ANDREW DOWNIE

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Chancery Chambers
Level 26, 200 Queen Street
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ADMISSIONS

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

Signed the Victorian Bar Roll on 20 November 2008.

Member of the Tasmanian Independent Bar from 2012.

QUALIFICATIONS

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

Master of Commercial Law – The University of Melbourne (2012)

FCIArb – Fellow of the Chartered Institute of Arbitrators (2026)

Accredited Mediator – Australian Mediator and Dispute Resolution Accreditation Standards (AMDRAS) (2025)

AREAS OF PRACTICE

- Arbitration
- Building and Construction
- Commercial Law
- Corporations and Insolvency
- Engineering and Technology
- Equity | Trusts
- Infrastructure and Water
- Insurance
- Mediation and ADR
- Owners Corporations
- Professional Negligence
- Property Law and Subdivisions
- Public Law | Judicial Review
- Security of Payment

ROFESSIONAL EXPERIENCE – SUMMARY

Andrew is a barrister, mediator and arbitrator with more than 20 years' experience in commercial law and litigation, particularly in building and construction, infrastructure and water, engineering and technology, insurance, property law and subdivisions, corporations law, trade practices, public law, and the interpretation of contracts and statutes. He appears as sole counsel, as leading counsel and as junior to senior counsel, at trial, in arbitration and in contested interlocutory hearings.

The core of Andrew's practice is in the Supreme Court of Victoria, particularly the Technology, Engineering and Construction (TEC) List of the Commercial Court, where he appears from directions and case management through contested interlocutory applications to trial. He also has a substantial practice in the Commercial Division of the

County Court, particularly the Building Cases List, and appears regularly in VCAT, particularly the Building and Property List and the Owners Corporations List, and in the Federal Court.

Andrew acts as counsel in security of payment disputes at every stage: adjudication, judgment applications (including applications to stay enforcement) and judicial review of adjudication determinations.

Andrew is an accredited mediator under the Australian Mediator and Dispute Resolution Accreditation Standards (AMDRAS). He has conducted mediations and facilitations in disputes before the Supreme Court, the County Court and VCAT, including expert conclaves and court-referred processes in multi-party building cases. He is a Fellow of the Chartered Institute of Arbitrators and accepts appointments as arbitrator in project and commercial disputes.

Andrew has been recognised in *Doyle's Guide* for construction and infrastructure every year since 2018, in 2026 as a Leading Junior Counsel, Construction & Infrastructure. He is also listed in *Best Lawyers* 2025, 2026 and 2027.

Before coming to the Bar, Andrew spent two years as a dispute resolution lawyer at MolinoCahill Lawyers, acting in disputes on large construction, mining, infrastructure and defence projects. Before studying law he trained and worked in the chemical sciences, which assists him where a case turns on technical or scientific evidence. He read with Richard Attiwill KC (now Justice Attiwill of the Supreme Court of Victoria).

Since 2025, Andrew has been Head of Chambers at Chancery Chambers, Level 26. He is a member of Melbourne TEC Counsel (MTECC), the Supreme Court of Victoria TEC List User Group and, in the County Court, the Commercial Division User Group and the Civil Rules Committee.

PROFESSIONAL EXPERIENCE – NOTABLE CASES

Andrew has appeared as sole counsel, leading counsel and led counsel in a range of courts and tribunals. Notable cases include:

- *MacDonald & Co Construction Pty Ltd v Kharty Property Group Pty Ltd* [2026] VSC 336 (Craig J). Briefed by Level Playing Field Lawyers. Sole counsel for the first defendant subcontractor. TEC List trial – whether a contractual show cause regime excluded the common law right to terminate – repudiation by renunciation – obligation of good faith in performing a subcontract.
- *Alphington Developments Pty Ltd v Amcor Limited* [2023] VSC 637 (Sloss J); remittal trial before Garde J (2026). Briefed for the plaintiff by Kalus Kenny Intelex at trial and by White & Case on the remittal. At trial, led by Daniel Aghion KC and leading Chris Hender and Nick Cozens on quantum (taking over that role from Michael Osborne KC on his appointment to the Court), including examining lay and expert witnesses. On the remittal following [2025] VSCA 48, led by Jeremy Twigg KC and leading Dr Kylie Weston-Scheuber, Chris Hender and Nick Cozens, presenting the quantum case. Claim for recovery of payments for remediation of contamination at the former Alphington paper mill site.
- *Orion East Pty Ltd v Box Hill Institute* (VSC No. S ECI 2022 04925). Leading Alyse Mobrici. TEC List – interlocutory disputes before Steffensen AsJ, and directions and a case management hearing before Stynes J. Resolved in 2025.
- *BCS Infrastructure Support Pty Ltd v Jones Lang LaSalle (NSW) Pty Ltd* [2020] VSC 739. Briefed by Gadens. Successful resistance of an application for judgment under Security of Payment legislation, including issues relating to electronic service and the existence of a payment schedule.
- *In the matter of 750 Collins Street, Docklands* [2020] VBAB 33. Briefed by Clayton Utz. Led by Jeremy Twigg QC. Successful s 160A Building Act 1993 application on behalf of Monash College to determine that existing combustible panels on a large building complied with the BCA.
- *Lacrosse case – Owners Corporation No 1 of PS 613436T & Ors v Property Development Solutions & Ors* (VCAT No BP350/2016). Briefed by Sparke Helmore. Negligence – fire – non-combustibility requirements in the BCA –

pure economic loss and property damage – apportionment. Resolved in 2018, shortly before trial, for the superintendent.

