medical negligence – instructed by Avant Law – led by J K Kirk SC

### **Criminal law / coronial inquests**

*RG v The Queen* [2017] HCASL 319 (decided on papers) – application for special leave – appeal from conviction for shoot with intent to murder – instructed by Bannister Lawyers – led by B Walker SC, A Djemal

*Buckman v The Queen* [2014] HCATrans 204 – application for special leave – inconsistency between Cth and NSW drug laws – instructed by Legal Aid NSW – led by C Loukas SC, J Lucy

*Soong v Commonwealth Department of Public Prosecutions* [2014] NSWSC 1030 – appeal from Local Court conviction under *Taxation Administration Act 1953* (Cth) – instructed by Diamond Conway Lawyers – led by I Pike SC

*Inquest into the death of Hugh Lisle*, 8 May 2014 – appeared for the Lisle family – direct brief

### **Practice and procedure**

*Pacific Equity Partners Pty Ltd v Kernwick* [2017] NSWSC 1302 – application for preliminary discovery – alleged disclosure of private equity firm’s confidential “track record” – instructed by King & Wood Mallesons – led by J K Kirk SC

*Bengalla Mining Company Pty Ltd v MACH Energy Australia Pty Ltd* [2017] NSWLEC 121 – motion to set aside subpoenas and notice to produce – instructed by Sparke Helmore

*Waldorf Apartments Hotel The Entrance Pty Ltd & Ors v Owners Corporation of SP 71623* (Resvd) – motion for interest on costs under former s 101(4) CPA – instructed by Paul Bard Lawyers

*Norris v Routley* [2016] NSWSC 147 – costs – validity of offer of compromise (UCPR 42.15) – whether commencement/continuation of proceedings in Supreme Court rather than District Court warranted (UCPR 42.34) – instructed by Avant Law

*Darkinjung Local Aboriginal Land Council v Wyong Coal Pty Ltd* [2014] NSWLEC 31 – motion for expedition – instructed by Ashurst

### **Privacy and freedom of information**

*AIN v Medical Council of New South Wales* [2017] NSWCATAP 21, 22, 23, 36 – various alleged breaches of the *Privacy and Personal Information Protection Act 1998* (NSW) – instructed by NSW Crown Solicitor’s Office

*Eyes v Wyong Shire Council* [2015] NSWCATAD 214 – application under *Government Information (Public Access) Act 2009* in respect of new Warnervale Education and Business Precinct – instructed by Wyong Shire Council

*Office of Finance and Services v APV and APW* [2014] NSWCATAP 88 – whether information “personal information” within meaning of *Privacy and Personal Information Protection Act 1998* (NSW) – instructed by NSW Crown Solicitor’s Office

### **Sports law**

*Complaint by Fiona de Jong under AOC Ethical Behaviour By-Laws* (2017) – appeared for Ms de Jong, former CEO of the AOC, before an independent committee constituted to determine her complaint under the AOC Ethical Behaviour By-Law – instructed by Addisons – led by Sandy Dawson SC

*Spratt v Greyhound Racing NSW*, 15 January 2016 – appeal against Stewards’ finding that greyhound presented with prohibited substance – appeared for and instructed by Greyhound Racing NSW

*Hallinan & Ors v Greyhound Racing NSW*, 19 March 2015 – appeal by greyhound owners against suspension of greyhounds suspected of being trained with live bait – appeared for Greyhound Racing NSW, instructed by Gadens