

Brendan Lim SC

Barrister

Eleven Wentworth Chambers

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Practice

Admitted to practice: 2009

Called to the bar: 2014

Appointed silk: 2025

I am an experienced advocate and adviser in all areas of public and commercial law.

Practising nationally, I appear in trials and appeals in a range of forums including the High Court, where I have appeared in more than 30 Full Court matters, some as leading counsel, and many more applications for special leave to appeal.

I have achieved particular recognition for my work in constitutional and administrative law, and statutory interpretation, as well as in competition law, having acted in many significant enforcement, merger, and access proceedings. These specialisms rest on generalist skills and judgement, which I apply with versatility to solving complex or sensitive legal problems in a variety of practice areas.

I am recognised in directories such as Chambers and Partners, Legal 500 and Doyles Guide for commercial litigation, public law, and competition law.

Professional experience

2014–present

Barrister, Eleven Wentworth Chambers

2012–2013

Associate to Justice Stephen Gageler
High Court of Australia

2009–2011 and 2012

Counsel Assisting the Solicitor-General

Worked for Stephen Gageler SC in the preparation of advice to and litigation on behalf of the Commonwealth government. Appeared as junior counsel in domestic and international matters.

2007–2008

Associate to Justice Anthony Besanko
Federal Court of Australia

Education

Yale Law School

2013 **JSD** with John Addison Porter Prize
(awarded to the best work of scholarship in any field).
2009 **LLM**

Studied at Yale as a John Monash Scholar

University of Adelaide

2007 **LLB (Hons)** with University Medal in Law
2007 **B Mus (Hons)** with University Medal in Music
2004 **B Ma & Comp Sc** (Pure Maths & Statistics)

High Court of Australia

I have appeared in more than 30 matters before the High Court in a range of areas including constitutional, administrative, competition, property, equity, tort, evidence, procedure, electoral, migration, and family law. I have appeared in many more applications for special leave or removal, and single-judge matters.

As leading counsel, I conducted the appeals in:

- *La Perouse Local Aboriginal Land Council v Quarry Street Pty Ltd* [2025] HCA 35 (on whether leasing was a use of Crown land for the purposes of Aboriginal land claims); and
- *State of New South Wales v Wojciechowska* [2025] HCA 27 (on whether NCAT exercised judicial power in determining monetary claims under privacy legislation).

I have argued numerous special leave and other interlocutory applications.

When led by more senior counsel, including the Commonwealth Solicitor-General, I have assumed substantial speaking responsibilities in *Hopper v Victoria* (2026, ongoing), *Aboriginal Areas Protection Authority v Director of National Parks* [2024] HCA 16, *Zurich Insurance v Koper* [2023] HCA 25 and *Murphy v Electoral Commissioner* [2016] HCA 36.

Public law

I have argued many significant public law cases in the Federal Court and State and Territory Supreme Courts, including appeals. Some recent examples include:

- *Friends of Nyah Vinifera Park Inc v Minister for Environment and Water* (Federal Court, reserved, on proper assessment of offsets for approving development in critical habitat).
- *Cullen v President of the Legislative Council* [2025] NSWCA 238 (for the Premier's Chief of Staff, establishing the constitutional invalidity of provisions requiring the Supreme Court to issue arrest warrants for witnesses summoned in parliamentary proceedings).
- *Koper v Zurich Insurance* [2021] NSWSC 1587; [2022] NSWCA 128 (for the **Commonwealth Attorney-General** on the constitutional validity of the *Trans-Tasman Proceedings Act 2010*).
- *Aboriginal Areas Protection Authority v Director of National Parks* [2022] NTSCFC 1 (for the **Commonwealth Attorney-General** on the amenability of the Director of National Parks to criminal prosecution under Territory law).
- *Attorney-General (Cth) v Rex Patrick* [2024] FCAFC 126 (on the operation of FOI legislation in relation to a Minister's documents after leaving office).
- *BDR21 v Australian Broadcasting Corporation* [2023] FCAFC 101 (on the relationship between the *Parliamentary Privileges Act 1987* (Cth) and the *Public Interest Disclosure Act 2013* (Cth) including constitutional issues).
- *McNab v DPP (NSW)* (2021) 106 NSWLR 430 (on the nature of an appeal against conviction from the Local Court to the District Court).
- *Jabbour v Secretary, Department of Home Affairs* (2019) 269 FCR 438 (established availability of judicial review for unreasonableness of non-statutory executive power).

Commercial and competition law

I have appeared in many of the leading commercial and competition law cases, especially in regulated telecommunications, transport, digital, and energy sectors.

