



**Andrew P. Downie**

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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**

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

Master of Commercial Law - The University of Melbourne

**Practice Areas**

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Bankruptcy/Insolvency

Building and Construction

Commercial Law

Consumer Credit

Corporations and Securities

Equity/Trusts

Professional Negligence

Property Law

Residential/Retail Tenancies

Trade Practices

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





## **Professional Experience - summary**

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Andrew has a predominantly commercial practice. He regularly appears in trials, arbitrations and interlocutory hearings across all jurisdictions. Andrew's work frequently involves complex expert issues (both financial and scientific) and extensive documentary evidence.

Andrew is regularly briefed to give advice and to prepare pleadings and written submissions for his matters. Andrew also regularly appears in complex interlocutory applications, including Anton Piller orders, freezing orders, injunctions, and receiver appointments.

Andrew regularly appears in technology, engineering and construction (TEC) matters and matters involving issues of property law, contract, equity, trusts and insolvency. Andrew's TEC matters include proceedings under or in respect of Australia-wide Security of Payment legislation, complex multi-party litigation, and alternative dispute resolution including expert determination and arbitration.

Andrew read with Richard Attiwill, Q.C., and his senior mentor was 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 and has been published in scientific journals, including the Journal of the American Chemical Society and CrystEngComm.

Andrew is listed in [Doyles Guide 2016](#) as a leading construction barrister.



## Professional Experience – notable cases – see case list for comprehensive listing

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

- *Creative Property Developments Pty Ltd v May Constructions Residential Pty Ltd* VCAT No. BP161 2017. Led by F Tiernan QC. Injunction to restrain call on security – contracting party not owner of land.
- *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.
- *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.
- *AMAR Produce Pty Ltd v Barooga Nurseries Pty Ltd & Anor* CCV No CI-12-06315. Representation about suitable strain of broccoli - misleading or deceptive conduct – conduit.
- *H Troon Pty Ltd v Laser Plumbing Ringwood North* SCV No S ECI 2015 000353. Judicial review – security of payment.
- *Maxstra Constructions Pty Ltd v Aust Group Holdings Pty Ltd* [2015] VCC 78. Stay application – *Domestic Building Contracts Act 1995* – mixed use developments.
- *Begonia Pty Ltd v H. Troon Holdings Pty Ltd*, VSC No. S CI 2014 000679. Defect proceeding – multi party – roads and infrastructure.
- *Davis v Robek Australia Pty Ltd and Anor* [2014] VSC 360. Summary judgment – offer of compromise – special circumstances warranting departure from usual order in R26.08(3).
- *Twigg v Byron Bay Hotel Properties Pty Ltd*, VSC No. S CI 2014 01183. Led by T North S.C. Appointment of provisional liquidator – winding up – injunction – deadlock.
- *Birch v Robek Australia Pty Ltd & Anor*, [2014] VCC 68. Return of a deposit for sale of land – *Flight v Booth* – methods of measurement of area.
- *Coinworks Pty Ltd v Noble Numismatics Pty Ltd*, VSC No. SCI 2013 1552. Led by Colin Golvan, Q.C. Stolen rare coin– no title– alleged misrepresentation of provenance by auctioneer.
- *Re Willmott Forests Limited (No 2)* [2012] VSC 125. Led by D Denton Q.C Winding up – sale of assets – forestry managed investment scheme.
- *Androvitsaneas v Members First Broker Network Pty Ltd* [2012] VCC 406. Termination of contract – injunction – national credit legislation – alleged misleading or deceptive conduct.



## Publications and seminars

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- Legal website and blog on commercial and civil practice (since February 2011): [www.the-civil-lawyer.net](http://www.the-civil-lawyer.net)
- Vignette contribution on time bars in the law textbook by Lukas Klee, *International Construction Contract Law* (2014, Wiley)
- 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.
- Regularly preparing material and instructing in seminars and workshops at Leo Cussen Institute, Law Institute of Victoria and Legalwise Seminars on evidence, civil procedure and other areas of practice.
- 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

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- Australian Construction Law Bulletin Editorial Panel (2015 to present)
- Executive Member of the Commercial Bar Association (CommBar) (2015 to present)
- Commercial Bar Association (CommBar), Honorary Secretary (2014 to 2015)
- Melbourne TEC Chambers, executive (2013 to present) and treasurer (2015 to present)
- The Essoign Club Ltd, Honorary Treasurer (2013 to 2015)

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- Commercial Bar Association (CommBar) Civil Procedure section, Secretary (2014 to 2017)
- Commercial Bar Association (CommBar) Construction Law section, Assistant Monitor (2012 to 2014)
- Commercial Bar Association (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**

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- 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