

## Curriculum Vitae

**Gordon Smith**



**NAME:** Gordon Smith  
**NATIONALITY:** New Zealand, Australian Resident  
**CONTACT DETAILS:** Independent Arbitrator and Adjudicator  
**Chartered Arbitrator**  
PO Box 797, Claremont 6910  
Western Australia  
Tel: +61 8 9286 3125  
Email: gordon.smithcharb@bigpond.com

**ARBITRATOR FIELDS:** Commercial, Construction, Energy, and Investment

## QUALIFICATIONS:

---

Barrister & Solicitor of the Supreme Court of Western Australia (1996)  
Admitted as Solicitor in England and Wales (2002-2012)  
Registered Adjudicator under the *Construction Contracts Act 2004* (WA)  
Registered Adjudicator under the *Construction Contracts (Security of Payment) Act 2004* (NT)

### University of Canterbury, Christchurch, New Zealand

Bachelor of Laws (First Class Honours) (1995)  
Bachelor of Engineering (Civil) (1982)

### University of Western Australia, Perth, Australia

Master of Business Administration (1992)

### Affiliations

Fellow and Chartered Arbitrator, Chartered Institute of Arbitrators, United Kingdom (Fellow-2003)  
Fellow, Singapore Institute of Arbitrators  
Founding Member and Council Member of Singapore Society of Construction Law (2002-2007, 2010-2012)  
Council Member of Asia-Pacific Advisory Council, Dispute Board Federation (2011-2012)  
Associate Member, Institute of Arbitrators and Mediators Australia  
Member, Australian Construction Law Society  
Fellow of the Institution of Engineers, Australia (Member - 1989, Fellow - 2000)  
Fellow, College of Civil Engineers, Australia (Member - 1989, Fellow - 2000)  
Australian Chartered Professional Engineer (CPEng) (1989-2012)

### Awards

Listed in *The Asia Pacific Legal 500* as a Leading Individual in construction law in Singapore 2001 to 2007  
Listed in the *International Who's Who of Business Lawyers* in 2007 in construction law in Singapore  
Arbitrator of the Year, Australia, Acquisitions International, 2014  
Best Complex International Arbitrator, Australia, Acquisitions International, 2015  
Best Lawyers in Australia 2017, listed by peers in construction / infrastructure law

### Lecturer / Teaching

Guest Lecturer in the Kings College-National University of Singapore MSc Course in Construction Law and Arbitration, 2004, "*Multi-Tiered Dispute Clauses*", and "*Limitation Periods in International Arbitration*"  
Guest Lecturer, Singapore Management University, Law of International Commercial Arbitration, "*Practical International Arbitration Experience*", 18 May 2011  
Member, Chartered Institute of Arbitrators' Teaching Faculty  
Trainer, Chartered Institute of Arbitrators' Fast Track Fellowship Programme, November 2015  
Trainer, Institute of Arbitrators and Mediators, Arbitration Master Class, November 2015

### Arbitrator Panel Membership

Singapore International Arbitration Centre Panel of Arbitrators  
Kuala Lumpur Regional Centre for Arbitration Panel of Arbitrators  
Arbitrator on the Presidential Panel of Chartered Institute of Arbitrators  
American International Commercial Court  
New Zealand Dispute Resolution Centre, Principal Panel  
London Court of International Arbitration, Panel of Neutrals  
ICC Australia list of arbitrators

## ACADEMIC PRIZES

---

### University of Canterbury, Christchurch, New Zealand

- *Canterbury District Law Society Gold Medal* for best performance in LLB degree 1994
- *Law Book Co Ltd Prize* for best student in Legal System 1992
- *Duncan Cotterill Award* in Law for best all round performance: Stage 2 law subjects 1992
- *Second place Moot competition* - 1994

### University of Western Australia, Perth, Australia

- *PA Consulting Group Master of Business Administration Prize* for best performance in whole of MBA course 1991
- *Westpac Banking Corporation Prize in Management of Organisations* 1991
- *Institute of Chartered Managing Accountants Prize in Managerial Accounting* 1991

