SQUIRE PATTON BOGGS

Robert O'Brien



Special Counsel

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About Robert

Robert O'Brien is a specialised construction lawyer and one of the few practitioners in Australia who brings together dual qualification as a lawyer and a civil engineer.

Admitted in Ireland and Australia, Robert has more than two decades of involvement in the construction and engineering industry across Australia, Ireland and the UK, and offers clients a technically grounded, commercially focused approach to the most complex disputes and transactions in the sector.

Robert represents developers, contractors, subcontractors and engineering consultancies across the full life cycle of a construction project, from contract formation through to enforcement, with particular depth in the resources, energy, infrastructure and property sectors. He has extensive experience across all methods of dispute resolution used in the construction industry, including adjudication, mediation, domestic arbitration and international arbitration, and has acted in high-value claims before the Supreme Court of Western Australia, the Irish Commercial Court and in major international arbitrations seated in Perth, London, Sydney, Singapore and Dubai.

Robert has intimate knowledge of adjudication processes under various Australian security of payment acts, including particularly the Building and Construction Industry (Security of Payment) Act 2021 (WA) (SOPA) and its predecessor, the Construction Contracts Act 2004 (WA). Robert has represented parties to precedent-setting decisions by the WA Supreme Court.

In addition to dispute resolution, Robert advises on the drafting and administration of construction contracts and is well versed in Australian standard form contracts, as well as international suites, including FIDIC and NEC. He began his career as a civil engineer working for contractors in the UK, Australia and Ireland on a range of infrastructure, resource and commercial projects, an experience that informs his practical, fact-focused approach to construction law.

Experience

Front End

- Advising a government-owned entity on aspects of its construction contracts associated with the expansion of an airport in the Middle East.

- Advising one of Australia's largest infrastructure service providers on the negotiation of an incentivised target cost contract in respect of the structural, mechanical and piping (SMP) works on a desalination plant.
- Advising a defence technology contractor on the use of the FIDIC suite of contracts for the development of ongoing projects in the Middle East.
- Advised the developer on its contractual arrangements relating to the development of an apartment complex in Claremont.
- Acted for MSP Engineers in advising on and negotiating design and construct (D&C) contracts for the expansion of the processing facilities at Tianqi's Kwinana lithium operations and the expansion of Talison's lithium mine and associated infrastructure at Greenbushes.
- Advised on D&C contracts for the Perth Hub residential tower, the adjacent Dorsett Hotel, residential apartment developments and large-scale retail and residential precincts in Perth's western suburbs.
- Advised on the D&C contract and consulting contract documentation relating to high-rise hotel and residential developments at Elizabeth Quay.
- Provided contractual advice to the EPC joint venture contractors delivering the AU$1.2 billion Forrestfield Airport Link rail and tunnel project, including advice on the D&C head contract with the Public Transport Authority of WA and subcontracts, together with the preparation of the operation and maintenance agreement.
- Drafted amendments to FIDIC yellow book (design and build) contracts for use on Irish energy projects.
- Advised investors on the construction risks associated with the acquisition of newly constructed and proposed windfarms in Ireland, and undertook due diligence of balance of plant contracts for financiers of a number of Irish wind farms.

Back End

- Representing a government entity in the defence of claims exceeding AED4 billion by the main contractor joint venture in an arbitration seated in Dubai concerning a Middle East airport project.
- Advising a mining company in relation to disputes arising from the operation of a gold project in Côte d'Ivoire.
- Advising the main contractor on variation, delay and disruption claims, and representing in disputes, arising out of Rio Tinto's Western Turner Syncline Phase 2 project.
- Advising a leading global technologies company on claims against Honeywell in connection with telecommunication works on the Star Casino development in Queensland.
- Advising a national engineering contractor on its claims and disputes with Santos relating to the Darwin LNG project.
- Advising a contractor on its dispute arising from the construction of the accommodation village for Mineral Resources' Onslow Iron project and in subsequent WA Supreme Court proceedings.
- Advising a building contractor on disputes arising out of the construction of station components for the Metronet Rail public transport infrastructure project.
- Advised a national engineering contractor on its claims and the defence of counterclaims arising from two infrastructure projects for BHP in Port Hedland.

