

JOHN McMULLAN
CURRICULUM VITAE

EDUCATION:

Bachelor of Engineering (Civil)
University of Melbourne 1976

Bachelor of Laws
Monash University 1982

Post-graduate Diploma of Legal Studies
Monash University 1987

Master of Laws
University of Melbourne 1997

CAREER:

Engineering:

Leighton Contractors 1977-1978
City of Oakleigh 1978-1980
Campbell & Cook 1980-1981

Legal:

McPherson & Kelley 1982-1984
Phillips Fox 1984-1988
Clayton Utz 1988-1995
(head property/construction
department)
McMullan Solicitors, 1996-present

PROFESSIONAL AFFILIATIONS:

Fellow - Institution of Engineers Australia
Fellow - Institute of Arbitrators Australia
1996 IEAust Chairman's Award

BACKGROUND:

Lead construction lawyer for proprietor on following major property projects:

- Victoria Point, Melbourne Docklands (\$200m)
- Southgate Project, Melbourne (\$650m)
- Altona, Victoria - Car Manufacturing Facility (\$420m)
- Westgate Park, Melbourne - Newsprint Facility (\$250m)
- Collie Power Project, WA (\$2 billion) - (did not proceed)
- Darling Harbour Park Stage 1, Sydney (\$450m)
- Chullora, NSW - Newsprint Facility (\$130m)
- Citadel Towers, Chatswood - (\$100m)

Lead lawyer to developers/bidders on Melbourne Docklands projects:

- lead construction lawyer to developer on Victoria Point project
- presently advising on new major project in Docklands development
- advised original shortlisted bidder on 4 of 5 development precincts
- advised 1 of last 2 shortlisted bidders on trunk infrastructure project

Legal adviser on construction contract issues, with other lawyers, to Design and Construct Contractor on major PPP freeway project in Victoria.

Lead legal adviser to water authority on Design Build Operate Class A recycled water treatment project.

Lead construction contract adviser to principal on major new car engine facility in Victoria.

Lead construction contract adviser to principal on major new car equipment contracts in South Australia.

Legal adviser to several Victorian non-metropolitan water authorities on construction project documentation and disputes.

Provided construction contract advice to proprietor on following major projects:

- Sydney Water Board, Treatment Plants - NSW (\$1 billion)
- Picadilly Plaza, Sydney (\$250m)
- Lilyvale Hotel, Sydney (\$120m)
- Yan Yean Water Treatment Plant - Victoria (\$27m)

Acted in major construction disputes, in litigation and arbitration, in Australia and in Hong Kong.

Lecturer/Academic Associate to University of Melbourne Engineering Faculty on engineering law.

Regular speaker on topics related to construction law, planning and environmental law around Australia.

Appointed as Special Referee in Supreme Court of Victoria Building Cases List.

Engaged as Expert in a number of expert determinations in Victoria and Tasmania.

IAMA Accredited Adjudicator for purpose of *Building and Construction Industry Security of Payments Act (Vic) 2002*.

Appointed as adjudicator under *Building and Construction Industry Security of Payments Act (Vic) 2002* in a number of adjudications.

SELECTED PAPERS:

"Risk Allocation in BOOT Construction Contracts", Melbourne, 3 December 1991.

"Letters of Intent" IIR Conference, Construction Law, Sydney, 12 December 1991.

"Trends in Construction Contracts", Keynote Speaker, Primavera Users Group National Conference, Terrigal, New South Wales, 3 April 1992.

"Operating Agreements in BOT Contracts", IIR Conference on BOT Projects in SE Asia, Singapore, 20 August 1993.

"Privately Funded Infrastructure", Infrastructure 93, Asia-Pacific Local Government Conference, Melbourne, 7 October 1993.

"Developments in Construction Management", National Construction and Management Conference, Sydney, 18 February 1994.

"Creation of Major Projects", International Conference on Engineering Management, Melbourne, 12 April 1994.

"Liability Outside the Contract", Institution of Engineers Australia, 26 May 1994.

"Legal Systems in South-East Asia", RMIT Post Graduate Diploma in Project Management, Melbourne, 1 June 1994.