## PROFESSIONAL EXPERIENCE

---

2014-present	<b>Independent Arbitrator and Adjudicator, Chartered Arbitrator</b>
2012-2014	<b>Senior Legal Advisor</b> to Kellogg Brown & Root, Kellogg Joint Venture Gorgon and JKC on the Gorgon (US\$55b) and Ichthys (US\$40b) LNG projects, advising, negotiating and documenting settlement of major claims up US\$1b+
2009-2012	<b>Partner</b> , Kennedys Registered Foreign Lawyer, Kennedys, Singapore (Head of Construction Law – South East Asia) – International Arbitration Practice
2008-2009	<b>Special Counsel</b> , Allens Arthur Robinson, Perth, International Arbitration Practice
2004-2008	<b>Partner</b> , DLA Piper UK LLP (Hong Kong) <b>Director</b> , DLA Piper Singapore Pte Ltd, Singapore
1998-2004	<b>Partner</b> , (from Jan 2001), Registered Foreign Lawyer, Baker & McKenzie.Wong & Leow, Singapore – International Arbitration and Construction Practices
1994-1998	<b>Senior Associate</b> , (from 1996) Jackson McDonald, Perth
1989-1991	<b>Project Manager</b> , Sinclair Knight Mertz Ltd, Perth
1987-1989	<b>Civil/Project Engineer</b> , Australian Groundwater Consultants Pty Ltd (now Woodward Clyde), Perth
1985-1987	<b>Civil/Structural Engineer</b> , Kinhill Engineers (now Kellogg Brown & Root), Perth
1981-1985	<b>Civil/Structural Engineer</b> , Royds, Sutherland & McLeay Ltd (now MWH), New Zealand

### Summary Profile

Gordon is an accomplished international commercial disputes lawyer and international arbitrator, with an emphasis on engineering, resource, and energy matters throughout Asia-Pacific. Prior to becoming a lawyer, Gordon practised for 12 years as a consultant civil/structural engineer and project manager in Australia and New Zealand in the design, contract administration, claims assessment, negotiation and settlement, for mining, oil and gas, industrial, and hydro-electric projects.

Gordon was resident in Singapore for 11 years, and 2 years in Hong Kong. He was head of Engineering and Construction Law and the International Arbitration Groups at Baker & McKenzie.Wong & Leow until April 2004. He was also a partner at DLA Piper, in Singapore and then in Hong Kong, where he was responsible for the Asian engineering and construction law practice. He was a partner at Kennedys in Singapore until 2012, heading its Construction Law Practice for South East Asia.

Gordon is an experienced international arbitrator, and has been appointed as sole arbitrator and a panel arbitrator on major infrastructure, oil and gas, commodity, and commercial dispute arbitrations up to US\$150m. He has also been appointed as adjudicator under the Western Australian *Construction Contracts Act* 2004 on a number of construction adjudications.

He also has substantial experience as counsel in complex international arbitrations, having conducted over 50 arbitrations of up to US\$2.2b in value in London, Hong Kong, Singapore, Tokyo, Kuala Lumpur, Bangkok, and Jakarta under institutional rules ICC, SIAC, HKIAC, TAI, Bani, KLRCA, and ad-hoc arbitrations (UNCITRAL). He has also conducted a major, US\$200m, investor state dispute on behalf of an investor against an Asian state under the auspices of ICSID.

Gordon has also led teams for the drafting and negotiation of suites of documents for major engineering, rail, power, resource, and oil and gas projects, and advised clients on claims and the administration of such projects, most recently on the Gorgon and Ichthys LNG Projects in Western Australia and Northern Territory respectively, two of the world's largest projects. He has drafted and negotiated traditional construction contracts, EPC contracts, guarantees and performance bonds, consultant agreements, project management agreements, joint venture agreements, novation agreements, equipment supply contracts and special conditions for standard forms.

He has published over 50 articles and delivered over 60 presentations at seminars on international arbitration, and engineering related topics in Singapore, Australia, New Zealand, Malaysia, Hong Kong, Thailand, Taiwan, and Vietnam.

