

## **CAL VINEY**

Koiki Mabo Chambers

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### **Areas of practice**

- Public and administrative law (merits review, trial and appellate).
- Commissions and inquiries.
- Native title and treaty law.
- Quasi-criminal law (mental impairment supervision orders; corruption commissions).
- Human rights law.
- Planning and environment law.
- Intentional torts (especially false imprisonment).
- Electoral and campaign finance law.
- Personal injury (judicial review of medical panel decisions).

### **Qualifications**

LLM (Public Law), London School of Economics (2012-13).

- Chevening Scholarship (Australian recipient for 2012-13), UK Foreign & Cth Office.
- Stanley De Smith Prize (awarded for the best performance in the public law specialism).

LLB (Hons), BA (Dist.), Deakin University (graduating 2010).

- Dean's Merit List Award for Law

### **Prior Experience**

- Deputy General Counsel/Senior Adviser to the former Premier of Victoria (2016-2021).
- Adviser, Department of the Prime Minister and Cabinet (Australia) (2014-2016).
- Lawyer, Hunt & Hunt Lawyers (2011-2012).

### **Sample list of recent and current cases (current as of February 2026)**

#### **High Court (special leave)**

- *Puobotaua v. Minister for Immigration and Citizenship & Anor*, B39/2025 (Counsel for the Applicant, led by L. Brown S.C., with N Petrie and C Fitzgerald, ongoing).
  - **Issues:** failure to warn of privilege against self-incrimination; procedural fairness; materiality.

- *WKMZ v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor* [\[2021\] HCATrans 195](#) (Counsel for the Applicant, led by Nick Wood S.C.).
  - **Issues:** migration law; rationality; speculation of tribunal.

### Intermediate Appellate Courts

- *CEO, Department of Environment, Science and Innovation v Nagana Yarrabayn Wangan and Jagalingou Cultural Custodians* [\[2026\] QCA 7](#) (Counsel for the Respondent on Appeal and Applicant on Cross Appeal, led by E. Nekvapil SC with Kasey McAuliffe-Lake).
  - **Issues:** *Human Rights Act 2019* (Qld) (Aboriginal cultural rights); *Environmental Protection Act 1994* (Qld) (failure to issue EPO or take action against Adani coal mine); *Civil Proceedings Act 2011* (Qld) (scope of declaratory relief).
- *Ramith v Homes Victoria & Ors* [\[2025\] VSCA 295](#) (Counsel for the Applicant, led by P. Czarnota, with S. Mullaly appearing at hearing due to parental leave).
  - **Issues:** procedural fairness; materiality; incorporated by reference; new evidence on appeal; statutory construction; *Wrongs Act 1958* (Vic); AMA Guides to the Evaluation of Permanent Impairment (4th Ed).
- *Capel Sound Foreshores Committee of Management v Prof. Sim & Ors* (Supreme Court of Victoria Court of Appeal, Counsel for the Applicant, led by P Czarnota, ongoing).
  - **Issues:** administrative law; statutory construction; *Wrongs Act 1958* (Vic); AMA Guides to the Evaluation of Permanent Impairment (4th Ed).
- *Moorabool and Central Highlands Power Alliance Incorporated v Minister for Energy and Resources* [\[2024\] VSCA 201](#) (Supreme Court of Victoria Court of Appeal, Counsel for the Plaintiff, led by N Wood S.C.).
  - **Issues:** statutory construction; delegated legislation; incompatibility; executive orders; unreasonableness; *National Electricity (Victoria) Act 2005* (Vic); National Electricity Law and Rules (RIT-T; transmission augmentation; ISP; AEMO powers and functions).
- *Citywide Service Solutions Pty Ltd v Rosata; Kabbout v Crown Melbourne Ltd & Ors* [\(2023\) 76 VR 499; \[2023\] VSCA 281](#) (Counsel for the Second Respondent, led by P. Czarnota.).
  - **Issues:** tort; non-economic loss; significant injury; statutory construction.
- *Victorian Workcover Authority v Robert Putrus* [\[2023\] VSCA 28](#) (Counsel for the Respondent, led by P. Czarnota).