"Developments in Project Management", Keynote Speaker, Primavera Users Conference, Royal Pines Resort, Surfers Paradise, Queensland, 22 September 1994.

"Design & Construct Contracts in the Water Industry", Australian Water & Wastewater Association Conference, Bendigo, 5 May 1995.

"BOT Contracts", International Seminar on Property and Investment Laws, Beijing

Municipal Foreign Economic Relations & Trade Commission, Beijing, 23 May 1995.

"Developments in Dispute Resolution", Institution of Engineers Australia, Conference, Regent Hotel, 14 June 1995.

"Private Investment in Infrastructure Projects", Infrastructure '95, International Infrastructure Seminar, Grand Hyatt, Bali, 7 July 1995.

"Proposed Legal Safeguards on Bulk Water Entitlements", Water, February 1996.

"Personality Rights in Australia", (1997) 8 Australian Intellectual Property Journal 86.

"Expert Witnesses: Who plays the Saxophone?", Journal of Judicial Administration, November 1999.

"The Israeli-PLO Conflict", unpublished, November 1998.

"Globalising Trends in BOT Projects in East Asia", 27 Asia Business Law Review, January 2000.

"Damages in Environmental Accident/Pollution ("Mega-Hazard") Cases", unpublished, August 2000.

"Contract Developments in Tall Building Projects", 6th World Congress on Tall Buildings and Urban Habitat, World Congress Centre, Melbourne, 28 February 2001.

"Law meets Engineering Safety Critical Systems", 7th Australian Workshop on Safety Critical Systems and Software, Adelaide, October 2002.

"Alliance Contracting: A Resource and Research Bibliography", <http://www.mcmullan.net/eclj/>, 3 December 2002.

"Mega-Hazards": Storm Clouds Growing in Australia: Environmental Accident/Pollution Cases", unpublished, January 2004.

Copies of certain of the above papers are set out in the *Electronic Construction Law Journal*, <http://www.mcmullan.net/eclj/>

**MAJOR PROJECT EXPERIENCE
(NON-LITIGIOUS)
(The Following Information is Publicly Available)**

1. **CONTRACT ADVICE – ENGINEERING CONSULTING SERVICES (2010-)**
Legal adviser to engineering consultant in review of Consulting Services Agreement on proposed major underground rail project in Sydney.
2. **CONTRACT ADVICE – WATER QUALITY LABORATORY SERVICES (2010-)**
Contract adviser to water authority in review of Consulting Services Agreement for proposed water quality laboratory services tender in Victoria.
3. **DEVELOPMENT CONTRACT ADVICE – HOSPITAL ACCOMMODATION FACILITY (2010-)**
Contract adviser to regional hospital in relation to preparation of Tender/Agreement for Lease for \$20 million Residential Facility attached to hospital in Bendigo, Victoria.
4. **CONSTRUCTION CONTRACT ADVICE –GASIFICATION PROCESS CONTRACT (2009-)**
Contract adviser to Chinese bidder in review of Design & Construction Contract on \$800 million major gasification process contract in Latrobe Valley, Victoria.
5. **CONSTRUCTION CONTRACT ADVICE – PPP FREEWAY (2009)**
Construction contract adviser to design construct contractor on access issues on of major PPP freeway in Brisbane, Queensland.
6. **CONSTRUCTION CONTRACT ADVICE – BRIDGE WORKS (2009-)**
Legal adviser to construction subcontractor in review of Design & Construction Contract on bridge strengthening project in Melbourne, Victoria.
7. **CONSTRUCTION CONTRACT ADVICE – PPP FREEWAY (2008-)**
Legal adviser to design construct contractor on construction contract issues at end of major PPP freeway in Victoria.
8. **RESIDENTIAL PROJECT – MELBOURNE (2010-)**
Construction contract adviser to developer of \$20 million commercial/residential development project in Melbourne.
9. **CONTRACT ADVICE – ENGINEERING CONSULTING SERVICES (2009-)**
Legal adviser to engineering consultant on re-construction of observation wheel project in Melbourne Docklands.
10. **CONTRACT ADVICE –LABORATORY SERVICES (2008-2009)**
Contract adviser to Victorian government department on proposed water monitoring laboratory services tender in Victoria.
11. **CLASS A RECYCLED WATER PLANT - SURBITON PARK, MELTON (2007-2008)**
Lead construction lawyer to non-metropolitan regional water authority in review of Design Build Operate Contract on Class A Recycled Water Plant at Surbiton Park, Melton.

