

GRAHAM ANSTEE –BROOK
BACCALAUREUS PROCURATIONIS (University of South Africa 1977)

Grade 2 Arbitrator
Accredited Mediator
Accredited Adjudicator

Professional Work Experience

Graham was admitted as a legal practitioner in South Africa in 1977 and in Western Australia in 1987. Since arriving in Western Australia, Graham practised as a barrister and solicitor of the Supreme Court of Western Australia and the High Court of Australia. From 1997 until 2007, Graham was a partner at Minter Ellison Lawyers and provided strategic and legal advice to clients in the resources and infrastructure sectors. His expertise and experience enabled him to assist clients in all aspects of their business including tender preparation, contract negotiation and drafting, contract administration and claims advice and dispute resolution.

Graham was named amongst the world's leading construction lawyers by Who's Who Legal in 2005 and 2006.

In 2007, Graham left Minter Ellison and joined Aurecon Australasia Pty Ltd (formerly Connell Wagner) as Legal Counsel. In this role, he provides legal services to internal clients who are personnel of Aurecon in relation to contract negotiation and drafting, contract administration and general contract and commercial advice. He also manages dispute resolution matters and liaises and briefs external lawyers.

Graham is a member of the executive team in the Perth office of Aurecon which comprises 300 staff.

The Aurecon geographical areas for which Graham is responsible are Western Australia, South Australia, Northern Territory, China, Hong Kong, Vietnam, Thailand, Malaysia, Singapore, India and the Middle East.

Community Service

- Board Member of Scotch College for 6 years.
- Board Member of Telethon Speech & Hearing Centre for Children (WA) Inc. for 5 years.

Specific Project Involvement

Representation, contract negotiation, contract drafting and advice to construction engineering and resources clients involved in major Western Australian projects such as:

- Hope Downs Expansion
- Main Roads Term Networks Project
- Port Coogee Marine Project
- BHP DRI Plant
- Bulong Nickel
- South West Metro Mail
- Mining Area C Yandi Ore Body 23
- Telfer Gold Mine
- Gorgon Expansion
- Northwest Shelf LNG Phase V Expansion
- Adelaide Southern Expressway Duplication
- Melbourne Regional Rail Link
- Cape Preston Desalination Plant
- Rio Tinto Wickham Town Site Development
- City Square Perth
- New Children's Hospital

- MAX Perth LRT Alliance
- Perth Airport Rail Link
- Singapore Rail Tunnel Project

Contract Negotiation Drafting and Review

- Review of EPCM contract for a major nickel project in Western Australia (Ravensthorpe)
- Review of BHP Iron Ore Asset development contracts for the design supply erection, construction and commissioning of an open pit mining ore processing rail transportation and infrastructure facility and drafting “back to back” sub-contracts
- Review of Hammersley Iron design and construct contracts for infrastructure in the Pilbara Western Australia and drafting “back to back” sub-contracts
- Review of a Woodside Energy design construct and commission contract in respect of infrastructure in Burrup Peninsula and preparing “back to back” sub-contracts
- Drafting and negotiating alliance Agreement Deed of Co-operation Joint Venture Agreement Finance documents and Term Sheets relating to the acquisition of an interest from Hancock Prospecting Pty Ltd in respect of the Hope Downs tenements
- Negotiation and drafting mining contracts for contractor in respect of BHP Billiton Iron Ore Area C Yandi and Ore Body 23/25 mines
- Negotiation and drafting a suite of 12 contracts relating to earth and civil works seawalls and marina construction and infrastructure relating to the Port Coogee Marina Project
- Reviewing and amending specifications to suit general conditions of contract and drafting request for tender including general and special conditions of contract and conditions of tendering for the City of Joondalup
- Negotiating and drafting compatible consultancy and construction contract with associated request for tender including conditions of tendering for Peet & Co Limited
- Negotiating reviewing and amending Alliance Contract between Main Roads WA and RoadCare Pty Ltd in respect of infrastructure and maintenance services to be provided by RoadCare Pty Ltd
- Negotiating contracts for the South West Metro Rail project and drafted “back to back” sub-contracts for an international railway signalling and infrastructure group
- Review and negotiation of a design and construct contract for a major waste processing facility for a large regional authority
- Drafted a fly ash supply agreement between Western Power and a major construction materials supplier
- Review and redrafting substantial parts of a process guarantee contract and deed of novation and variation for a major engineering house.

