

Chelsea Brain
BA (with distinction), LLB (Hons 1),
LLM (with commendation)
Barrister, Maurice Byers Chambers
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OVERVIEW

Chelsea accepts briefs to appear and advise in all areas of the law with particular focus on criminal law (including white-collar crime), regulatory and civil penalty proceedings, intentional torts, administrative, constitutional and public law, and inquests/inquiries. Chelsea has extensive experience in managing large and complex briefs of evidence, and regularly advises on prospects, questions of statutory interpretation and evidentiary issues across various areas of law.

QUALIFICATIONS

August 2021	NSW Bar admission
December 2015	NSW lawyer admission

PROFESSIONAL EXPERIENCE

September 2021 -	Maurice Byers Chambers Barrister
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Aug 2018 – Aug 2021	Commonwealth Director of Public Prosecutions Prosecutor and Senior Federal Prosecutor, Illegal Imports and Exports/Human Exploitation and Border Protection – responsible for prosecutions for large drug importations, online and overseas child sex offending, visa and migration fraud offences, and human trafficking/slavery.
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Feb 2016 – Aug 2018	Australian Government Solicitor (Canberra) Counsel, Office of General Counsel – advised primarily on statutory interpretation, constitutional law and international law. Advised specifically on Part IC of the <i>Crimes Act 1914</i> , the <i>Migration Act 1958</i> , the <i>Defence Act 1903</i> and the introduction of new offences in the <i>Criminal Code (Cth)</i> . Also worked on regulatory and constitutional litigation.
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Jan 2018 – April 2018	UN Assistance to the Khmer Rouge Tribunal (Phnom Penh) Intern, Defence team for AO An
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Aug 2017 – Nov 2017 **Australian National University** - Tutor, International Law

2015 **Supreme Court of NSW** - Tipstaff to the Hon Justice Hall

EDUCATION AND AWARDS

2019 - 2020

Australian National University

LLM (with commendation)

- High distinction average and highest mark in LAWS8254 – Business and Human Rights
- Awarded Commonwealth Supported Place
- Areas of study included Advanced Evidence; Advanced International Law; National Security and Counter-Terrorism; Federal Litigation and Business and Human Rights

2010 – 2014

University of Newcastle

LLB (with first-class honours); BA (with distinction)

- NSW Bar Association Prize for Equity (2014)
- Faculty of Arts Commendation List (2012)
- Recipient of Undergraduate Scholarship (2010)
- Two semesters completed at Stockholm University, Sweden studying the International Convention on the Rights of the Child; International Criminal Law and Human Rights.

PROFESSIONAL MEMBERSHIPS

- Member of the Bar Association’s New Barristers Committee from 2022 onwards.
- Participant in the Bar Association’s Duty Barrister Scheme - 2021-2022.

SELECT EXPERIENCE AS COUNSEL

Criminal law

Chelsea regularly appears for both the prosecution and defendants in appeals, trials, contested summary hearings, mental health applications and release applications, and advises on prospects, evidentiary issues and investigations. Select cases include:

- *Flower v R; Mafiti v R* (reserved, NSW Court of Criminal Appeal) – sentence appeals, importation of commercial quantities of cocaine; led by R Ranken for the Crown.

- *Decision Restricted* [2024] NSWCCA 33 – conviction and sentence appeals, murder; led by G Wright SC for the Crown.
- *Purdon v Janet Cameron* (ongoing, Tasmanian Magistrates Court) – sentence proceedings for offences under the *Corporations Act 2001* relating to warehousing of shares; led by A McCauley for the prosecution.
- *EPA v Forestry Corporation of NSW* (ongoing, NSW Land and Environment Court) – prosecution of Forestry Corporation for alleged felling of hollow bearing trees and giant trees in Wild Cattle Creek State Forest, led by G Craddock SC for the EPA.
- *R v Shah and Shah* (discontinued, 2023, NSW District Court) – allegations of forced labour and trafficking for the purposes of exploitation under the Criminal Code; led by J Single SC for the Crown.
- *EPA v Forestry Corporation of NSW* (2023, NSW Local Court) – prosecution of Forestry Corporation for felling of trees in Mogo State Forest in breach of authorisation, two day hearing involving issues of statutory construction; unled for the EPA.
- *R v Farmann; R v Hashimy* (2022-2023, NSW District Court) – conspiracy to commit family day care fraud; led by G Wright SC for the Crown.
- *Police v Yang* (2023, NSW Local Court) – s 14 application and related MHRT proceedings; unled for the defendant.
- *Labban v The Queen* [2022] NSWCCA 275 – sentence appeal; led by R Rodger for the Applicant.
- *Z v The Queen* [2022] NSWCCA 286 – sentence appeal; led by A Chhabra for the Applicant.
- *CDPP v Pendergast* (2022, NSW Local Court) – contested hearing for *Crimes at Sea Act 2000* offences; unled for the prosecution.
- *R v Mark De Hesselle* (2022, NSW District Court) – importation of commercial quantity of cocaine concealed in banana pulp; led by P McEniery for the Crown.
- *Environment Protection Authority v Forestry Corporation of NSW* [2022] NSWLEC 70 – sentence proceedings for unauthorised logging; led by G Wright SC for the EPA.
- *R v Lin* (2022, NSW District Court) – jury trial involving alleged attempted possession of marketable quantity of methamphetamine; unled for the Crown.
- *R v Quinn; Roberts* (2021, NSW Local Court) – two day contested hearing for importation of firearm parts; unled for the prosecution.
- Various other District Court sentence hearings and release applications at all levels primarily with respect to drugs, fraud and child exploitation charges (unled).
- Ongoing prosecutions and advice work for the EPA, Office of the Sheriff, Fair Trading, CDPP, NRAR and SafeWork NSW.
- Ongoing advice work and representation of companies and company officers in connection with investigations and prosecutions under the *Corporations Act 2001*.

