Mark Sheldon

INTRODUCTION

Mark specialises in major construction and engineering matters, including large infrastructure projects and mining disputes. He has been consistently recognised in legal directories, including The Legal 500 Asia Pacific, Doyle's Guide, Best Lawyers and Who's Who Legal for his expertise in these fields.

Mark regularly appears unled for top-tier Australian and international construction contractors, subcontractors, multi-national corporations, overseas mining operators, local councils, certifiers, developers and strata owners. Complementing his role as an advocate in court, Mark also has considerable experience in arbitration, expert determination, adjudication and mediation.

Increasingly selected as counsel of choice in large-scale, complex commercial and property matters that arise from, or relate to, construction or engineering, Mark is often relied upon to manage parts of the case where his technical expertise is sought, and he takes an active role as advocate in those parts of the case. His global presence has also seen him appear in domestic and multi-million-dollar international arbitrations in the Asia-Pacific region.

Prior to being called to the Bar in 2015, Mark practised as a solicitor at Corrs Chambers Westgarth and Arnold Bloch Leibler and before that was Tipstaff to the Honourable Justice Einstein in the Supreme Court of New South Wales. While at Corrs, Mark was seconded to the Australian Centre for International Commercial Arbitration (ACICA) to assist in the drafting of the ACICA Arbitration Rules. Mark holds a Bachelor of Laws with Honours and a Bachelor of Commerce with Distinction from the University of New South Wales.

ADMISSIONS TO PRACTICE

2015	Admitted to the Bar of New South Wales
2012	Admitted as a Solicitor of the Supreme Court of New South Wales

PROFESSIONAL QUALIFICATIONS

2010	**University of New South Wales** Bachelor of Laws (Honours) Bachelor of Commerce (Distinction)

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ACCOLADES

2016 – 2026	*Doyle's Guide*: Pre-eminent – New South Wales and Australia
2019 – 2026	*Who's Who Legal* – Construction: Future Leader
2023 – 2026	*The Legal 500* – Leading Junior – Construction, Infrastructure and Property
2023 – 2026	*Best Lawyers – Ones to Watch* – Construction and Infrastructure Law

PRINCIPAL AREAS OF PRACTICE

- Arbitration (Domestic and International)
- Building and Construction
- Commercial and Equity
- Competition and Consumer Law
- Corporations Law
- Property Law

PREVIOUS EXPERIENCE

2015 – present	**7 Wentworth Selborne Chambers** **Barrister**
2014 – 2015	**Arnold Bloch Leibler** **Solicitor (Commercial Litigation Department)**
2011 – 2014	**Corrs Chambers Westgarth** **Solicitor (Construction Litigation Department)**
2010 – 2011	**Tipstaff to the Hon. Justice Einstein, Supreme Court of New South Wales (Commercial and Technology and Construction Lists)**

PROFESSIONAL ACTIVITIES

- Intern at the Australian Centre for International Commercial Arbitration (ACICA) – 2013
- Author of commercial arbitration catchwords for the New South Wales Law Reports (with John West QC)
- Headnote author for the New South Wales Law Reports – 2011 to 2017
- Volunteer Magistrate for the Law Society of New South Wales Interschool Mock Trial

SELECT MATTERS (UNLED)

- Appeared in the New South Wales Supreme Court for the successful plaintiff in proceedings concerning the Sydney Metro project. The case concerned complicated issues of interpretation of a construction contract, including an extension of time provision, and competing expert evidence (*Tallai Project Group Pty Ltd v Ellair Solutions Pty Ltd* [2026] NSWSC 1332)

- Appeared in the New South Wales Court of Appeal for the successful respondent in an appeal concerning the proper interpretation of section 15 of the *Building and Construction Industry Security of Payment Act 1999* (NSW) and whether a pre-payment could be applied in deduction of a debt (*Hynash Constructions Pty Ltd v BRP Industries Pty Ltd* [2025] NSWCA 14; [2024] NSWDC 392)

