

# PATRICIA McENIERY

Barrister

## WARDELL CHAMBERS

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Maintaining a practice in both civil and criminal litigation, Patricia regularly appears in a wide variety of jurisdictions, including the New South Wales Court of Criminal Appeal, the Supreme Court of New South Wales, District Court of New South Wales and the Administrative Appeals Tribunal. She has also appeared in the High Court of Australia on both special leave applications and at a full hearing.

Patricia's criminal practice sees her regularly acting unled as Crown Prosecutor for the Commonwealth DPP (CDPP) in long and complex trials including large drug importation matters involving multiple defendants, bribery of Commonwealth Officials' offences, money laundering and taxation offences, child pornography and grooming offences and for offences under the *Migration Act*. She has also appeared as Crown Prosecutor for the CDPP in Supreme Court trials in the Australian Capital Territory and the Northern Territory and in appellate matters.

Patricia regularly acts for regulatory bodies in relation to offences under the *Work Health and Safety Act* (2011) NSW, the *Home Building Act* (1989) NSW, the *Motor Dealers Act*, the *Crimes Act* (1900) NSW and the *Property Stock and Station Agents Act*. She has appeared for SafeWork NSW in coronial inquiries and before the NSW Consumer and Tenancy Tribunal in relation to the cancellation of licences under the *Explosives Act* and the *Work Health and Safety Act*. She also acts for large multi-national corporations and Commonwealth government departments that are defendants in Work Health and Safety matters. She appears for and provides advice to the Crown Solicitor's Office in a variety of civil and criminal matters.

Patricia has been appointed to the panel of legal practitioners to represent persons appearing before representative bodies and has represented clients in proceedings brought under the *Ombudsman's Act* (Operation Prospect Inquiry) before the Independent Commission against Corruption (Operation Greer).

In civil jurisdictions, she has appeared as Counsel for a wide variety of clients including multi-national companies in the Federal Court of Australia, the Supreme, District and Local Courts of New South Wales, as well as the NSW Consumer and Tenancy Tribunal. She has also appeared as Counsel in contested interlocutory hearings on substantive matters of law.

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### ADMISSIONS TO PRACTICE

- 2009 Called to the Bar of New South Wales
- 1995 Admitted as a Solicitor of the Supreme Court of New South Wales
- 1993 Admitted as a Solicitor of the Supreme Court of Queensland
- 1990 Admitted as a Solicitor of the Supreme Court of Northern Territory

### PROFESSIONAL QUALIFICATIONS

- 1996 Master of Laws (Commercial, Corporate and Taxation Law): University of New South Wales
- 1988 Bachelor of Laws (Honours): University of Queensland
- 1988 Bachelor of Arts: University of Queensland

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## PRINCIPAL AREAS OF PRACTICE

- Criminal Law
- Work, Health and Safety
- Regulatory Offences
- Proceeds of Crime
- Commercial Law
- Insolvency
- Property Law
- Competition Law
- Building and Construction Law

## PROFESSIONAL EXPERIENCE

- 2009 – present Barrister, Wardell Chambers
- 2004 – 2008 Senior Legal Officer, Commonwealth DPP
- 1997 – 2002 Senior Solicitor, Public Interest Advocacy Centre, Sydney
- 1995 – 1997 Associate, Commercial Litigation, Baker & McKenzie, Sydney
- 1993 – 1995 Solicitor, Commercial Litigation, Waters James McCormack, Darwin
- 1990 – 1993 Solicitor, Commercial Litigation, Philip & Mitaros (now Clayton Utz, Darwin)
- 1989 – 1990 Articled Clerk, Morris Fletcher & Cross

## PROFESSIONAL MEMBERSHIPS

- Member, New South Wales Bar Association

## SPEAKING ENGAGEMENTS

- Presentation to the Sydney Office of the Commonwealth Director of Public Prosecutions (CDPP) on *Prosecutorial Advocacy* – 2018