Administrative, high risk offenders and other public law

- *LMSL v Minister for Immigration, Citizenship and Multicultural Affairs* (2024, Federal Court) – judicial review of AAT decision not to revoke visa cancellation, error in Tribunal’s decision conceded by the Minister; unled for the applicant.
- *Attorney-General (Cth) v Ghazzawy (Final)* [2024] NSWSC 208 and *Attorney-General (Cth) v Ghazzawy (Preliminary)* [2023] NSWSC 1527 – application by the Commonwealth for extended supervision of convicted terrorism offender; led by N Broadbent for the defendant.
- *CCU21 v Minister for Home Affairs* [2023] FCAFC 87; *CCU21 v Minister for Home Affairs* [2023] FCA 112 (costs); *CCU21 v Minister for Home Affairs* [2022] FCA 28 – judicial review, migration decisions; led by T Brennan SC, with K Heath for the applicant.
- *Gonzales v Attorney General for NSW and NSW Supreme Court* (discontinued, 2023, NSW Court of Appeal) – application for judicial review of unsuccessful CAR Act application; led by E Jones for the Attorney General.
- *Moree Plains Shire Council v Howlett* [2022] NSWCATAP 221 – appeal from decision at first instance under the *Government Information (Public Access) Act 2009* (NSW) relating to release of names of persons opposing a project; unled for the Council.
- *Marquart v Moree Plains Shire Council* (discontinued, 2022, NCAT) – *Government Information (Public Access) Act 2009* (NSW) application; unled for the Council.
- Various Supreme Court proceedings under the *Crimes (High Risk Offenders) Act 2006*, the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* (NSW) and the *Crimes (Appeal and Review) Act 2001*, unled.

Inquests and Inquiries

- Ongoing advice work in connection with inquest into a suspicious death – with P Aitken as Counsel Assisting.
- *Application by Sef Gonzales pursuant to s 78 Crimes (Appeal and Review) Act 2001 (NSW) (No 5)* [2024] NSWSC 182 – application under the CAR Act for review of murder convictions, unled for the Attorney General.
- *Application by Sef Gonzales pursuant to s 78 Crimes (Appeal and Review) Act 2001 (NSW) (No 4)* [2023] NSWSC 323 – application under the CAR Act for review of murder convictions, led by G Wright SC for the Attorney General.

Commercial, regulatory, torts

- *Langadinos v Toohey and Ors* (ongoing, NSW Supreme Court) – proceedings against psychiatrist and others in connection with gender transition; led by D Graham SC for the plaintiff.
- *ASIC v Union Standard International Group Pty Ltd and ors* (ongoing, Federal Court) – alleged breaches of the Corporations Act and the ASIC Act; led by M Painter SC with F Tao for the second defendant.

- Ongoing proceedings under the *Proceeds of Crime Act 2002* (Cth) (led and unled).

PUBLICATIONS AND TRAINING

- Presentation on Disclosure Obligations delivered to the AFP's Advanced Foreign Bribery Investigations program, October 2023, with D Bhutani.
- 'Introduction to Hearsay' training session delivered to the CDPP as part of 'Evidence Week' series, August 2022
- K Maat, L Hilly and C Brain, 'How to Remain Relevant and Privileged: s 38AA of the Administrative Appeals Tribunal Act 1975', *Australian Journal of Administrative Law*, 24(3), October 2017