- Appeared in the New South Wales Court of Appeal for the appellant in an appeal concerning a range of interesting building and construction issues, including whether serving an incorrect payment claim can constitute misleading or deceptive conduct, and the juridical basis for an order for restitution under the *Building and Construction Industry Security of Payment Act 1999* (NSW) (*CBEM Holdings Pty Ltd v Sunshine East Pty Ltd* [2025] NSWCA 250)

- Appeared in the Supreme Court of New South Wales for the successful contractor claiming damages from the developer arising out of the development of a mixed commercial and residential development in Ryde (*Calibre Construction Group Pty Ltd v Kaloriziko Pty Ltd atf Ryde Combined Unit Trust (No 2)* [2025] NSWSC 593; [2023] NSWSC 279)

- Appearing in the Federal Court for an investor against directors of NDIS and managed investment schemes. Allegations against the directors include misleading or deceptive conduct and breaches of the *Corporations Act* and *ASIC Act* (*Morcom Holdings Pty Ltd v Mountain Asset Partners Pty Ltd (in liquidation)* [2026] FCA 690 (pleading amendments); [2025] FCA 977 (freezing orders); [2025] FCA 1322 (security for costs))

- Appeared in the District Court of New South Wales for a successful homeowner in a claim against their builder for defective residential building work (*Sacks v Bouwen Projects Pty Ltd* [2025] NSWDC 539)

- Appeared in the Supreme Court of New South Wales for the architect in a multi-party dispute concerning the installation of flammable cladding on a development in Sydney Olympic Park (*The Owners – Strata Plan No. 91684 v Parkview Constructions Pty Ltd* [2025] NSWSC 493)

- Appeared in the New South Wales Court of Appeal for a major demolitions contractor

against a steel fabricator in an appeal concerning the principles relating to the construction of a part oral, part written agreement and the role of post-contractual conduct in that analysis (*C&V Engineering Services Pty Ltd v Metropolitan Demolitions Pty Ltd* [2023] NSWCA 167; see also [2022] NSWDC 154; [2022] NSWDC 173; [2022] NSWDC 421; [2023] NSWDC 483; [2024] NSWCA 52)

- Appeared for a plaintiff in the Supreme Court of New South Wales and successfully obtained orders exempting the plaintiff from the usual requirement to pay the adjudicated sum into Court as the consequence of challenging an adjudication determination under the *Building and Construction Industry Security of Payment Act 1999* (NSW) (*Smith v Impero Pacific Group Pty Ltd t/as Impero Constructions* (No 2) [2024] NSWSC 1316; [2024] NSWSC 1234)

- Appeared in the Real Property List for the successful tenant in a dispute with its landlord concerning damage to concrete flooring. Concerned the proper interpretation of a commercial lease and questions of causation and damage arising from expert evidence (*Morabito v Kingston Industries Pty Ltd* [2023] NSWSC 1020)

- Appeared for a builder successfully resisting an application to set aside a statutory demand based on a judgment under the Building and Construction Industry Security of Payment Act 1999 (NSW). Concerned the permissible scope of challenging a determination in the context of a statutory demand and the evidence required to establish a genuine off-setting claim (*In the matter of Linmas Holdings Pty Ltd* [2023] NSWSC 791)

- Appeared for a civil works contractor successfully resisting an appeal from a judgment of the District Court referred to the Common Law Division of the Supreme Court (*Sunshine East Pty Ltd v CBEM Holdings Pty Ltd* [2023] NSWSC 744)

- Appeared for Acciona and Lendlease seeking to set aside ex parte orders for material non-disclosure and seeking a referral of proceedings to arbitration (*Honeywell Ltd v Acciona Infrastructure Projects Australia Pty Ltd* [2023] NSWSC 663)

- Appeared for a developer defending a claim in excess of $10m in respect of a progress claim made under the Building and Construction Industry Security of Payment Act 1999 (NSW). Succeeded in persuading the Court that "actual receipt" constituted valid service of a payment schedule notwithstanding the terms of the contract (*Piety Constructions Pty Ltd v Hville FCP Pty Ltd* [2022] NSWSC 1318)