- **Issues:** administrative law; mandatory relevant considerations; adequate reasons (Wingfoot); *Workplace Injury and Rehabilitation Act 2013* (Vic).
- *Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v FAK19 or Ors*; [\(2021\) 287 FCR 181](#); [\[2021\] FCAFC 153](#) (Counsel for the Respondent, led by N. Wood S.C. (for CZW20)).
  - **Issues:** judicial review; migration; correct understanding and proper consideration of role of non-refoulment obligations; jurisdictional error.

## Supreme Courts (Trial)

- *Ruiz-Matthyssen v Slater & Gordon Limited* (Supreme Court of Victoria, Counsel for the Defendant, led by M Hooper S.C., ongoing).
  - **Issues:** *Wrongs Act 1958* (Cth); gateway provisions; employment contracts; sub-contracting contracts; psychiatric injury; reputational harm; *Occupational Health and Safety Act 2004* (Vic); contract law; implied terms; breach of contract; defamation.
- *Baig v Toll Personnel Pty Ltd & Ors* [\[2025\] VSC 728](#) (Supreme Court of Victoria, Counsel for the First Defendant (the employer), led by M Fleming K.C.).
  - **Issues:** judicial review of medical panel decision (personal injury); factual error amounting to jurisdictional error; illogicality/irrationality of process; inadequate reasons; *WIRC Act 2013* (Vic).
- *Enright v Beard* [\[2025\] VSC 427](#) (Supreme Court of Victoria, Counsel for the Defendant, unled).
  - **Issues:** Criminal appeal on error of law; *Criminal Procedure Act 2009* (Vic); *Road Safety Act 1986* (Vic); leave to appeal; charge sheet validity; materiality.
- *Nagana Yarrbayn Wangan and Jagalingou Cultural Custodians Ltd v Chief Executive, Department of Environment, Science and Innovation* [\[2025\] QSC 132](#) (Supreme Court of Queensland, Counsel for the Defendant, led by E. Nekvapil S.C., with K. McAuliffe-Lake).
  - **Issues:** judicial review; human rights; environmental protection; dismissal under *Judicial Review Act 1991* (Qld); *Human Rights Act 2019* (Qld) (Aboriginal cultural rights); *Environmental Protection Act 1994* (Qld); *Civil Proceedings Act 2011* (Qld) (scope of declaratory relief).
- *Moorabool and Central Highlands Power Alliance v Minister for Energy and Resources* [\[2023\] VSC 774](#) (Counsel for the Plaintiff, led by Nick Wood S.C. with E. Nadon).

- **Issues:** validity of Minister orders overruling national electricity legislation; standing; adequacy of reasons; delegated legislation; uncertainty; improper purpose; inconsistency; *National Electricity (Victoria) Act 2005* (Vic); National Electricity Law and Rules (RIT-T; transmission augmentation; ISP; AEMO powers and functions).
- *Francis Plumbing & Gasfitting Pty Ltd v Davine & Ors* [\[2024\] VSC 538](#) (Supreme Court of Victoria, Counsel for the Plaintiff, led by M. Norton S.C.).
  - **Issues:** impairment benefit; denial of procedural fairness for a matter coming ‘out of the blue’ in panel decision; denial of procedural fairness.
- *Woodman v IBAC* [\[2022\] VSC 684](#) and *Woodman v IBAC (No 2)* [\[2022\] VSC 753](#) (Counsel for the Plaintiff, led by N. Wood S.C.).
  - **Issues:** procedural fairness obligations owed by Independent Broad-based Anti-Corruption Commission to person subject to compulsory powers; jurisdictional error.
- *Wortel v Disler & Ors* [\[2023\] VSC 646](#) (Counsel for the Sixth Defendant, led by M. Fleming K.C.).
  - **Issues:** judicial review of medical panel decision; misconstruction of question by panel; whether findings open to panel.
- *Douglass v Sunbeam Foods & Ors* [\[2023\] VSC 205](#) (Counsel for the First Defendant, led by M. Fleming K.C.).
  - **Issues:** judicial review of medical panel decision; current work capacity finding; mandatory relevant considerations; inadequate reasons.
- *Asuramanage v Anglican Aged Care Services Group & Ors* [\[2023\] VSC 525](#) (Counsel for the Defendant, led by M. Norton).
  - **Issues:** judicial review of medical panel decision; whole person impairment decision; mandatory relevant considerations; AMA Guides.
- *Addison-Radford v State of Victoria & Ors* [\[2023\] VSC 457](#) (Counsel for the Plaintiff, led by P. Czarnota).
  - **Issues:** judicial review of medical panel decision; whole person psychiatric impairment; proper application of the Guide to the Evaluation of Psychiatric Impairment for Clinicians; legal unreasonableness.
- *Putrus v Fish & Ors* [\[2021\] VSC 853](#) (Counsel for the Plaintiff, unled.)