12. **CONTRACT ADVICE –WATER MONITORING PARTNERSHIP AGREEMENT (2008-2009)**
Contract adviser to Victorian government department on proposed water monitoring partnership agreement in Victoria.
13. **MELBOURNE DOCKLANDS PROJECT – VICTORIA POINT PROJECT (2005)**
Lead construction lawyer to developer of \$200 million commercial/residential development project within Melbourne Docklands.
14. **CAR MANUFACTURING FACILITY (2004)**
Construction contract adviser for car manufacturer on proposed extensions to manufacturing plant in South Australia, including preparing Equipment Contracts, reviewing specifications.
15. **EQUIPMENT CONTRACT ADVICE - CAR MANUFACTURER (2004)**
Construction contract adviser to car manufacturer from time to time on construction/equipment contracts at Altona, Victoria, including preparing Equipment Contracts, advising on procurement options.
16. **CAR MANUFACTURING FACILITY (2002)**
Construction contract adviser to car manufacturer on its proposed major engine manufacturing plant in Port Melbourne, Victoria, including:
 - Preparing Construction Contract
 - Reviewing consultant agreements
17. **ROLLING STOCK PROJECT – ADVISER TO INDEPENDENT CERTIFIER (2001)**
Lead Australian legal adviser to Independent Certifier on substantial international rolling stock supply contract.
18. **CAR MANUFACTURING FACILITY (2001)**
Lead construction lawyer for car manufacturer on proposed extensions to manufacturing plant in Lang Lang, Victoria, including preparing Construction Contract, reviewing specifications.
19. **MELBOURNE DOCKLANDS PROJECT - PRECINCT DEVELOPMENTS (2000-2003)**
Lead transaction lawyer to bidder for the development rights on all precincts offered by the Docklands Authority. The consortium was shortlisted to the last two bidders on 4 of the 5 precincts available, the only bidder to be shortlisted on more than one precinct. Acted as lead transaction lawyer to consortium in:
 - preparing, negotiating and advising on all project bid documents
 - preparation of parts of bid documents submitted to Docklands Authority
 - appointment, coordination of external legal firms
20. **MELBOURNE DOCKLANDS PROJECT - TRUNK INFRASTRUCTURE DEVELOPMENT (1999-2000)**
Lead transaction lawyer to shortlisted bidders for the \$150 million trunk infrastructure development rights on the Docklands project. Acted as lead transaction lawyer to consortium in:
 - preparing, negotiating and advising on all project bid documents