Dispute Resolution

- Acted for major contractor in Supreme Court proceedings against Woodside Energy Limited relating to claims for extension of time variations and contract interpretation claims relating to the North West Shelf LNG phase V expansion
- Advising lease holders on Barrow Island on strategies and options regarding third party access arrangements to infrastructure and assets
- Acted for EPC contractor in litigation and arbitration in respect of the Murrin Murrin Project
- Acted for Motherwell Information Systems on an EPCM contract in defending Supreme Court proceeding commenced by BHP Iron Ore in relation to its DRI plant
- Prepared claims and advised a major contractor on claims for variations extensions of time delays and disruptions and breaches of contract in relation to the design and construction of a process plant at Kwinana
- Acted for Newcrest Mining in defending claims by Eroc Pty Ltd for alleged breaches of contract and the Trade Practices Act extensions of time and delay damages and variations
- Acted for Fluor Australia Pty Ltd (EPCM contractors) on the Windimurra Project which was valued at \$104 m. Defended Fluor Australia against claims for defective design and workmanship

- Acted for Saipem, a major international pipeline company, in successfully claiming \$8m damages arising from the construction of a chemical processing plant and offshore oil platform and defended Saipem against a claim for defective design of the platform
- Acted for Boral with respect to a mineral sands mining contract at Cooljalloo and prepared claims for misrepresentations relating to geotechnical issues for damages of approximately \$7m.

Aurecon Australasia Pty Ltd

During the 9 years I have been at Aurecon I have managed all dispute matters in Western Australia, South Australia, the Northern Territory and all Aurecon's Asian office.

The disputes have involved litigation arbitration and mediation.

For reasons of confidentiality I am not able to expand on this information at this stage.

Alternative Dispute Resolution

- Acted for major contractor in preparing legal and factual position statements for mediation relating to contractual tort and Trade Practices Act claims arising out of a supply contract and commission contract for the Hismelt plant at Kwinana
- Representing international rail infrastructure supplier in preparing and assessing claims for extensions of time and associated costs and developing and taking part in alternative dispute resolution procedures.
- Dispute between inner city property developer and engineers regarding alleged deficiencies in professional services rendered by the engineers (engineer's representative).
- Acted as Arbitrator on a number of commercial arbitrations.
- Acted as Arbitrator pursuant to the *Railways (Access) Code 2000 (WA)* in an access dispute between the Owner and User of railway infrastructure.

Construction Contracts Act

- Prepared course content and materials for the Adjudicator's Training Course for the Institute of Arbitrators and Mediators Australia (Western Australia Branch) accredited by the Department of Housing & Works (WA) and presented two courses in 2005 which successfully trained 49 Adjudicators
- Prepared course content and materials for the Minter Ellison/Clifton Coney Training Course for Adjudicators and presented two Training Courses in 2005 which successfully trained 18 Adjudicators
- Acted for Decmil Australia in preparing its response to an Application for Adjudication by a sub-contractor claiming \$2m. The adjudication response raised numerous factual and procedural issues which resulted in the claimant settling the claim for less than 10% of the claim
- Acted for JJ McDonald & Sons in preparing an Adjudication Application relating to variations, extensions of time and associated delay costs of \$600,000. The Adjudicator awarded the claimant the sum claimed in the Adjudication Application
- Acted as Accredited Adjudicator on various Adjudication Applications involving variations delay costs quantum assessments and contractual issues and writing Adjudication Determinations.

Construction Contracts Act Contract Reviews

- Conducted audits of construction contracts for a number of construction industry clients to ensure that they comply with the provisions of the *Construction Contracts Act*

- Drafted amendments to General Conditions of Contract to take account of the provisions of the *Construction Contracts Act* including specific provisions designed to protect a principal from the effect of a sub-contractor's claims against a contractor.

Presentations and Conferences

- "The Effective Use of Partnering" - IES Conference 2000/2001
- "Delay and Disruption Protocol" – Industry Seminar organised by Minter Ellison 2002
- "The Preliminary Conference" – Institute of Arbitrators and Mediators Australia, Professional Certificate in Arbitration 2003/04
- "Analysing the Tender Process" – Lexis Nexis Contracts Conference 2004
- "Analysing the Tender Process" – Australian Institute of Project Management National Conference 2004
- Institute of Arbitrators and Mediators Australia Adjudicator's Course in "Construction Contracts Act" 2005
- "Adjudicators Course on *Construction Contract Act*" - Minter Ellison/Clifton Coney 2005
- "Adjudicators Course on *Construction Contract Act*" – Minter Ellison/Clifton Coney 2006

- "Time Related Claims" – Kuala Lumpur International Conference on Construction Law and Arbitration 2005
- "Adjudication in Western Australia" – Institute of Arbitrators and Mediators Australia – National Conference 2005
- "Legislation and Construction Contracts" – Legalwise Seminars 2005
- "Liquidated Damages Acceleration and Delay Costs" – Legalwise Seminars 2006
- Northern Territory Adjudicators Course – Northern Territory Department of Justice 2006
- "Negotiation Skills" - Aurecon Workshop 2011
- "Contracts and the Legal Review Process" – Aurecon Workshop 2012 to 2018