- **Issues:** judicial review of medical panel decision; whether issue of chronic pain was squarely raised on the materials before the panel; mandatory relevant considerations; unreasonableness.
- *Appearances for the Attorney-General in applications pursuant to Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (unled, but generally suppressed). For example, *Re JRG* [2025] VSC 631R.
  - **Issues:** risk of re-offending; custodial supervision as against community supervision; HCR-20 tool for assessing risk of future violence; psychiatric expert evidence; NDIS supports; principle of parsimony.

### Federal Court (Trial)

- *Top End (Default PBC/CLA) Aboriginal Corporation RNTBC v Northern Territory of Australia and Others*, NTD 9 of 2025 (Federal Court, Counsel for the Applicant, led by S. Glacken K.C., ongoing).
  - **Issues:** native title future acts regime; validity of license to operate tourism park by Territory; unlawful exercise of power; conflict of laws.
- *BKN25 v the Commonwealth* (Federal Court, Counsel for the Applicant, led by L. De Ferrari S.C., with C. Fitzgerald, ongoing).
  - **Issues:** habeas corpus; judicial review; mandamus; calculating damages for unlawful imprisonment while in migration detention.
- *Gary John Murray & Ors on Behalf of the Wamba Wemba Native Title Group v State of Victoria and Ors* (Federal Court of Australia, Counsel for First Nations Legal and Research Services, unled, ongoing).
  - **Issues:** native title; solicitor conflict of interest; implied jurisdiction to protect integrity of judicial process.
- *Patrick Fagan & Ors on behalf of the Wadawurrung Native Title Claim v State of Victoria and Ors* (Federal Court of Australia, Counsel for the TBMY Respondents, unled, ongoing).
  - **Issues:** native title; native title interest; areas of overlap; oral history; historical records.
- *GPBL v the Commonwealth & Ors* [\[2024\] FCA 830](#) (Counsel for the Plaintiff, Federal Court of Australia, led by E. Nekvapil S.C.).
  - **Issues:** costs where Respondent's conduct amounts to complete vindication of Applicant claim; habeas corpus; unlawful detention.

- *Jolly v Australian Rail, Tram and Bus Industry Union* (Federal Court of Australia, Counsel for the Applicant, led by H. Borenstein K.C. with Y. Bakri, resolved).
  - **Issues:** industrial law; judicial review of Fair Work Commission decision.
- *PKZM v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [\[2021\] FCA 845](#) (Counsel for the Applicant, unled).
  - **Issues:** mandatory relevant considerations in migration law.