- *Epworth Foundation & Anor v Piranha Services Pty Ltd &* Ors (VSC No. S ECI 2017 00213 & 00194). Briefed by Sparke Helmore. Negligence – flooding – plumbing works – property damage – apportionment. Resolved in 2018 shortly before trial.
- *Quality Roads Pty Ltd v Baw Baw Shire Council* (VSC No. SCI 2015 06427, inc. [2016] VSC 477 ruling). Briefed by Maddocks. Road maintenance contract – duty of good faith and cooperation – incorporation of terms – allocation of Council funding. Resolved in 2019.
- *Leung v Harris* [2018] VCAT 1630 & [2019] VCAT 608. Briefed by Gadens. Water Act 1989 (Vic) – 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. Briefed by Gadens. Led by F Tiernan QC. Injunction to restrain call on security – contracting party not owner of land – injunction dismissed – costs awarded to respondent.

PUBLICATIONS AND SEMINARS

- Author of the LexisNexis service *Court Forms, Precedents and Pleadings: Building Contracts. Victoria* (2022 to present), and member of the editorial panel of the Australian Construction Law Bulletin.
- Regular seminar and CPD presentations for MTECC, the Leo Cussen Centre for Law, Legalwise, the Society of Construction Law Australia, the Law Institute of Victoria, the Victorian Bar, CommBar and Television Education Network, including on offers of compromise, advocacy, expert evidence and expert conclaves, delay claims, the penalty doctrine, technology and online hearings, limitation periods, security of payment, recourse to bank guarantees and defects in large construction projects.
- Regular articles and case notes for the Australian Construction Law Bulletin (ACLB), MTECC, Building Dispute Practitioners' Society News, the Australian Construction Law Newsletter and Commercial Bar Association (CommBar) News, including:
- *'Notice before recourse: the new performance security regime in Victoria's Security of Payment Act'* (2026) 34(9) ACLB
- *'Unfair notice-based time bars: s 13A of the Victorian Security of Payment Act and its Western Australian equivalent'* (2026) 34(8) ACLB
- *'Domestic building contracts and staged payments, including Singh v Ozzie Homes'* (with A Mobrici) (2026) 34(4&5) ACLB
- *'Guidance on the considerations in s 77 referrals in the Tribunal: Plunkett v Portier Pacific Pty Ltd'* (2024) 33(5) ACLB 34
- *'Recovery of pre-litigation costs in VCAT under s 109 of the VCAT Act'* (2023) 33(2&3) ACLB 14
- *'Accidentally, incidentally or indirectly sidestepping the 10-year limitation period for building actions'* (2020) 31(5) ACLB 63
- *'Predictive coding: where will it fit in the Australian litigation landscape?'* (with A Blair) (2016) 28(5–6) ACLB 230
- *'The penalty doctrine and delay to practical completion caused by trivial events: Grocon Constructors (Qld) Pty Ltd v Juniper Developer No 2 Pty Ltd'* (2015) 27(4) ACLB 66
- Vignette on time bars in L Klee, *International Construction Contract Law* (Wiley, 1st ed 2014; 2nd ed 2018)

- Seminar and paper for the 2014 National Mediation Conference, *'Crossing the line: misleading conduct, "privilege" and good faith in mediation'*, 10 September 2014
- Article for Precedent (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(5) LIJ 48
- Article for the Law Society Journal (NSW), *'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

MEMBERSHIPS AND APPOINTMENTS

Past and present committee/board memberships

- Head of Chambers, Chancery Chambers, Level 26 (2025 to present)
- Supreme Court of Victoria TEC List User Group (current)
- County Court Commercial Division User Group (current)
- County Court Civil Rules Committee (current)
- Australian Construction Law Bulletin editorial panel (from 2015 to present)
- CommBar: Honorary Secretary (2014 to 2015); Executive Member (2015 to 2017); Civil Procedure section Secretary (from 2014 to present); Construction Law section Assistant Monitor and Sports Law section Monitor (2012 to 2014)
- MTECC executive (from 2013), treasurer (2015 to 2019) and chair (from 2019 to 2026)
- Chair, CommBar working committee updating the Supreme Court of Victoria's technology practice note (2016)
- The Essoign Club Ltd, Assistant Honorary Treasurer (2012 to 2013) and Honorary Treasurer (2013 to 2015)
- 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 Counsel (MTECC); Chartered Institute of Arbitrators (Fellow); Resolution Institute; Society of Construction Law Australia; Society of Construction Law UK; Building Dispute Practitioners' Society; Commercial Bar Association; Law Hawks