

**CLAIRE TUCKER**

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Overview

Claire Tucker is a partner in our Johannesburg office Corporate Department, and is head of the Public Law and Regulatory Practice.

Her Masters degree in Law and Development make her well placed to assist in projects involving the interface between law and policy. She has worked on a wide range of regulatory matters including drafting of laws and regulations, High Court review applications in respect of decisions on regulatory matters, the interpretation and application of statutes as well as commercial and transactional advice.

She specialises in energy related matters and particularly in procurement and government contracting aspects of this.

Claire has a BA and LLB from the University of the Witwatersrand and a MSc in Law and Development from the London School of Economics.

Experience

- The **South African National Treasury** and the **Department of Energy** flagship independent power producer procurement processes for renewable energy, baseload coal, baseload gas including imported LNG in South Africa, all aspects of the design and implementation and drafting of the procurement process documents, and implementation of the process, as well as evaluation of bids and negotiation with preferred bidders. Drafting amended legislation and regulations to facilitate these programmes.
- **Department of Energy** – national solar water heater programme for the supply, installation and maintenance of 1.75 million solar water heater systems in residential homes throughout South Africa as well as the repair of existing solar water heater systems, design and implementation and drafting of the procurement process documents, and implementation of the process and assisting with any challenges to decision making.
- **Eskom Holdings SOC Ltd** – all aspects of the development, construction and procurement processes for the Medupi (6000MW) and Kusile (6000MW) coal fired power stations, and successfully defending high court review proceedings relating to decision-making for these coal fired power stations.
- **Gidani**, the second operator of the National Lottery – various High Court reviews, undertaken on an expedited basis, which successfully challenged the Minister of Trade and Industry’s decision to award the licence to operate the national lottery (as the third national lottery operator) to Ithuba Holdings (Pty) Ltd.
- A **private party tenderer** who challenged on an expedited basis a pipeline supply contract awarded by Rand Water an urgent interdict was successfully obtained preventing the implementation of the pipeline supply contract pending judicial review of the decision to award the pipeline supply contract (ongoing).
- Reviews and advice provided in a transactional context in respect of the **Kelvin power station** and the regulatory framework applicable to this municipally embedded power generation facility, reviews included procurement principles and electricity regulatory principles applicable to power purchase agreements entered into by municipalities and the applicable tariff structures (2003, 2014, 2015) (C Tucker – lead on electricity regulation and procurement).
- **The private party consortium**, which in 2015 successfully reached financial close for the City Of Tshwane (Pretoria) Metropolitan office accommodation PPP (Munitoria PPP Consortium), in relation to the

procurement approval processes and MFMA principles applicable to financing, design, construction and facilities management concession for a new head office for the City Of Tshwane, including participation in the negotiation of final concession and project agreements, as well as the negotiation and settlement of the financing agreements.

- Various municipal entities of the **City of Johannesburg**, including Pikitup, Johannesburg Water and the Johannesburg Market and the City itself on various procurement disputes with contractors as well as National Treasury reviews of certain of the procurement processes of these entities.
- Various **local and international financial institutions** advancing funds to state institutions on the power and authority of the institution to enter the lending arrangement, including Denel, SAA, Transnet, SANRAL, Eskom amongst others.
- The **Western Cape Provincial government** on a municipal and provincial broadband roll out, including extensive advice on procurement principles and grant funding principles in the municipal sector and the relationships between national, provincial and local government.
- **Telecoms and broadband companies** on various disputes with municipal entities with regard the use of infrastructure and procurement principles, including settling a long running dispute between the City of Johannesburg and a major supplier to the City.
- A **leading car and truck rental company** on various municipal contracts and the public procurement principles and PFMA implications of various transactions.
- The **state party, National Treasury, lenders, sponsors and/or concessionaires** on the regulatory and procurement aspects of public private partnerships, including the Gautrain Project, Prisons projects and state accommodation projects.
- **Various state owned entities and municipalities**, including Eskom, in relation to challenges to public procurement processes, including bringing and defending judicial review proceedings in the Supreme Court of Appeal and Constitutional Court.
- **Various state owned entities** on the application of the Preferential Procurement Policy Framework Act to their operations and assisting in the design of preferential procurement policies.
- **Various international and local clients** on various government tender processes and auctions of assets.

Claire's accolades include:

- *Chambers and Partners 2018* ranked Claire in Band 1 for Environmental law.
- IFLR1000's *2018 Financial and Corporate Guide* rated Claire as a Highly Regarded Lawyer for Energy and Infrastructure, Project Development.
- Recognised by *Best Lawyers 2017* for Environmental Law and Regulatory Practice.
- Leading practitioner in the *International Who's Who* of Public Procurement.
- Recognised as Leading Practitioner and Thought Leader in the *International Who's Who* of Government Contracting.
- Ranked by *Chambers & Partners*.
- Leading lawyer by the *IFLR1000 2016* in Energy and Infrastructure.
- Recommended lawyer
- Recognised in the Environment chapter of *Who's Who Legal: Environment (12th Edition) 2017*- a guide to the world's leading environment and climate change lawyers.

Claire Tucker heads the public law and regulatory practice. Interviewees describe her as "extremely knowledgeable" on environmental issues, and note that "she is very analytical: quick to identify problems as well as to come up with solutions." – **Chambers and Partners 2017**

Claire Tucker has a strong regulatory and enforcement practice and represents a range of banks, mining companies and manufacturers. Clients say: "Her knowledge, experience and gut sense of advice are brilliant." – **Chambers and Partners 2016**

Publications & Insights

- [Benchmarking PPP Procurement 2017 in South Africa](#)
- [Black ownership as a requirement for doing business with government](#)
- [Certainty will help mining sector to do things better](#)

- Contaminated land provisions of Waste Act in operation
- Energy Efficiency Initiatives in South Africa
- Energy Efficient Buildings in South Africa
- Environmental authorizations required for mining?
- Getting the Deal Through – Climate Regulation 2015 – South Africa
- Getting the Deal Through Mining 2014
- Getting the Deal Through: Mining 2016 edition
- Marine Spatial Planning Bill, 2017
- Mineral and Petroleum Resources Development Amendment Bill 2013 Approved
- Obligation to report a B-BBEE transaction to the B-BBEE Commission
- Penalty for failing to obtain water-use licence can be severe
- Precedent for Anglo Platinum Limited threat?
- Private Criminal Prosecution of Environmental Crimes
- Public Procurement Multi-jurisdictional Guide 2013: South Africa Q&A
- Public Procurement Multi-jurisdictional Guide 2014/15: South Africa Q&A
- Reviewed Mining Charter published amid threats of court application to stop its implementation
- South African Government proposes strategic partnership between the public and private sector
- The International Comparative Legal Guide to Environment & Climate Change Law 2014 Edition
- The International Comparative Legal Guide to: Environment & Climate Change Law 2015 Edition