- Representing a WA-based specialist engineering contractor in New Zealand High Court proceedings arising from the supply of components to a Microsoft data centre.
- Advised a national engineering contractor on its claims and disputes with Fortescue Metals Group (FMG) arising out of the construction of the Elliwana Railway.
- Represented MSP Engineering against Tianqi Lithium in domestic and international arbitration proceedings to enforce a parent company guarantee and in the defence of a AU$225 million counterclaim, and subsequently in WA Supreme Court of Appeal proceedings arising out of the EPC contract for Australia's first lithium hydroxide processing plant.
- Advising on various disputes in relation to the construction of the Ichthys LNG project, including:
    - Acting for the main contractor on the adjudication and international arbitration of disputes concerning the construction of the onshore processing facilities
    - Acting for a major Australian construction contractor on an international arbitration arising from the construction of the cryogenic tanks, with the value of claims and counterclaims estimated in excess of AU$1 billion
    - Advising on claims arising out of the construction of the AU$1.2 billion combined cycle power plant
- Advised an international supplier of materials for the North West Rail Link project in New South Wales on contractual disputes concerning alleged defects.
- Advised an Australian industrial services, fabrication and construction company in the resolution of claims arising out of the construction of WA's first waste-to-energy plant.
- Advised an international hotel and development company on contract issues with the builder concerning the development of the Ritz-Carlton Perth Hotel at Elizabeth Quay.
- Advised a Canadian energy company:
    - On claims arising out of the construction of the Queensland Curtis LNG and Gladstone LNG plants
    - In the defence of claims by Chevron in connection with the Gorgon LNG project, including defence of claims for additional works, and alleged faulty design and supply of plant and equipment relating to the DOMGAS metering station
- Acted for a Canadian supplier of products and services to the global power generation sector in the defence of claims arising from the construction of the Jemena gas pipeline.
- Acted for an independent power producer in a dispute with FMG arising out of the termination of a power purchase agreement following the construction of a power station, including representing in the WA Supreme Court.
- Acted for a leading international engineering consultancy in the defence of a series of claims by Rio Tinto arising out of the construction of the Hope Downs 4 and Marandoo iron ore mines in the Pilbara.
- Acted for a head contractor in the defence of subcontractor delay and disruption claims arising from the construction of the Eastern Goldfields Regional Prison, which they were undertaking in joint venture with John Holland.
- Acted for a major national contractor on the extension of Perth's Mitchell Freeway in relation to the insolvency of its joint venture partner and restructuring to complete the works.

- Advised a leading real estate asset manager and owner on claims arising from defects in newly constructed office buildings.
- Instructed Queen's Counsel in the defence of a series of arbitrations ranging from €20 million to €120 million arising out of design and build motorway schemes under the FIDIC form of contract.
- Acted for an Irish local authority in the defence of a €7 million claim in arbitration arising from the construction of a bypass and associated structures under an Irish domestic design and build contract.
- Acted for a healthcare group in an Irish Commercial Court procurement challenge against the Irish Health Service Executive.
- Acted in a procurement challenge against the award by the Dublin Airport Authority of a site services contract.
- Acted for a motorway operator in the defence of claims in the High Court of Ireland in respect of alleged property damage caused during the construction of a public-private partnership (PPP) motorway scheme.
- Acted for SGS United Kingdom Limited in a dispute arising from an incident during the inspection of wind turbines involving parties based in Ireland, the UK and the Netherlands.

Adjudication

- Represented a contractor in the first WA District Court and WA Supreme Court proceedings under SOPA arising from payment disputes on Mineral Resources' Onslow Iron project.
- Represented the EPC joint venture contractors delivering the Forrestfield Airport Link project in multiple adjudications, including two WA Supreme Court review applications.
- Represented and advised the EPC contractor in several adjudications with the project owner issued in the Northern Territory concerning the Ichthys LNG project.
- Represented a major national civil contractor in successfully responding to applications for adjudication by subcontractors regarding the Northlink WA Stage 3 Perth Darwin National Highway project.
- Represented a leading WA-listed civil contractor in successfully responding to an application over a subcontract dispute regarding the Eliwana Railway project.
- Represented a leading WA-listed civil contractor in successfully responding to an application over a subcontract dispute regarding the Mount Holland lithium project, and in subsequent WA Supreme Court proceedings.
- Represented a WA construction company in multiple adjudications concerning Rio Tinto's Gudai-Darri (Koodaideri) Phase 1 mining camp construction project.
- Acted for a WA-based property group in the defence of adjudications from subcontractors on various building projects.

Credentials

Education

- The Honorable Society of King's Inns, Barrister at Law, 2009
- University College Dublin, Diploma in Arbitration, 2004
- Trinity College Dublin, Diploma in Project Management, 2003
- Trinity College Dublin, Diploma in Construction Law, 2002
- University of Dundee, BEng (Hons), Civil Engineering, 1999

Admissions

- Supreme Court of Western Australia, 2026
- Ireland (Barrister), 2009

Expertise

Services

- Litigation
- International Dispute Resolution

Industries

- Construction & Engineering
- Energy & Natural Resources
- Infrastructure

About our firm

One of the world's strongest integrated law firms, providing insight at the point where law, business and government meet. We deliver commercially focused business solutions by combining our legal, lobbying and political capabilities and invaluable connections on the ground to a diverse mix of clients, from long-established leading corporations to emerging businesses, startup visionaries and sovereign nations. More than 1,500 lawyers in over 40 offices across four continents provide unrivaled access to expertise.