- Appeared for a creditor seeking to appeal from a rejection of a proof of debt. Gave rise to "a significant question" about the intersection of the winding up provisions in the Corporations Act 2001 (Cth) and the Building and Construction Industry Security of

Payment Act 1999 (NSW) (*In the matter of Nicolas Criniti Pty Ltd (in Liquidation)* [2022] NSWSC 1149)

- Appeared for a builder in a successful appeal in NCAT. The appeal established that NCAT's jurisdiction in respect of ACL claims in building matters is limited to $40,000. The question was formerly undecided in the Appeal Panel (*John McDonald Building Services Pty Ltd v Gusa* [2022] NSWCATAP 60)

- Appeared in the New South Wales Court of Appeal for Hamilton & Marino Builders, the successful respondent to an appeal from a first instance decision, concerning the supply and installation of steel connections to a development in Mascot (*C & V Engineering Pty Ltd v Hamilton & Marino Builders Pty Ltd* [2020] NSWCA 103; (2021) 36 BCL 317; *C&V Engineering Pty Ltd v Hamilton & Marino Builders Pty Ltd* [2019] NSWDC 220)

- Appeared for Baker & Provan Defence Pty Limited against Supacat Pty Limited in a contractual claim arising from the construction of military vehicles for the Department of Defence. Obtained judgment for the full amount claimed (*Baker & Provan Defence Pty Limited v Supacat Pty Limited* [2020] NSWSC 720; [2020] NSWSC 387)

- Appeared for a franchisor against a shopfitter successfully defending a claim for breach of contract arising out of the fit out of three food stores (*Repfix Industries Pty Ltd v FBD Group Pty Ltd* [2020] NSWDC 514)

- Appeared for a homeowner successfully defending an allegation of negligence arising from excavation works carried out on the homeowner's property (*Bowen v Stavroulakis* [2020] NSWDC 20)

- Appeared for Payce Communities Pty Ltd (developer) in successfully resisting an application for a permanent injunction by Canterbury-Bankstown Council seeking to restrain Payce from proceeding to adjudication under the Building and Construction Industry Security of Payment Act 1999 (NSW) (*Canterbury-Bankstown Council v Payce Communities Pty Ltd* [2019] NSWSC 1419)

- Appeared for Payce Communities Pty Ltd (developer) in successfully resisting an application by Canterbury-Bankstown Council to quash an adjudication determination and stay its enforcement under the Building and Construction Industry Security of Payment Act 1999 (NSW) (*Canterbury-Bankstown Council v Payce Communities Pty Ltd* [2019] NSWSC 1803)

- Appeared for Ralan (Culworth) Pty Ltd against an Owners Corporation in successfully resisting an appeal and application for judicial review to the Supreme Court of New

South Wales (*The Owners Strata Plan 83405 v Ralan (Culworth) Pty Ltd* [2019] NSWSC 578; *Ralan (Culworth) Pty Ltd v Owners Corporation SP 83405* [2017] NSWCATAP 223)

SELECT MATTERS (LED)

- Appeared for an owners corporation in the Supreme Court of New South Wales in an argument concerning a novel provision of the Strata Schemes Management Act (NSW) (led by J Lazarus SC) (*JPG Investments Holding Pty Ltd v The Owners – Strata Plan No. 53865* [2026] NSWSC 1346)

- Appeared at first instance, and on appeal, for a builder seeking to resist an application for judgment under the *Building and Construction Industry Security of Payment Act 1999* (NSW). The case concerned novel issues about the service provisions of the Act, and the ability to contract out of the Act (led by T J Breakspear SC) (*Roberts Co (NSW) Pty Ltd v Sharvain Facades Pty Ltd (Administrators Appointed)* [2025] NSWCA 161; [2025] NSWSC 606)

- Appearing for Veolia against the owner of a waste-to-energy facility concerning a claim for damages in excess of $200m arising from the alleged repudiation of an operation and maintenance contract (led by P Braham SC) (*Veolia Environmental Services (Australia) Pty Ltd v Kwinana WTE Project Co Pty Ltd in its capacity as trustee of the Kwinana WTE Project Trust* [2025] NSWSC 1225)

