

Marita Foley SC



Marita Foley SC specialises in environmental, planning and land acquisition matters for private clients and government agencies

QUALIFICATIONS

Bachelor of Arts (ANU)
Bachelor of Laws (Hons)(ANU)

CORRESPONDENCE

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CHAMBERS

Castan Chambers
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COMMERCIAL LAW

Class Actions | Energy & Resources

TORT LAW

Class Actions | Commissions & Inquiries | Major Torts | Negligence

PUBLIC LAW

Administrative Law | Environment | Judicial Review | Native Title | Planning & Local Government

Marita has particular expertise in litigation involving contaminated land and losses related to environmental damage, having appeared in a number of significant and long running environmental cases and panel processes. Marita appears regularly in VCAT, the Supreme Court and Planning Panels Victoria in matters relating to town planning, environmental issues and land acquisition.

In 2015 and 2016 Chambers and Partners Global and Asia Pacific ranked Marita as one of Australia's leading junior barristers. She was recommended as being an "outstanding barrister: her written and oral advocacy is excellent and she is a delight to work with." [ref Chambers Asia Pacific 2016].

Marita commenced her career as an Associate in the Federal Court of Australia. Immediately before joining the Bar, Marita was a Senior Associate with Maddocks in their Public Law department, practising predominantly in the areas of planning, environment and local government law.

Liability limited by a scheme approved under Professional Standards Legislation

Recent Cases

INQUIRIES & ASSESSMENTS COMMITTEES

2009 Bushfires Royal Commission - appeared on behalf of the State of Victoria in the long running Royal Commission, addressing topics including planning, building regulation, electricity regulation and fuel reduction burning (led by Allan Myers QC and Kerri Judd QC).

Hazelwood Mine Fire Inquiry (2015) - Marita acted on behalf of GDFSAE, the owner and operator of the Hazelwood Mine before a Board of Inquiry relating to alleged health impacts of the Mine Fire and (led by Rachel Doyle SC and Anthony Neal QC). *Melbourne Metro Rail Project* (ongoing) briefed on behalf of the Melbourne Metro Rail Authority in relation to the EES and approval processes required for Metro Rail.

Brunswick Terminal Upgrade Advisory Committee - acting (unled) for the Australian Energy Market Operator (AEMO) in relation to an inquiry considering the planning approval process leading to the upgrade of the Brunswick Terminal.

2014-2015 East West Link Assessment Committee - acting on behalf of the Minister for Planning before the East West Link Assessment Committee and subsequently in proceedings before the Supreme Court (settled) challenging the validity of the approvals for the Project (led by Chris Townshend QC and David Batt QC).

[Waubra Wind Farm](#) acting for Wind Energy Australia the proponent in relation to Planning Scheme Amendments and Environment Effects Statement and EPBC Act referral to facilitate the approval of the largest wind energy facility in Victoria (led by Chris Townshend QC).

[Bendigo Gold Mine](#) acting for the proponent Bendigo Gold NL in relation to an extension of the Bendigo gold mine, which involved an EES, EPBC Act referral and Planning Scheme Amendment (led by Michael Wright QC).

LITIGATION

[MFESB v Yarra City Council & Ors \[2015\] VSC 773](#) acting for the plaintiff in litigation concerning contamination discovered at a site in Burnley with claims in tort and for compensation under the *Environment Protection Act 1970*.

Winky Pop Pty Ltd & Anor v Mobil (ongoing) acting for a developer in litigation before the Supreme Court relating to claims against Mobil for damages arising from contamination of land in Williamstown alleged to have been caused by a leak of petroleum from Mobil's pipeline (led by Charles Scerri QC).

Nicholls v Minister for Planning (settled) acting for the Minister for Planning in Supreme Court proceedings relating to the approval and subsequent revocation of a Planning Scheme amendment for Phillip Island (led by Debbie Mortimer SC and Rachel Doyle SC).

Wheelahan v City of Casey (settled) acting on behalf of residents in a class action in against the Council for damages relating to escape of gas from a landfill adjacent to a residential subdivision (Brookland Greens Estate)(led by Jim Delany QC).

[Premier Building and Consulting Group Ltd v Spotless Group Limited & Ors](#) appeared in a five-month trial in the Supreme Court before Justice Byrne on behalf of a landowner whose land was contaminated by its former owner. The case raised complex issues including the liability of parent corporations for the acts of subsidiaries that had been deregistered, tort, economic loss and statutory compensation.

[Love v State of Victoria & Road Corporation](#) acting for Roads Corporation in long running proceedings relating to the validity of acquisition of land for the purpose of the Craigieburn Bypass.

PLANNING & ADMINISTRATIVE LAW

Hoskin v Greater Bendigo CC and Anor [2015] VSCA 350 acting (unled) for the Greater Bendigo Council in relation to an appeal against VCAT's decision upholding the grant of a permit for a mosque.

[Waterfront Place Pty Ltd v Port Phillip CC](#) [2014] VCAT 1558 acting for a developer seeking to vary the terms of restrictive covenants burdening land in Beacon Cove (led by Adrian Finanzio SC).

Numerous review applications relating to telecommunications facilities on behalf of Telstra and NBN Co. See for example: *Goodwin v Yarra Ranges Shire Council [2015] VCAT 74*.

Aerolite Quarries Pty Ltd v Greater Geelong CC [2014] VCAT 1611 acting for permit applicant in relation to a basalt quarry which raised complex environmental and cultural heritage issues (led by Michelle Quigley QC).

Women's Housing Limited v Hobsons Bay CC [2014] VCAT 1519 (led by Michelle Quigley QC) acting pro bono for a WHL in relation to a social housing development in Newport.

[AA Holdings Pty Ltd v Mornington Peninsula SC](#) [2012] VCAT 849 acting for Mornington Peninsula SC (unled) successfully opposing an application for permits for twin freeway service centres.

[Australian Conservation Foundation Inc & Ors v Minister for Planning](#) [2004] VCAT 2029 acting for plaintiff environmental groups in proceedings challenging the scope of relevant considerations in a

Planning Scheme Amendment relating to the Hazelwood Power Station (led by Mark Dreyfus QC).

LAND ACQUISITION

Briefed by the Regional Rail Link Authority in relation to numerous proceedings in the Supreme Court and VCAT (both led and unled) in disputed compensation claims arising from acquisitions for the Regional Rail Link Project during 2014-2015 For example: *Secretary to the Department of Economic Development, Jobs, Transport and Resources v Driver* [2015] VCAT 813.

Western Grasslands Reserve (ongoing) acting for DELWP in relation to numerous planning permit applications for land within the Western Grasslands Reserve.

Caradi Pty Ltd v Secretary to the Department of Economic Development, Jobs, Transport and Resources briefed for a claimant in a substantial disputed claim arising from acquisition of a site for the Melbourne Exhibition Centre extension (led by Stuart Morris QC).

McCann v Roads Corporation [2011] VSC 96 acting for Roads Corporation in relation to a disputed acquisition for the Geelong Bypass (led by Jim Delany QC).

Rigby v Secretary to the Department of Sustainability and Environment [2012] VSC 427 acting for the Secretary (led by Jeremy Gobbo QC).

Memberships

Victorian Bar - Commercial Bar Association

Supreme Court - The Victorian Compensation and Planning Users' Group

Member, Victorian Planning and Environmental Law Association

Legal Member, Heritage Council Victoria (2009 - 2011)

Director, Victorian Women's Housing Association Inc (2004 - 2008)

Director, Brunswick Coburg Legal and Financial Counselling Centre Inc (2002 - 2007)

Director, Environment Victoria Inc (1999 - 2003)