## SELECT CASES

- ***Cranney v R; Huynh v R*** [2017] NSWCCA 234 – Appeals against convictions by a Senior Customs Officer and another for conspiracy to import a commercial quantity of pseudoephedrine and bribery offences; whether evidence disclosed more than one conspiracy; whether miscarriage of justice occurred – Led by Mr Lincoln Crowley
- ***Jaafar v R*** [2017] NSW CCA 223 – Appeal against sentence; Conspiracy to import a commercial quantity of cocaine; whether lesser sentence warranted at law – Led by Ms Sarah McNaughton SC
- ***Director of Public Prosecutions (Cth) v Petroulias*** [2017] NSWSC 1290 – Superannuation order sought under the *Crimes (Superannuation Benefits) Act* 1989 (Cth); whether leave under s.82(1) of the *Bankruptcy Act* 1989 (Cth) required; whether offences “corruption offences”
- **Sentence proceedings under the *Work Health and Safety Act*:**  
*Safework NSW v MPMG FM Pty Ltd*, District Court NSW  
*Safework NSW v City Projects Pty Ltd*, District Court NSW, 15 December 2017, Judge D Russell  
*Safework NSW v Travis Brown*, District Court NSW, 24 November 2017, Judge D Russell  
*Safework NSW v Ceerose Pty Ltd*, District Court NSW, 13 November 2017, Judge AC Scotting  
*Safework NSW v Grip Asia Pacific Pty Ltd*, 14 August 2017, Judge AC Scotting
- ***Magaming v The Queen*** [2013] HCA 40 – Constitutional Law/Judicial power of the Commonwealth – mandatory minimum sentences; two overlapping provisions for sentence; whether prescription of mandatory minimum sentence conferred judicial power on prosecuting authorities – Led by Peter Neil SC.
- ***Magaming v The Queen*** [2013] HCA Trans 140

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- ***Karim v R; Magaming v R; Alomalou v R; Bayu v R; Lahaiya v R*** [2013] NSW CCA 23 – Constitutional law/Criminal law – mandatory minimum sentences; two overlapping provisions for sentences; whether valid – Led by Peter Neil SC and Michael McHugh SC
  - ***Bayu v The Queen*** [2013] HCA Trans 144 – Criminal Law and Procedure – Sentencing; Mandatory minimum penalty provisions; Application of general sentencing principles when a mandatory minimum sentence applies
  - ***Sunada v R; Jaru v R*** [2012] NSWCCA 187 – Conviction appeal led by Peter Neil SC
  - ***Commissioner of AFP v Dickson & Ors*** – Supreme Court, Common Law – *Proceeds of Crime Act* (Cth), money laundering offences – Ongoing, led by Sarah McNaughton SC
  - ***Commonwealth DPP v Vuong*** – Supreme Court, Common Law Division – Judgment of Davies J. – Forfeiture of property under the *Proceeds of Crime Act* (2002) Cth
  - ***NSW Food Authority v P & M Quality Smallgoods Pty Ltd*** (9 June 2010) – Judgment of Magistrate C.J. Barkell – Prosecution under the *Food Act* 2003 (NSW); Mediation before the Hon. I. Callinan QC, contested sentence proceedings – Led by the Hon. Robert Ellicott QC and Frank Lever SC
  - ***P & M Quality Smallgoods PO Ltd t/as Primo Smallgoods v Seven Network (Operations) Ltd & Anor*** – Supreme Court, Equity – Injurious falsehood; trade practices and competition law; breach of fiduciary duty – Led by Bruce McClintock SC
  - ***Commonwealth DPP v Milne*** – Supreme Court, Common Law Division – *Proceeds of Crime*; money laundering offences; examination conducted in AAT before Deputy President Tamberlin – Led by Greg Farmer SC
  - ***Commonwealth DPP v Mac*** – Supreme Court, Common Law, 2011 – *Proceeds of Crime*; restraining orders
  - ***Broken Bay Slipway Pty Ltd v The Yacht "Velsheda II"*** – 2012 Federal Court, Admiralty Division – jurisdiction of Federal Court under the *Proceeds of Crime Act*; for the intervener, the Commonwealth DPP
  - ***Reed Constructions Australia Pty Ltd v Midcoast County Council t/as Midcoast Water*** – Supreme Court, Technology and Construction List – contract; misleading conduct; equitable estoppels – Led by Benjamin de Buse