

## Procurement and Project Delivery

Related Services  
Related Industries

Recognised for the diversity and breadth of our practice, our construction team has a proven track record in applying project management expertise to help clients delivering major projects and transactions across a wide range of industries and sectors.

Our experience includes a broad range of project delivery models such as: traditional construction procurement, partnering/alliancing, target price contracts, guaranteed maximum price contracts, design/build, PPPs, and construction management and other fast-track procurement strategies.

Our team can assist with the whole gamut of project procurement and delivery models and issues such as probity, risk assessment, tendering, project structuring, consultancy agreements, dredging contracts, collaborative contracting (alliancing, ECI), D&C, DCM, DCF, BOO, BOOT, DBFO, EPC and EPCM, turnkey, O&M and supply/supply and install.

### RECENT WORK

#### **Dawson and Lake Lindsay projects**

Advised on the expansion of Anglo American's Dawson and Lake Lindsay projects involved capital expenditure in excess of \$1b and required a contracting strategy that would ensure the procurement of coal preparation plants, long conveyors, crushing plants, and associated building and civil infrastructure. We helped Anglo establish several alliances, several EPCM contracts and a multitude of equipment and services procurement contracts.

#### **\$310 million Berth 8 and 10 upgrade at Port of Townsville**

Port of Townsville Limited has commenced an expansion of the Port of Townsville to address current capacity constraints and accommodate forecast growth in trade over a planning horizon to 2040. We are assisting the Port of Townsville Limited in all matters associated with the \$310 million upgrade of two major berths at the Townsville port including the project delivery method which is now proposed to be a competitive ECI. This project involves reclamation, general construction and upgrading of facilities.

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### **Ergon Energy procurement suite**

Review and upgrade of Ergon Energy's key construction and procurement contracts (with the addition of new contracts as necessary) to facilitate Ergon Energy's business needs.

### **ENERGEX – Procurement Policies, Processes and Systems**

Advised Energex on the auditing, development and integration of procurement policies, processes and systems. This included developing the tender conditions (standard and special) and tender documents, discussing the process and outcomes with tenderers, advising on associated tender issues, providing advice to the ENERGEX board, and daily matters such as developing tender and purchasing systems.

### **Melbourne Airport Southern Precinct Project**

Assisted Melbourne Airport in the tender and contract execution phase of its Southern Precinct Program. Our hands on role included initial contract preparation, review of the invitation to tender and other related documents, review of tender responses and finally negotiation and completion of the contract with Melbourne Airport's preferred tenderer, Leighton Contractors. The Southern Precinct Program involves the construction of a new terminal, carpark and road network at Melbourne airport and includes baggage handling facilities, check-in kiosks and retail areas. Work is expected to commence in October 2013. Minter Ellison has also assisted Melbourne Airport in its negotiations with the airlines that will operate from the new terminal. Our role has included initial contract preparation and direct involvement in the negotiation process.

### **Walker Corporation Rhodes Peninsula**

Acted for Walker Corporation in its redevelopment of waterfront land at Rhodes, NSW. The development is an estimated A\$800 million project which involved a paint factory site being remediated and redeveloped to a mixed-use, high-rise, shopping centre, residential and commercial village.

### **Roads & Maritime Services pro-forma design and construction project deed**

Acted for Roads & Maritime Services (RMS) on preparing the new design and construction project deed for use on major projects. Work involved participating in workshops to discuss risk allocation and drafting the new form of contract in close consultation with the RMS legal and commercial teams.

### **Port of Melbourne Channel Deepening Project**

Advised Port of Melbourne Channel Deepening, one of the largest infrastructure projects conducted by the Victorian Government in recent

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times, seen as critical to the Port and Australia's position in global shipping. As key advisers to the Port of Melbourne Corporation, we advised on many aspects of the project, including the Supplementary Environmental Effects Statement and managed the public hearing process Federal Court litigation over the Federal Government's environmental approval for the dredging, cultural and Aboriginal heritage issues, relocation of essential infrastructure under the Yarra River, the resolution of the alliance dredging contract, and land tenure issues relating to land assets affected by the project.

### **East West Link PPP project**

Advising Leighton Contractors, John Holland Group and Dragados S.A. on their shortlisted bid, as part of the Momentum Infrastructure consortium, for the design and construction elements of East West Link PPP project.