## Tribunals (Merits Review)

- *Partnership of Mr Campbell McCutcheon and Mr Casey McCutcheon 50 657 044 715 t/as MintBet and Victorian Gambling and Casino Control Commission* (VCAT, Counsel for the Respondent, led by Nick Wood S.C., ongoing).
  - **Issues:** gambling regulation; what amounts to problem gambling; obligations of online bookmakers to prevent problem gambling harm.
- *Ford v Victorian Electoral Commission (Review and Regulation)* [\[2023\] VCAT 737](#) (Counsel for the Applicant, led by Peter Willis S.C.); *McQuestin v Victorian Electoral Commission* [\[2023\] VCAT 591](#) (Counsel for the Interested Party, led by Peter Willis S.C.).
  - **Issues:** Electoral law; registration of how-to-vote cards and whether misleading or deceptive; candidate endorsement.
- *Cat Media Pty Limited, Carotino (Australia) Pty Limited, Pharm-a-Care Laboratories Pty Ltd and Minister for Health and Aged Care* [\[2022\] AATA 1254](#); [\[2023\] AATA 2792](#) (Counsel for the Respondent, led by Nick Wood S.C.).
  - **Issues:** Review of decision under *Therapeutic Goods Act 1989* (Cth) to cancel of listing of therapeutic goods; false or misleading advertising.
- *Henry Trucking Pty Ltd v Daniel Herrmann & Ors* [\[2023\] VCAT 1185](#) (Counsel for Viva Energy Australia Pty Ltd, led by Nick Wood S.C.).
  - **Issues:** Planning and environment; gas pipeline risk to health and safety.

## Commissions and Inquiries

- *Board of Inquiry into the McCrae Landslide*, [Final Report 2025](#) (Counsel for Mornington Peninsula Shire Council, led by K. Foley S.C., with E. Bateman and Dr. W. Phillips.)
  - **Issues:** cause of January 2025 landslide; geology; hydrology; erosion management; planning and environment law; planning scheme amendments; land use planning; emergency management; building and construction regulation; water law; expert evidence.
- *Inquest into the Death of Joshua Steven Kerr*, [Report of 2024](#) (Coroner's Court of Victoria, Counsel for the Department of Justice and Community Safety, led by L. Brown S.C.).
  - **Issues:** First Nations Death in custody; cause of death; private prison system emergency management; ambulance and hospital emergency care/assessment/discharge procedures.
- *Parliamentary Inquiry into the 2022 Flood Event in Victoria*, [Report of 2024](#) (Counsel for Campaspe Shire Council, unled).
  - **Issues:** October 2022 Victorian flood event; climate change; water law; planning and environmental law; building law; early warning systems; local government responsibilities within emergency management framework; flood management strategy.
- *Ombudsman Victoria Investigation into Alleged Politicisation of the Public Sector*, [Report of 2023](#) (Counsel for a person examined, led by Nick Wood S.C.).
  - **Issues:** cabinet confidentiality; procedural fairness obligations of Ombudsman; public sector neutrality/politicisation; Ministerial staff appointments and accountability; transport infrastructure project design/approval; election commitments.
- *Independent Broad Based Anti-Corruption Commission Operation Watts*, [Report of 2022](#) (Counsel for a person examined, unled).
  - **Issues:** Alleged branch-stacking within ALP; alleged mis-use of electoral officers, ministerial office staff and public resources; limits of IBAC and Ombudsmen jurisdiction.

## Significant advice

- *Electoral Funding Amendment Act 2025* (Cth) (Counsel for a major Federal political party, unled).

- **Issues:** legislation drafting and design; mediation and negotiation; constitutional implied freedom of political communication; campaign finance law; donations caps; campaign expenditure caps; parliamentary process.
- Electoral Amendment Bill 2025 (Victorian Parliament) (Counsel for a major State political party, unled).
  - **Issues:** legislation drafting and design; constitutional implied freedom of political communication; nominated entities regime; political expenditure limitations and caps.

## Publications

- Kateena O'Gorman SC and Cal Viney, 'Disclosure Obligations of Anti-Corruption Commissions: From Individual Fairness to Institutional Effectiveness' in Petrie N and Murphy J R, *Public Law and Criminal Law in Australia: Overlap, Intersection and Inconsistency*, Federation Press, 2025.
- Cal Viney & Thomas Poole, 'Independent Fiscal Institutions' in Masterman R and Schutze R, *Cambridge Companion to Comparative Constitutional Law*, Cambridge University Press, London, 2019.
- Martin Loughlin & Cal Viney, 'The Coalition and the Constitution' in Seldon A and Finn M, *The Coalition Effect: 2010-2015*, Cambridge University Press, London, 2015.