



James B Waters BE (Hons), JD (Melb)

Barrister, former Professional Engineer

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James is a specialist in large, complex litigation and is regularly briefed in technical, engineering, and construction disputes, insurance matters and class actions.

James advises and appears in bet-the-farm litigation and arbitration for commercial parties, achieving the very best results. He is approachable, diligent and deploys strategic nous to gain advantage for his clients over the real issues in dispute. He is regularly briefed in technical disputes for contractors, principals and consultants.

Prior to the Bar, James was an Associate at Allens in the construction disputes and commercial litigation teams. His practice included advising construction and engineering clients on complex construction and technical disputes and the administration of major projects.

Prior to his legal career, James worked as a mechatronics engineer in construction, industrial and consulting environments. As an engineer, James was involved in the construction of a major arterial transport link and consulted in relation to the design, installation and commissioning of a diverse range of bespoke robotics in various industrial settings.

Professional Experience

May 2016 – present: Barrister at Law

- **Infrastructure design:** (ongoing) acting for Aurecon Jacobs JV defending c. \$400M claims by CPB John Holland JV in relation to the design of bridges and structures on the Westgate Tunnel Project, led by Tim Margetts KC
- **Class actions:**
 - **Cudlee Creek bushfire** (ongoing) South Australian Supreme Court, acting for the plaintiff class involving substantial technical expert evidence, led by Gerard Dalton KC
 - **Toyota Diesel Emissions** (ongoing) Victorian Supreme Court, acting for the plaintiff class relating to Toyota diesel compliance with emissions standards, led by Gerard Dalton KC and Nina Moncrief
- **Insurance:** acting for insurer in business interruption claim during COVID-19 lockdowns, led by Dr Andrew Hanak with Xuelin Teo *Princess Theatre Pty Ltd & Ors v Ansvar Insurance Limited* [2024] VSC 363
- **Flammable cladding matters** appearing unled for plaintiffs, consultants and builders in numerous matters relating to Aluminium Composite Panel and EPS cladding, since acting for the fire engineer in the Lacrosse Apartments litigation (*Tanah Merah Vic Pty Ltd (ACN 098 935 490) v Owners Corporation No 1 of PS613436T* [2021] VSCA 72 - led by Tim Margetts KC)
- **Defending claims against HVAC designer** (resolved) ACT Supreme Court, unled
- **Renewable energy civil penalty proceedings AER** re the South Australian Black System Event 2018, for the AER, led by Dr Ruth Higgins SC, Tom Clarke, including settlement approvals in: *Australian Energy Regulator v AGL HP 1 Pty Ltd* [2022] FCA 737 (Besanko J); *Australian Energy Regulator v Pacific Hydro Clements Gap Pty Ltd* [2021] FCA 733 (White J); *Australian Energy Regulator v HWF 1 Pty Ltd* [2021] FCA 732 (White J); *Australian Energy Regulator v Snowtown Wind Farm Stage 2 Pty Ltd* [2020] FCA 1845 (White J).
- **Renewable energy construction disputes** Victorian Supreme Court, acting for contractor in dispute with international wind turbine manufacturer (led by Tim Margetts KC); acting for crane contractor in disputes
- **Insurance proceedings concerning damage to large industrial plant** (resolved) \$40m claim for business interruption and material damage under a project special risks policy, Federal Court, led by Gerard Dalton KC

	• Construction arbitration under ACICA rules (resolved) Acting for professional adviser in \$90m social infrastructure (PPP) dispute, led by Tim Margetts KC • Successful defence of subrogated recovery concerning large fire <i>Mahony v Logan</i> [2019] VCC 1586, led by Gerard Dalton KC • Domestic Arbitrations unled, successfully resisting a challenge to arbitral jurisdiction: <i>Lin Tiger Plastering Pty Ltd v Platinum Construction (Vic) Pty Ltd</i> (2018) 57 VR 576; [2018] VSC 221. Acting for developer re \$3m claims against civil contractor (unled); \$12m restraint of trade dispute re large industrial parts business (and associated Supreme Court action), led by Richard Attiwill KC; dispute involving the software and control systems on large agricultural machinery for a US-based manufacturer (unled). • Domestic, commercial and industrial building disputes security of payment, defects, quality, delay and cost disputes in the County Court and VCAT: <i>Klau v Elliot</i> [2020] VCAT 1422; <i>F Bouhoussein Pty Ltd v Mackie Pty Ltd</i> [2019] VCAT 1470; slab heave matters; developer and builder disputes; defects disputes (resolved). Advising on AS2124, AS4000-series, HIA and MBC4 standard form contracts. • Successful defence of claims against solicitors <i>Finch v Arnold Thomas and Becker Pty Ltd</i> [2018] VCC 54 (led by Aileen Ryan QC (as Her Honour then was), and then unled). • Disciplinary proceedings against building practitioners and Building Appeals Board including counsel assisting and defending BPB, VBA and BPC proceedings, inquiries and show cause investigations into registered building practitioners and associated administrative law reviews;.
	February 2013 – February 2016: Allens – Associate • Inpex LNG: disputes with the pipeline contractor, Saipem • Great Southern class action: acting for the Bendigo and Adelaide Bank. • Wiggins Island Coal Export Terminal SOPA Claims – acting for the principal / owner of the \$2.6b terminal in SOPA claims. • Adelaide Desalination plant: defending insured claims exceeding \$280 million. • Masters good faith dispute: developer-tenant dispute. • Water treatment plant – advising superintendent on AS4902 D&C contract. • Biomedical product liability: Advising major Australian biomedical company 2010 – 2012: Allens – Business Development Paralegal, Financial Services & Projects 2010 - 2012 Seasonal Clerkships Allens Arthur Robinson, Corrs Chambers Westgarth and Blake Dawson (now Ashurst)
Previous Experience (Engineering)	2007 – 2009: kanDO Innovation – Research Engineer, Robotics 2006 – 2007: Fletcher Construction – Site Engineer 2005 RPM International Tool & Die Ltd Injection moulds and press tool fabrication 2004 Product Development Solutions Ltd Sales of 3D CAD / CAM software
Education	2010 – 2012 The University of Melbourne: Juris Doctor 2001 – 2005 The University of Auckland: BE (Hons) (Mechatronics) 2001: The Senior College of New Zealand, 1995 – 2000: The Kristin School (New Zealand)
Bar Details	Admitted to practice: 2013. Signed the Victorian Bar Roll: 2016 Read with: Simon T Pitt KC Senior mentor: Jeremy Twigg KC
Memberships	• Society of Construction Lawyers Australia • Melbourne TEC Chambers (MTECC) • Aviation Law Association of Australia and New Zealand • Melbourne Marine Insurance Forum
Personal Interests	• Yachting racing (and maintaining) a 30' classic wooden yacht built in 1946. • Other interests restoring cars from the 1970s, attaining currency on his pilot's licence and enjoying time with his young family
Referees	Available on request