#### **RECENT ARBITRATOR APPOINTMENTS**

---

- **Singapore Arbitrations under the SIAC Rules (consolidated 3 arbitrations)**  
Sole arbitrator in a US\$150m+ arbitration arising from the design and construction of a major government tunnel and road infrastructure project in Singapore, appointed by SIAC. Published award on the merits.
- **Singapore International Arbitration under the SIAC Rules – Emergency Arbitration**  
Appointed by SIAC as an Emergency Arbitrator under the SIAC Rules emergency arbitration procedure to decide an application by the Claimant to restrain a call on two US\$750,000 performance bonds issued under a construction contract for the construction of a power project in Indonesia. Published interim award on interim relief and costs, and interim award on jurisdiction with respect to further costs orders.
- **Singapore International Arbitration under the SIAC Rules – Emergency Arbitration**  
Appointed by SIAC as an Emergency Arbitrator under the SIAC Rules emergency arbitration procedure to decide an application by the Claimant to restrain a call on two US\$2.0m performance bonds issued under a supply agreement for the supply of coal fired units for a power project in Indonesia. Published interim award on interim relief and costs, and interim award on jurisdiction with respect to further costs orders.
- **Perth International Arbitration under the ICC Rules**  
Party appointed arbitrator in a US\$60m+ arbitration arising from the design and construction of a Floating, Production, Storage and Offloading vessel operating in North West Australia. Published partial award on preliminary issue relating to effect of design criteria for the vessel.
- **Singapore International Arbitration under the UNCITRAL Rules**  
Party appointed arbitrator on a three member panel in a US\$20m claim arising out of the sale and purchase of an oil and gas production platform in Western Australia.
- **Singapore International Arbitration under the International Arbitration Act**  
Sole arbitrator in a dispute arising from an alleged breach of a coal supply commodities' agreement of value US\$2m, including orders on preliminary issue on jurisdiction over related agreements. Published award on the merits.
- **Singapore International Arbitration under the SIAC Rules**  
Sole arbitrator in a US\$20m arbitration arising from the development of a software system for oil trading and risk management, involving allegations of delay, wrongful termination, breaches of the software supply agreement, and defamation. Published award on the merits, and final award on costs and interest.
- **Singapore International Arbitration under the SIAC Rules (consolidated 2 arbitrations)**  
Sole arbitrator on US\$10m breach of put and call shareholder and related sale and purchase agreements claim, involving jurisdictional issues under related agreements. Published order on jurisdiction issues arising from defences raised under a related agreement, and published award on the merits.

## **MEDIATION EXPERIENCE**

---

Gordon has acted as counsel for parties in a number of mediations involving complex commercial matters, and has carried out mediation training by the United Kingdom Centre for Effective Dispute Resolution, the Singapore Mediation Centre, and LEADER in Singapore, Hong Kong and Perth respectively, including successfully completed the LEADR 5 day workshop as a requirement for the Australian National Mediator Accreditation System, and the LEADR Accreditation Scheme.

## **RECENT ADJUDICATION APPOINTMENTS**

---

Gordon has been appointed as adjudicator under the Western Australian *Construction Contracts Act 2004* to adjudicate on a number of payment disputes involving building works, electrical works, rail, and mining projects of claim value up to A\$85m.

