

---

# YOUNG'S LIST

---



## **Andrew Downie**

*Chancery Chambers and Melbourne TEC Chambers*

Level 26, 200 Queen Street

Melbourne Victoria

T: +61 3 8600 1783

List Y: +61 3 9225 6777

E: [downie@chancery.com.au](mailto:downie@chancery.com.au)

---

Admitted to practice as a barrister and solicitor of the Supreme Court of Victoria in 2004

Signed the Victorian Bar Roll in 2008

Member of the Tasmanian Independent Bar from 2012

### **Qualifications**

---

LLB (Hons) / BSc (Hons) – Monash University

Master of Commercial Law - The University of Melbourne

### **Practice Areas**

---

Building and Construction

Commercial Law

Consumer Credit

Corporations and Securities

Equity/Trusts

Infrastructure

Insurance Law

Professional Negligence

Property Law

Residential/Retail Tenancies

Trade Practices

Water Law

*From 1 July 2008 liability limited by a scheme approved under Professional Standards Legislation*





## **Professional Experience - summary**

---

Andrew is a barrister with a commercial practice.

Most of his matters involve technology, engineering and construction, and therefore complex expert issues - both financial and scientific - and extensive documentary evidence. Those matters frequently involve areas of law including contract, professional negligence, corporations, security of payment, property, insolvency, equity and trusts.

Because of the nature of his practice, Andrew is regularly involved in trials, confidential binding and non-binding dispute resolution processes, and interlocutory hearings. Andrew is also regularly briefed to give advice and to prepare pleadings and written submissions for his matters.

Andrew uses technology and prefers to conduct his matters electronically.

When he came to the bar, Andrew read with Richard Attiwill, QC, and his senior mentor was Mark Derham QC, now Associate Justice Derham of the Supreme Court of Victoria. Immediately prior to coming to the bar, Andrew was a dispute resolution lawyer at MolinoCahill Lawyers, specialising in large-scale construction, mining, infrastructure and defence projects. Prior to being admitted as a solicitor Andrew worked in the chemical sciences field.

Andrew is the chair of Melbourne TEC Chambers (MTECC). Andrew has worked on many committees during his time at the bar including the Bar Council, the Counsel Committee, the Health and Wellbeing Committee, the Essoign Club (as Treasurer), CommBar (including as Honorary Secretary), MTECC (as Treasurer and now Chair) and the editorial panel of the Australian Construction Law Bulletin.

Andrew's recent court matters include the \$15M Lacrosse docklands fire proceeding in VCAT (for the superintendent) and the \$16M Epworth hospital flood proceeding in the Supreme Court of Victoria (for the demolition subcontractor). At present, Andrew is briefed on behalf of a large property developer in respect of a \$500M project to assist on a complex confidential dispute resolution process involving substantial variation and extension of time disputes.

Andrew is listed in Doyles Guide as a leading construction barrister.



## Professional Experience – notable cases

---

Andrew has appeared as sole counsel, or led, in a range of courts and tribunals. Notable cases include (client underlined):