- Appearing for Frasers (developer) in defence of a case brought by four owners corporations in relation to the One Central Park development in Chippendale (led by D Miller SC) (*The Owners Strata Plan No 87881 v Frasers Broadway Pty Ltd* [2025] NSWSC 1073; [2025] NSWSC 1289)

- Appeared on appeal for a contractor defending a judgment for damages arising out of the development of a mixed commercial and residential development in Ryde. Concerned foundational issues of construction law, including the operation of variation provisions in Australian standard form construction contracts, and questions of double recovery following settlement (led by S Balafoutis SC) (*Kaloriziko Pty Ltd as trustee for Ryde Combined Unit Trust v Calibre Construction Group Pty Ltd (No 2)* [2025] NSWCA 259)

- Appeared at first instance, and on appeal, for John Holland, being one of numerous construction companies sued by the liquidators of the Hastie Group. The case concerned novel arguments about the interaction of bank guarantees and interim payments under construction contracts with Chapter 5 of the Corporations Act (led by R Scruby SC) (*Hastie Group Limited (in liq) v Multiplex Constructions Pty Ltd (Formerly Brookfield Multiplex Constructions Pty Ltd) (Leave to Appeal)* [2024] FCAFC 61; (No 3)

(2022) 410 ALR 531; [2022] FCA 1280; (No 4) [2022] FCA 1575)

- Appeared for a service station owner in an appeal concerning issues of contractual interpretation (led by J T Gleeson SC) (*Kane & Co (NSW) Pty Ltd v Idolbox Pty Ltd* [2024] NSWCA 278)

- Appeared for the Australian Nuclear Science and Technology Organisation (Cth) in successfully seeking to have proceedings referred to arbitration. Considered issues concerning the proper construction of a multi-tiered dispute resolution clause and the kompetenz-kompetenz principle (led by T J Breakspear SC) (*Icon Si (Aust) Pty Ltd v Australian Nuclear Science and Technology Organisation* [2024] NSWSC 324)

- Appeared for the successful landlord in a judicial review application pursuant to the Retail Leases Act. This was the first case to consider the standard of review of a valuer under the Retail Leases Act (led by J Lazarus SC) (*Hanave Pty Ltd v Nomad Sydney Pty Ltd (formerly Wine Nomad Pty Ltd)* [2023] NSWSC 265; [2023] NSWSC 533)

- Appeared for a major developer seeking to resist a specific performance suit in relation to the sale of a development site (led by G Sirtes SC) (*Ryan v UPG 322 Pty Ltd* [2023] NSWSC 1293)

- Appeared for Heavy Plant Leasing (in Liquidation) against McConnell Dowell in a major construction dispute concerning the Santos LNG Project (Led by M Dempsey SC and J Shepard) (*Heavy Plant Leasing Pty Ltd (In Liquidation) v McConnell Dowell Constructors (Aust) Pty Ltd* [2023] NSWSC 634; [2022] NSWSC 1775)

- Appeared for Payce (a developer) against Canterbury-Bankstown Council at first instance, and on appeal, and successfully obtained judgment in respect of numerous disputed variations, together with costs. Involved issues of contractual interpretation and quantity surveying expert evidence (led by D Miller SC) (*Canterbury-Bankstown Council v Payce Communities Pty Ltd* [2022] NSWCA 74; *Payce Communities Pty Ltd v Canterbury-Bankstown Council* [2021] NSWSC 331; [2021] NSWSC 710; [2021] NSWSC 404; [2021] NSWSC 464 (unled); [2021] NSWSC 558 (unled))

- Appeared for a landlord against a tenant in defence of a case brought by the tenant for the loss of a chance to earn profit from a childcare centre (led by J Lazarus SC) (*711 Hogben Pty Ltd v Anthony Tadros* [2022] NSWSC 1259)

- Appeared for an Italian designer against CPB Contractors Pty Ltd, successfully seeking a referral to arbitration in Singapore under the ICC Rules under section 7(2) of the International Arbitration Act. Decision considers the kompetenz-kompetenz principle, the imposition of conditions on referral and the interaction of limitation

periods with referrals to arbitration (led by J Giles SC) (*CPB Contractors Pty Ltd v DEAL S.R.L.* [2021] NSWSC 820)