Examples include acting for:

- **Hutchies** in the leading case on the need for reciprocal commitment to constitute an “understanding” for Part IV of the *Competition and Consumer Act 2010* (Cth): ACCC v *J Hutchinson Pty Ltd* [2025] HCA 10.
- **Optus** in opposing an attempted infrastructure-sharing deal between Telstra and TPG: *Telstra and TPG v ACCC* [2023] ACompT 1.
- **NSW Ports** in its defence of enforcement proceedings concerning the privatization of Port Botany and Port Kembla: ACCC v *NSW Ports* [2023] FCAFC 16; [2021] FCA 720.
- **Pacific National** in its acquisition of the Acacia Ridge Terminal in Brisbane: ACCC v *Pacific National* [2020] FCAFC 77; [2019] FCA 669; [2018] FCA 1221.
- **Apple Inc** in the Epic Games litigation: *Epic Games v Apple, Inc* [2025] FCA 900.
- **Hydro Tasmania** in the first access arbitration under the National Gas Rules.
- **AGL** in relation to various regulatory matters under the National Electricity Law.

I am acting as lead counsel for **CSR Limited** in claims brought against it by a customer in relation to price increases and supply shortages during the COVID-19 pandemic.

I was lead counsel for **Employment Hero** in obtaining interim relief against SEEK Ltd to prevent termination of API access to its job search board.

I also acted for **Santos Ltd** in its defence of shareholder claims for alleged greenwashing.

Publications and presentations

I have published widely in the areas of constitutional law, statutory interpretation and federal jurisdiction. My writing on the principle of legality, hypothetical jurisdiction, and the *Kable* principle has been frequently cited by courts and law reform bodies.

Book

Australia's Constitution after Whitlam (Cambridge University Press, 2017; paperback 2018)

Book chapters

‘Federation’ in Peter Cane, Lisa Ford and Mark McMillan (eds), *The Cambridge Legal History of Australia* (Cambridge University Press, 2022)

‘Executive Power and the Principle of Legality’ in Lisa Burton Crawford and Janina Boughey (eds), *Interpreting Executive Power* (Federation Press, 2020)

‘Legitimacy’ in Cheryl Saunders and Adrienne Stone (eds), *Oxford Handbook of the Australian Constitution* (Oxford University Press, 2018)

‘Democratic Experimentalism’ in Rosalind Dixon (ed), *Australian Constitutional Values* (Hart Publishing, 2018) (co-authored with Gabrielle Appleby)

‘The Rationales for the Principle of Legality’ in Dan Meagher and Matthew Groves (eds), *The Principle of Legality in Australia and New Zealand* (Federation Press, 2017)

Journal articles

'Collective Irrationality and the Doctrine of Precedent' (2014) 38 *Melbourne University Law Review* 525 (co-authored with Justice Stephen Gageler)

'Laboratory Federalism and the *Kable* Principle' (2014) 42 *Federal Law Review* 519 (joint winner of the Saunders Prize for Excellence in Scholarship in Constitutional Law)

'The Normativity of the Principle of Legality' (2013) 37 *Melbourne University Law Review* 372

'Hypothetical Jurisdiction: A Reply to Justice Leeming' (2013) 87 *Australian Law Journal* 680

'The Case for Hypothetical Jurisdiction' (2012) 86 *Australian Law Journal* 616

'An Australian Reads *Living Originalism*' (2012) 34 *Sydney Law Review* 809

'Attributes and Attribution of State Courts — Federalism and the *Kable* Principle' (2012) 40 *Federal Law Review* 31 (winner of the Zines Prize for Excellence in Legal Research)

Book reviews and commentary

'Anne Carter, *Proportionality and Facts in Constitutional Adjudication*' (Book Review) (2025) 36 *Public Law Review* 76

'Book Forum on Appleby, Olinjyk, Stellios and Williams, *Judicial Federalism in Australia* (on AUSPUBLAW (3 November 2021)

'Book Forum on Susan Bartie's *Free Hands and Minds: Pioneering Australian Legal Scholars* on AUSPUBLAW (3 February 2021)

'The Continued Legacy of the *Engineers Case*' (Comment on Aroney) (2020) 94 *Australian Law Journal* 841 (co-authored with Rosalind Dixon)

'Coper, Roberts and Stellios (eds), *The Tasmanian Dam Case: 30 Years On*' (Book Review) (2018) 92 *Australian Law Journal* 312

'The Convergence of Form and Function: Commentary on Dixon' (2015) 43 *Federal Law Review* 505

Unpublished presentations

Commentator for Rebecca Ananian-Welsh, 'The 2025 Term: the High Court on Constitutional Law', G+T Centre Conference, 6 Feb 2026

'The 2022 Term: the High Court on Constitutional Law', G+T Centre Conference, 10 Feb 2023

'The second paragraph of s 90 of the Constitution', Centre for Comparative Constitutional Studies (Retrospectivity and the Rule of Law), Melbourne Law School, 21 July 2017

'ACMA v Today FM (Sydney) Pty Ltd', G+T Centre Conference, 13 Feb 2015

Community engagement

NSW Bar Association Committees: Diversity and Equality (2023-25); Professional Conduct (2018-19)

Law Council of Australia Voice Referendum Working Group (2023)

Aust. Assoc. of Constitutional Law: Council (2019-24); NSW Convenor (2016-2020)

Gilbert+Tobin Centre of Public Law: Fellow (2014-)

John Monash Scholarship Selections: National Panel (2023); NSW Panel (2016)