- *Owners Corporation No 1 of PS 613436T & Ors v Property Development Solutions & Ors* (VCAT No BP350/2016). Negligence – fire – non-combustibility requirements in the BCA - pure economic loss and property damage – apportionment. Resolved for the Superintendent shortly before trial.
- *Epworth Foundation & Anor v Piranha Services Pty Ltd & Ors* (S ECI 2017 00213 & 00194). Negligence – flooding – plumbing works – property damage – apportionment. Resolved shortly before trial.
- *Buxton Constructions (Vic) Pty Ltd v Newgrow Pty Ltd* (CCV CI-19-02161). Defects – liquidated damages – unfinished works – restitution for monies paid under security of payment legislation.
- *Leung v Harris* [2018] VCAT 1630 & [2019] VCAT 608. Water Act – unreasonable flow of water – steps to prevent flow - meaning of ‘interior face’ – damages awarded – costs awarded to applicant.
- *May Constructions Residential Pty Ltd v Creative Property Developments Pty Ltd* [2017] VCAT 484 & [2017] VCAT 1314. Led by F Tiernan QC. Injunction to restrain call on security – contracting party not owner of land – injunction dismissed – costs awarded to respondent.
- *Parkes & Anor v Yarra Valley Water Corporation* (VSC No. 2014 04964). Contract between a developer and a water authority – loss or damage claim – land development. Led by R Heath QC. Pending.
- *Quality Roads Pty Ltd v Baw Baw Shire Council* (VSC No. SCI 2015 06427). Road maintenance contract – duty of good faith and cooperation – incorporation of terms – allocation of Council funding. Pending.
- *Quality Roads Pty Ltd v Baw Baw Shire Council* (Ruling No 1) [2016] VSC 477. Summary judgment - statutory duty under s40 of the *Road Management Act 2004* (Vic) – economic harm.
- *Maxstra Constructions Pty Ltd v Aust Group Holdings Pty Ltd* [2015] VCC 78. Stay application – *Domestic Building Contracts Act 1995* – mixed use developments – stay granted.



## Publications and seminars

---

- Regular CPD contributions for MTECC, Leo Cussen, Legalwise and Law Institute of Victoria.
- Vignette contribution on time bars in the law textbook by Lukas Klee, *International Construction Contract Law* (1<sup>st</sup> Ed, 2014, Wiley and 2<sup>nd</sup> Ed, 2018)
- Seminar and paper for the 2014 National Mediation Conference: '*Crossing the line: misleading conduct, 'privilege' & good faith in mediation*', 10 September 2014
- Article for the Precedent journal (Australian Lawyers Alliance), '*Playing the ball and not the man – The duty to an opponent*' (2014) 123 Precedent 26
- Article for Construction Law International (International Bar Association), '*Time Bars as Penalties after Andrews v ANZ*' (2014)
- Article for the Law Institute Journal, '*A fair share of the blame*', (2014) 88.05 LIJ 48
- Article for the New South Wales Law Journal, '*Electronic briefs to counsel*' (2014) 52 LSJ 60
- Article for the Building and Construction Law Journal, '*Time Bars after Andrews v ANZ*' (2014) 30 BCL 7
- Regularly publishing articles in the Australian Construction Law Bulletin and Building Dispute Practitioner Society News.
- Regular case notes and articles for the Commercial Bar Association (CommBar) news and blog, particularly the Civil Procedure and Construction Law sections

## Past and present committee/board memberships

---

- MTECC executive (2013 to present), treasurer (2015 to 2019) and chair (2019 to present)
- Australian Construction Law Bulletin Editorial Panel (2015 to present)
- Commercial Bar Association (CommBar) Civil Procedure section, Secretary (2014 to 2017) and Officeholder (2017 to present)
- Executive Member of CommBar (2015 to 2017)
- Chair of the CommBar working committee updating the Supreme Court of Victoria's technology practice note (2016)
- CommBar, Honorary Secretary (2014 to 2015)
- The Essoign Club Ltd, Ass. Hon. Treasurer (2012 to 2013) and Hon. Treasurer (2013 to 2015)



- CommBar Construction Law section, Assistant Monitor (2012 to 2014)
- CommBar Sports Law section, Monitor (2012 to 2014)
- The Essoign Club Ltd, Assistant Honorary Treasurer (2012 to 2013)
- Health and Wellbeing Committee of the Victorian Bar (2011 to 2013)
- Victorian Bar Council and Counsel Committee (2011 to 2012)

#### **Current association memberships**

---

- Melbourne TEC Chambers
- The Building Dispute Practitioners' Society
- Society of Construction Law Australia, and the Society of Construction Law (UK)
- The Resolution Institute
- Law Council of Australia
- Commercial Bar Association
- Law Hawks