## **PUBLICATIONS**

---

*"The Emergence of Emergency Arbitration"*, Arbitrator & Mediator Journal, December 2015  
*"Enforcing a DAB Decision in Arbitration Proceedings"*, Building and Construction Law Journal, October 2011 (joint article).  
*"International Commercial Arbitration in Asia-Pacific – A Comparison of the Australian and Singapore Systems"*, CIArb Journal, Arbitration, Vol 77, Number 1, February 2011, at p108.  
*"Commentary on the New Singapore International Arbitration Centre Rules"*, CIArb Journal, Arbitration, Vol. 76, November 2010, at p727.  
*"Chinese Bilateral Investment Treaties – Restrictions on International Arbitration"*, CIArb Journal, Arbitration, Vol 76, Number 1, February 2010, at p58  
*"An Introduction to Investor-State Arbitrations"*, International Trade and Business Law Review (2010) Vol XIII.  
*"Dismissal of Arbitration Proceedings for Want of Prosecution"*, Asian International Arbitration Journal, (2009) Vol 5, No. 2, Singapore Institute of Arbitrators.  
*"The Australia-China BIT – Restriction on International Arbitration"*, Australian ADR Reporter, Quarterly Bulletin of The Chartered Institute of Arbitrators (Australia) Limited, Issue No. 12/13 (September 2009 edition).  
*"SIAC Publishes New Arbitration Rules"*, International Law Newsletter, 14 July 2007.  
*"No Breach of Natural Justice in Arbitration"*, International Law Office Newsletter, 8 March 2007.  
*"Case Note: Mae Engineering Ltd v Fire-Stop Marketing Services [2005] 1 SLR 379*, Singapore Society of Construction Law Newsletter, January 2007.  
*"A Breach of Natural Justice in Arbitration"*, International Law Office Newsletter, 30 November 2006.  
*"The Singapore Construction Industry – Recent Trends and Developments"*, Constructing New Zealand, Centre for Advanced Engineering, Issue No. 2, October 2006.  
*"High Court's Power to Grant Interim Injunction in Aid of Foreign Arbitration"*, International Law Office Newsletter, 14 September 2006.  
*"Owner's Power to Omit Work Restricted"*, South East Asia Construction, July/August 2004.  
*"Court Considers Scope and Validity of Arbitration Agreement"*, International Law Office Newsletter, 15 January 2004;  
*"Confidentiality of Arbitrations - Singapore's Position Following the Recent Case of Myanmar Yaung Chi Oo Co Ltd v Win Win Nu"*, (joint article), The Vindobona Journal of International Commercial Law and Arbitration, Volume 8, Issue 1 (2004).  
*"Confidentiality in Arbitration Proceedings"*, Asian Legal Business, Issue 3.12, December 2003.  
*"Can Complainant Intervene on behalf of Company Involved in Arbitration"*, International Law Office Newsletter, 27 November 2003.  
*"Court Confirms General Confidentiality of Arbitrations"*, International Law Office Newsletter, 9 October 2003.  
*"Removal of Arbitrator for Misconduct in Domestic Arbitration"*, International Law Office Newsletter, 14 August 2003.  
*"Court Rules on Application for Leave to Appeal Against Domestic Award"*, International Law Office Newsletter 14 August 2003.  
*"No Second Bite at the Cherry"*, Asia Dispute Review, 2003.  
*"Time Limit for Amending Set-Aside Applications"*, International Law Office Newsletter, 14 August 2003.  
*"The UNCITRAL Model Law and the Parties' Chosen Arbitration Rules - Complementary or Mutually Exclusive? The Singapore case of Dermajaya Properties"*, The Vindobona Journal of International Commercial Law and Arbitration, Volume 6, Issue 2 (2002).  
*"Drafting Construction Contracts to Avoid Disputes"*, Proceedings, Second World Engineering Congress, 22-25 July 2002, Kuching, Malaysia.

*"The Prevention Principle and Conditions Precedent: Recent Australian Developments"*, The International Construction Law Review, July/August 2002.

*"The Application of Bryan v Maloney to Commercial Buildings"*, Building and Construction Law, Volume 15, Number 4, August 1999 (cited by Byrne J with approval in the Victoria Supreme Court's decision in *Hampton Park Central Pty Ltd v Australian Safeway Stores Pty Ltd* [2000] VSC 422 (20 October 2000)).

*"Recent Developments in Singapore and Malaysia on Recovery of Economic Loss for Defective Buildings"*, The International Construction Law Review, Volume 16, Part 3, July 1999.

*"The Effect of Contractual Terms on the Duty Owed to Third Parties"*, Professional Negligence, Volume 14, Number 2, 1998.

*"Case Note: Eagle Homes Pty Ltd v Austec Homes"* (Copyright in Building Plans), Building and Construction Law, Volume 14, Number 5, October 1998.

*"The Resource Management Act 1991 'A Biophysical Bottom Line' vs 'A More Liberal Regime: A Dichotomy?'"*, Canterbury Law Review, Volume 6, Number 3, 1997.

*"The Role of Assessment of Environmental Effects Under the Resource Management Act 1991"*, Environmental and Planning Law Journal, April 1996.

*"The Resource Management Act 1991 and the Consideration of Alternatives"*, New Zealand Law Journal, May 1995.