- Appeared for Double Bay Bowling Club in successfully having proceedings summarily dismissed. Case concerned a duty of care to support neighbouring land under section 177 of the Conveyancing Act (led by J Lazarus SC) (*Cohen v Double Bay Bowling Club (No 4)* [2021] NSWSC 872)

- Appeared for Double Bay Bowling Club against Woollahra Council, successfully extinguishing a covenant over the Club's land that prevented the sale of two townhouses. The Council also failed on its claim for about $3m in compensation (led by J Lazarus SC) (*Double Bay Bowling Club v Council of the Municipality of Woollahra trading as Woollahra Municipal Council* [2020] NSWSC 1861)

- Appeared for a developer against a sewer designer concerning an allegation of defective design and resultant delay costs and other damages on first instance and on appeal (led by M Dempsey SC) (*White Constructions Pty Ltd v PBS Holdings Pty Ltd* [2020] NSWCA 277; [2019] NSWSC 1166)

- Appeared for a builder successfully seeking a referral to arbitration under section 8 of the Commercial Arbitration Act (led by T Duggan SC) (*Broken Hill City Council v Unique Urban Built Pty Ltd* [2018] NSWSC 825)

- Appeared for a developer against an owner on an application for judgment under the *Building and Construction Industry Security of Payment Act 1999* (NSW). Case concerned the requirements of a valid supporting statement (led by I Roberts SC) (*Central Projects Pty Ltd v Davidson* [2018] NSWSC 523)

- Appeared for Ceerose Pty Ltd (developer) against an Owners Corporation in a home building defects dispute in the Supreme Court of New South Wales (led by D Miller SC at first instance and I Roberts SC on appeal) (*Owners Corporation Strata Plan 76841 v Ceerose Pty Ltd* [2017] NSWCA 140; [2016] NSWSC 1629; [2016] NSWSC 1545)

- Appeared for St Hilliers Pty Ltd against ACT Projects in a dispute under the BCISP Act in the Supreme Court of the ACT (led by D Miller SC) (*St Hilliers Property Pty Limited v ACT Projects Pty Ltd and Anor* [2017] ACTSC 177; [2017] ACTSC 263 (unled on costs))

DOMESTIC AND INTERNATIONAL ARBITRATION

- Appearing in an international arbitration for a Spanish specialist engineering firm against a major international construction company (unled)
- Appearing in a domestic arbitration appealing from an expert determination in a large intermodal project (led by M Elliott SC)
- Appearing in a domestic arbitration for a major construction company concerning allegations of defective cladding on a hospital (led by G Sirtes SC; C Bova SC)
- Appeared for an international designer against a major Australian contractor on a road project dispute seated in Singapore under the ICC Rules (led by J Giles SC)
- Appeared for a contractor in relation to a domestic arbitration concerning a solar farm (led by T J Breakspear SC)
- Appeared for Nui Phao Mining Company Limited (Vietnamese company) against Jacobs E&C Australia Pty Limited to enforce an award of approximately US $100m as a result of a SIAC arbitral award (Federal Court of Australia Proceedings NSD552/2019) (led by D Miller SC)
- Appeared for a Vietnamese mining operator on an international arbitration against a leading international design house under SIAC Rules (led by M Dempsey SC and D Hughes)
- Appeared for a top-tier Australian contractor on an international arbitration conducted in Singapore under SIAC Rules (led by R McHugh SC and T J Breakspear)
- Appeared for a major logistics provider in a domestic arbitration against the Commonwealth Government (unled in some claims, led by E Hyde in other claims)
- Appeared for a global television streaming service which intervened in an arbitration between two Australian entities (unled)
- Appeared for an Australian subcontractor against a large Australian contractor on a domestic arbitration in Melbourne concerning the Gladstone piping project (led by D Miller SC)
- Appeared for an Australian subcontractor against a large Australian contractor on a domestic arbitration in Perth concerning a mining project in Western Australia (unled)