



MICHAEL G ROBERTS KC

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ADMISSIONS

Date of Admission:

30 March 1989

First Signed Bar Roll

26 November 1992 (Victorian Bar and Tasmanian Bar)

Date Appointed Silk:

27 November 2012

QUALIFICATIONS

BSc (Hons) LLB

PROFILE

Michael Roberts KC has an extensive commercial practice specialising in building and construction disputes as well as IT and IP disputes.

Michael predominantly appears in the Supreme Courts of the various states as well as, on occasion, in the Federal Court of Australia. He regularly appears in Commercial Arbitrations, and on occasion, in specialist tribunals.

In the area of building and construction disputes, Michael has appeared for some of Australia's largest commercial construction firms in a wide variety of disputes.

With the advent of green technologies, Michael has developed a high degree of familiarity and expertise with the myriad of major issues presently being experienced in the infrastructure sector. He has acted in a wide variety of disputes that have, in particular, beset the construction of numerous Solar Farm installations in a wide variety of locations around Australia.

Selected examples of infrastructure disputes in which he has been retained as King's Counsel are:

- **Theiss Degremont Joint Venture** (the Contractor) in relation to a dispute that arose between it and the other members of the Public Private Partnership (Aquasure and the State of Victoria) established to construct and operate the Victorian Desalination plant at Wonthaggi. (Leading Mr D MacAndrew (now KC) and Mr LJ Connolly).
- **Transurban Limited** in connection with a well-publicised dispute that arose between the CPB/John Holland Joint Venture, Transurban and the State of Victoria concerning the construction of the Westgate Tunnel



- Project. (Co-leading with Mr J Moore KC, Mr LJ Connolly, and Ms JW Lindgren), On occasion the Melbourne Team was led by Mr B Walker SC (of the Sydney Bar) who was assisted by Mr TJ Breakspear (now SC).
- **Biosar Australia Pty Ltd** in connection with a variety of disputes which arose between it in its capacity as the Head Contractor responsible for the construction of the Susan River, Childers, Oakey II, Kiamal and Nevertire Solar Farms, and both the Principals of each of those farms, as well as other parties involved in the construction of those facilities and connection of them with the Australian power grid. (Leading Mr K Loxley).
 - **Nilsen (QLD) Pty Ltd** in connection with a sub-contract dispute between it and the main contractor of the Darlington Point Solar Farm, Signal Energy Australia Pty Ltd. Proceedings were the subject of Commercial Arbitration proceedings before Mr M Rudge SC of the NSW Bar. (Leading Mr H Redd and Mr A Marcou).
 - **Holmes Fire and Safety Pty Ltd** in relation to a dispute which arose concerning the construction of the Alice Springs Hospital, including in particular the fire protection systems which were installed in the hospital for which HFS was alleged to be responsible. The other parties included the Northern Territory as Plaintiff and John Holland as head contractor. The proceedings were heard in the Northern Territory Supreme Court before Justice Kelly. (Leading Mr M Crawley (now SC) of the Northern Territory Bar and Mr LJ Connolly).
 - **CES Queen Pty Ltd** in relation to a protracted dispute concerning the measures to be implemented in connection with the demolition of the existing building at 140 Queen Street, Melbourne in preparation for the construction of the project that was to become known as Tower Melbourne. The other parties were Colonial Range Pty Ltd and the Building Appeals Board. (Leading Mr D MacAndrew (now KC), Ms C Symons (now Judge Symons of the Federal Circuit and Family Court of Australia) and Mr LJ Connolly). Numerous decisions were reported at trial as well as appellate level in respect of multiple aspects of the protection works provisions of the *Building Act 1993* (Vic).
 - **Multiplex Constructions Pty Ltd** in relation to a dispute between it and Brighton Australia Pty Ltd (one of its subcontractors) concerning the construction of the new National Australia Bank headquarters in Docklands, Victoria. The proceedings were the subject of a fast-track expert determination before Mr R Manly KC. The decision upon the adoption of the expert determination in favour of Multiplex is to be found at [Brighton Australia Pty Ltd v Multiplex Constructions Pty Ltd \[2018\] VSC 246](#). (Leading Mr TJ Breakspear (now SC) of the NSW Bar).
 - **O'Donnell Griffin Pty Ltd** (then a subsidiary of RCR Tomlinson Pty Ltd) in proceedings commenced against it in the Western Australia Supreme Court by Alcoa of Australia Limited arising out of an incident at Alcoa's Alumina refinery plant at Kwinana whereby processing at the plant was interrupted for several days due to a plant wide electrical outage. (Leading Mr J Schoombe of the WA Bar).
 - **Rocke Brothers Pty Ltd** in Supreme Court proceedings before Justice Lyons commenced by it arising out of the failure of the pavement constructed at its warehousing facility situated in Tottenham, Victoria. (Leading Mr H Redd).
 - **The Minister for Works of Western Australia** in connection with proceedings commenced against the Minister by John Holland Pty Ltd arising out of the construction of the Perth Childrens Hospital. Proceedings were commenced by John Holland in the WA Supreme Court in which John Holland claimed to be entitled to a further payment of \$300 Million on account of a detailed variation and delay case mounted against the Minister. The proceedings were commenced in late 2019 before her Honour Justice Hill. They resolved in late 2022 just prior to them entering the trial phase on terms that were advantageous to the State. See [John Holland Pty Ltd v The Minister for Works \[No 2\] \[2022\] WASC 10](#); [John Holland Pty Ltd v The Minister for Works \[2021\] WASC 312](#). (Leading Ms J Taylor SC, Ms K Pedersen, Ms R O'Brien of the WA Bar and Mr LJ Connolly).