### **Brisbane Airport parallel runway**

The cornerstone of the Brisbane Airport Corporation's infrastructure program for Australia's third-busiest airport is a new Parallel Runway, expected to be completed by 2020. The new runway will be 3.3km long, 60m wide and will have over 12km of taxiways, navigational aids and other airfield infrastructure. This is a multidisciplinary engineering project that requires a variety of technical and construction skills to complete. As the new runway will be built on what is currently swamp land, dredging and ground treatment work is required before construction of the runway can begin.

Minter Ellison is currently supporting BAC with the development and implementation of a procurement strategy for Stage 1 of the proposed A\$1.3 billion runway.

### **AMP Capital Wholesale Office Fund – \$317 million acquisition and development of 190/200 George Street, Sydney and Coronation Drive Office Park, Brisbane**

Acted for AMP in relation to the \$317 million acquisition and redevelopment of a 50% interest in 190-200 George Street, Sydney.

### **\$800m Discovery Point mixed use development**

Acting for a wholly owned subsidiary of Australand Holdings Ltd on the A\$800 million Discovery Point development at Wolli Creek in New South Wales. This 8-hectare mixed use development will feature residential apartments, commercial offices, an integrated retail centre and extensive public and private parklands. We are advising on procurement and OH&S strategies, drafting pro-forma and project specific documentation (such as consultancy agreements and design and construct contracts), assisting in the preparation of the tender conditions, advising on the tendering process and compiling documentation for tender.

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### **Development of a suite of procurement contracts**

Assisted Peabody Energy Australia with development of a suite of procurement contracts (including construction contracts) for use across multiple mine sites in Queensland and New South Wales. We currently assisting Peabody in the negotiation of deals based on those templates, with those deals ranging in complexity and value from tens of thousands of dollars to hundreds of millions of dollars.

### **CBA Office Space - 357 Collins Street, Melbourne**

Advising the Commonwealth Bank of Australia (CBA) on 357 Collins St, Melbourne. Our role included advising CBA on the design, construction and lease of commercial office space, acting in relation to its negotiation for the design, construction and lease of additional commercial office space to that in the original Agreement for Lease and we also settled claims in relation to CBA's delay damages and advising on contract administration matters involving variation claims and extensions of time claims.

### **CBA Collins Square Development - 717 Collins Street, Melbourne**

Advising CBA on the design, construction and lease of commercial office space in building 4B which forms part of the Collins Square development in Melbourne. The Collins Square development consists of 4 commercial towers including open plaza areas, secure parking, retail levels and pedestrian access.

## PUBLICATIONS

### **Minter Ellison Alert | WA Supreme Court decision challenges Peerless view of consequential loss**

24 October 2013

A recent decision of the Supreme Court of Western Australia reinforces the need for parties to clearly state what they mean when seeking to exclude liability for 'consequential loss'.

### **Minter Ellison Alert | Process contracts and confidentiality in tender processes**

17 August 2012

The recent decision in *Wagdy Hanna and Associates Pty Ltd v National Library of Australia* [2012] ACTSC 126 is a timely reminder of the importance of maintaining confidentiality in government tender processes. In summary, the court found that a tender process contract was in effect and that an obligation of confidence was implied within that contract. The National Library successfully defended allegations of a breach of

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confidentiality and was found not to have breached the obligation of confidence.

### **Alert – Security of Payment claims over Christmas**

14 December 2011

The Christmas period is seen by many in the construction industry as an opportunity to serve payment claims or have claims for payment of construction work adjudicated under the security of payment legislation — in the hope those claims or applications will go unanswered or the other party will be ill-prepared to defend them.

## AWARDS & RECOGNITION

### **Chambers Asia Pacific / Chambers Global - Projects**

*'Minter Ellison has fantastic lawyers - we are happy to have them involved in any of our projects at any time.'*

### **Best Lawyers 2014**

*The depth and strength of Minter Ellison's team in Australia has been recognised by this year's list of Best Lawyers, announced today by Best Lawyers®*

### **Legal 500 Asia Pacific - Construction**

*Minter Ellison 'delivers expert legal services in the construction area', and provides an 'in-depth knowledge of the industry and regulatory framework'.*

### **Best Lawyers 2013**

*The depth and strength of Minter Ellison's team in Australia has been recognised by this year's list of Best Lawyers, announced today by Best Lawyers® and published by the Australian Financial Review.*

### **Chambers Asia Pacific / Chambers Global - Construction**

*'One of the leading construction practices nationally, with competitive rates. Good, solid advice, particularly in the PPP space.'*