

# MATTHEW S. SMITH

Barrister, Thorndon Chambers



**YEAR OF CALL:** 2007

**DEGREES:** LLM (Harvard)  
LLB (1<sup>st</sup> Class Hons.) (Otago)  
BA - Politics (Otago)

## EXPERTISE

Matthew has a broad public and commercial law practice, encompassing regulatory, Māori, human rights and environmental law. He has special expertise in judicial review and in the use of public law tools to achieve legal, regulatory and policy outcomes. Matthew works across the entire range of public law and has acted for individuals, entities of many kinds (including companies, incorporated societies, Māori incorporations and trusts), public sector bodies (including Crown entities and commissions of inquiry), industry groups and NGOs.

Matthew has appeared in all of the higher Courts, and in a number of specialist courts and tribunals – in witness trials, banco (written evidence) proceedings and in appeals. In addition to his litigation work, Matthew is experienced in providing practical and understandable legal and strategic advice and support in a range of settings, including public inquiries, regulatory investigations, public consultation processes and Parliamentary/law reform processes. Matthew is currently a member of the external sub-committee of the Legislation Design and Advisory Committee, and has previously been appointed as an amicus curiae in High Court proceedings and as counsel assisting a public inquiry.

Matthew is also sole author of the *New Zealand Judicial Review Handbook* (2 ed., 2016) and he speaks regularly on public law and judicial review at law conferences and events.

Prior to joining Thorndon Chambers in 2011, Matthew worked as a Judges' Clerk at the High Court in Wellington, as a junior barrister at Stout Street Chambers, and as a Solicitor at Russell McVeagh. He attended Harvard Law School in 2008-2009, completing his LLM on a full scholarship as a Frank Knox Fellow.

## INSTRUCTIONS

Matthew can be instructed directly by solicitors. He also accepts instructions to junior for or otherwise provide assistance to senior counsel.

## ILLUSTRATIVE CASES

### Class Action Law

- *Southern Response Unresolved Claims Group v Southern Response Earthquake Services Ltd* [2016] NZHC 3105 (16.12.16) (certification as representative action); [2016] NZHC 2224 (20.9.16) (intervention): representative action against insurer relating to earthquake damage to Canterbury properties (junior counsel for the Group)

### Judicial Review

- *New Zealand Airline Pilots' Association Industrial Union of Workers Inc v Director of Civil Aviation* [2016] NZHC 1528 (6.7.16) (merits); [2016] NZHC 2409 (10.10.16) (costs): proposed airport runway extension (junior counsel for CAA)
- *Pub Charity Inc v Department of Internal Affairs* [2013] NZHC 1160 (21.5.13) (discovery); [2013] NZHC 3311 (12.12.13) (merits); [2016] NZCA 11, (2016) 22 PRNZ 814 (costs): accounting treatment for capital assets (junior counsel for PCI)
- *Waikanae Christian Holiday Park Inc v New Zealand Historic Places Trust Māori Heritage Council* [2013] NZHC 2319, [2014] NZRMA 381 (13.9.13); [2015] NZCA 23, [2015] NZAR 302 (24.2.15): wahi tapu areas (junior counsel for Waikanae CHP)
- *Pub Charity Inc v Secretary of Internal Affairs* [2015] NZHC 195 (17.2.15) (merits); [2014] NZHC 2146 (4.9.14) (interim relief): regulatory penalties (counsel for PCI)
- *NZ Pork Industry Board v Director-General for the Ministry of Primary Industries* [2013] NZSC 154, [2014] 1 NZLR 477 (20.12.13): development of Import Health Standards (junior counsel for NZ Beekeepers Association, intervening)
- *Ellis v Legal Complaints Review Officer* [2013] NZHC 3514, [2014] NZAR 220 (20.12.13): ethical requirement of direct instructions (counsel for Mr Ellis)

### Regulatory Law

- *Real Finance Ltd v Setefano* [2016] NZHC 2293 (27.9.16): power of Courts under CCCFA to reopen consumer credit contracts on their own initiative (amicus curiae)
- *Chorus Ltd v Commerce Commission* [2014] NZCA 440 (8.9.14): interim pricing principles set by the Commerce Commission for UBA (junior counsel for Vodafone)
- *Secretary for Internal Affairs v Pub Charity* [2013] NZCA 627, [2014] NZAR 177 (10.12.13); [2012] NZHC 3530, [2013] NZAR 249 (19.12.12): regulatory suspension powers (junior counsel for Pub Charity)
- *Secretary for Internal Affairs v Administration Management Services Ltd* [2013] NZHC 3498 (19.12.13): regulatory claw-back of money (junior counsel for AMSL)

## Māori Law

- *Wai 2358: Water Claim* (ongoing): contemporary Waitangi Tribunal claim concerning freshwater (junior counsel for New Zealand Māori Council)
- *Proprietors of Wakatū v Attorney-General* [2012] NZHC 1461 (26.6.12); [2014] NZHC 1785 (30.7.14) (caveats); [2014] NZSC 118 (8.5.15) (intervention); [2015] NZSC 54 (leave to appeal): Crown duties to Māori owners of Nelson and Motueka Tenths land (junior counsel for Wakatū Inc)
- *Attorney-General v Haronga* [2016] NZCA 626 (19.12.16): power of the Waitangi Tribunal to order resumption of CFL land (junior counsel for Mangatū Inc)
- *Proprietors of Wakatū v Curnow* [2014] NZHC 2782, (2014) 16 NZCPR 195 (7.11.14): rights to re-possession of Māori reserve land (counsel for Wakatū Inc)
- *Paki v Attorney-General* [2014] NZSC 118, [2015] 1 NZLR 67 (29.8.14): Crown duties to Māori owners of river/riparian land (junior counsel for Pouakani land owners)
- *Tuuta v Ngāti Mutunga o Wharekauri Iwi Trust* [2014] NZHC 1666 (15.7.14): conflict of interest and election provisions in a Māori trust deed (counsel for Mr Tuuta)
- *Re application by Tamati Mokena* (2014) Chief Judge's MB 314-330 (Māori Land Court, 1.7.14): rights of whāngai to qualify as successors to Māori land (counsel for Mr Morgan)
- *Green v Te Ropu Whakamana i te Tiriti o Waitangi (Waitangi Tribunal)* [2014] NZHC 723 (9.4.14): rights to use te reo in legal proceedings (junior counsel for Ms Green)

## Civil liberties and human rights

- *Seales v Attorney-General* [2015] NZHC 1210 (2.6.15); [2015] NZHC 1239, [2015] 3 NZLR 556, (2015) 10 HRNZ 418 (4.6.15): NZBORA right to physician-assisted suicide (junior counsel for The Care Alliance, intervening)
- *O'Brien v Immigration and Protection Tribunal* [2012] NZHC 2599, [2012] NZAR 1033 (11.10.12): best interests of the child in a deportation (counsel for Mr O'Brien)

## Environmental Law

- *Weir v Kapiti Coast District Council* [2013] NZHC 3522, (2013) 15 NZCPR 28 (19.12.13) (interim judgment); [2015] NZHC 43 (30.1.15) (final judgment): coastal erosion hazard/climate change information on LIMs (counsel for CRU, intervening)
- *Creswick Valley Residents Association Inc v Wellington City Council* [2012] NZHC 644, [2013] NZRMA 503 (4.4.12): RMA plan changes (junior counsel for CVRA)

2 February 2017