- **Dr David and Mrs Lisa Thurin** in connection with proceedings originally commenced in VCAT by them against Krongold Constructions concerning alleged defective building work undertaken which is now before the Victorian Supreme Court and Court of Appeal due to constitutional challenges mounted by Krongold Constructions to VCAT to hear and determine the proceedings. The Court of Appeal decisions resolving the constitutional challenges can be found [here](#); whilst the subsequent decision of the Trial Division dealing with the operation of the amended provisions of s.77 of the VCAT Act can be found [here](#). (Leading Dr C Parkinson KC and Mr N Guenther, and in VCAT, Mr L Stanistreet).

SELECT CASES

Michael is recognised as a leader of the Bar in connection with disputes arising out of the operation of the Building and Construction Industry, Security of Payment legislation and has appeared as King's Counsel in numerous leading cases concerned with the operation of that legislation since its enactment.

See for instance since the legislation's inception:

- [Yuanda \(Vic\) Pty Ltd v Façade Designs International Pty Ltd \[2021\] VSCA 44](#)
- [Shape Australia v The Nuance Group \[2018\] VSC 808](#)
- [Amasya Enterprises Pty Ltd & Anor v Asta Developments \(Aust\) Pty Ltd & Anor \(No 1\) \[2015\] VSC 233](#) and [\(No 2\) \[2015\] VSC 500](#)
- [Asian Pacific Building Corporation Pty Ltd v Aircon Duct Fabrication Pty Ltd \(No 1\) \[2010\] VSC 300](#) and [\(No 2\) \[2010\] VSC 340](#)
- [Metacorp Australia Pty Ltd v Andeco Construction Group Pty Ltd \(No 1\) \[2010\] VSC 199](#) and [\(No 2\) \[2010\] VSC 255](#)
- [Protectavale Pty Ltd v K2K Pty Ltd \[2008\] FCA 1248](#)

Recent examples are:

- [Façade Treatment Engineering Pty Ltd \(in liq\) v Brookfield Multiplex Constructions Pty Ltd \[2016\] VSCA 247](#)

In addition, Michael has appeared in proceedings of a broader commercial nature, including:

- [Links Golf Tasmania Pty Ltd v Richard Geoffrey Sattler & Ors \(2012\) 213 FCR 1](#)

These proceedings concerned a dispute between various parties involved in the construction of the Barnbougle Dunes Golf Course in Tasmania. Michael initially appeared led by Gregory Garde KC (now Justice Garde) for the successful Sattler parties. When his leader was appointed to the Bench, Michael assumed the role of Senior Counsel (upon taking silk) leading various members of junior counsel in the successful conclusion of those proceedings.