- preparation of parts of bid documents submitted to Docklands Authority
21. **COLLIE POWER PROJECT \$2billion (1993)**
Lead construction lawyer to project sponsors of \$2 billion power station in Western Australia drafting and negotiating Turnkey Construction Agreement with Turnkey Contractor. (This project did not proceed.) Acted as lead construction lawyer to project sponsors in:
- Reviewing initial Turnkey Construction Agreement.
 - Drafting and negotiating Turnkey Construction Agreement with Turnkey Contractor.
 - Reviewing (for the purpose of the Construction Agreement) all project documents, including Operating and Maintenance Agreement, Coal Purchase Agreement and Power Purchase Agreement.
22. **CAR MANUFACTURING FACILITY - ALTONA \$450m (1992)**
Lead construction lawyer for major car manufacturer on its \$450 million new manufacturing plant at Altona, Victoria, including major construction agreement and equipment procurement contracts. Acted for car manufacturer on its new manufacturing plant at Altona, Victoria including:
- Drafting and negotiating Project Management Agreement
 - Reviewing trade contracts
23. **CAR MANUFACTURING FACILITY - ALTONA EQUIPMENT CONTRACTS (1992)**
Lead construction lawyer for car manufacturer in developing Equipment Purchase Agreements, to be used for purchase of new equipment to be purchased for Altona, including:
- Drafting Cost Plus Equipment Purchase Agreement
 - Drafting Fixed Price Equipment Purchase Agreement
24. **NEWSPRINT FACILITY - CHULLORA \$130m (1990)**
Lead construction lawyer for major news organisation on new \$120 million printing facilities at Chullora, Sydney. Acted for news organisation on its development project for printing facilities at Chullora, Sydney including drafting and negotiating Project Management Agreement.
25. **NEWSPRINT FACILITY - CHULLORA \$130m (1991)**
Acted for news organisation in advising on, and re-negotiation of, its existing construction contracts for its part-finished development project for new printing facilities on its development project for printing facilities at Chullora, Sydney.
26. **NEWSPRINT FACILITY - WESTGATE PARK PROJECT \$250m (1991)**
Acted for news organisation in advising on, and re-negotiation of, its existing construction contracts for its part-finished development project for new headquarters and printing facilities at Westgate Park, Melbourne to postpone/reschedule the Works.
27. **NEWSPRINT FACILITY - WESTGATE PARK PROJECT \$250m (1990)**
Lead construction lawyer for major news organisation on its development project for new \$200 million headquarters and printing facilities at Westgate Park, Melbourne. Acted for news organisation on its development project for new headquarters and printing facilities at Westgate Park, Melbourne including:
- Drafting and negotiating Project Management Agreement
 - Reviewing trade contracts
 - Advising on consulting service agreements

- Advising on contract issues arising from time to time during construction
28. **SOUTHGATE PROJECT \$650m (1990)**
Lead construction lawyer for joint venture developer on \$650 million office tower/hotel project on Yarra Bank, Melbourne. Acted for bank/developer on Southgate office/hotel/retail project in Melbourne including:
- Reviewing and negotiating Project Management Agreement.
 - Reviewing Trade Contracts.
 - Reviewing Consultant Service Agreements.
29. **YAN YEAN BOO PROJECT \$27m (1992)**
Lead construction lawyer for BOO proponent in relation to \$27M BOO water treatment project for Melbourne Water at Yan Yean. Advising joint venture participant on turnkey construction contract and operating agreement issues arising out of BOO project on \$27 million water treatment at Yan Yean, Victoria.
30. **DARLING HARBOUR PARK OFFICE TOWER STAGE 1 \$450m (1991)**
Lead construction lawyer for Japanese Joint Venturers/developer in \$450 million office tower project on Darling Harbour Park Stage 1, Sydney. Acted for developer in office tower project at Darling Harbour Park, Sydney including:
- Reviewing and negotiating Design and Construction Agreement
 - Reviewing and negotiating Fitout Agreement
31. **CITADEL TOWERS, OFFICE TOWER CHATSWOOD \$100m (early 1990)**
Lead construction lawyer for banker/joint venture proprietor in restarting part-finished \$100 million office tower at Chatswood, Sydney upon insolvency of joint venture partner/head contractor. Acted for banker/joint venture proprietor in restarting failed (Girvan) twin office tower project at Chatswood, NSW, including:
- Drafting and negotiating Construction Management Agreement.
 - Drafting and negotiating Project Management Agreement.
 - Reviewing and redrafting trade contracts.
32. **PICCADILLY PLAZA OFFICE TOWER \$250m (1990)**
Lead construction lawyer for banker/joint venture proprietor on construction contract for major office tower development in Sydney.
33. **LILYVALE HOTEL \$200m (1989)**
Lead construction lawyer for developer in review of construction contract for the Lilyvale Hotel project in Sydney.
34. **KING & KENT STREET OFFICE TOWER \$70m (1989)**
Lead construction lawyer for developer in review of construction contract for a 12-storey office tower project at the corner of King and Kent Streets, in Sydney.
35. **PUBLIC TRANSPORT CORPORATION - ECHUCA BRIDGE \$5m (1988 - 1989)**
Lead construction lawyer to Public Transport Corporation on contract preparation, and advice during construction period, for new rail bridge at Echuca. Acted for PTC on new rail bridge at Echuca, including:
- Development of standard form construction contract.
 - Contract advice from time to time during construction phase.