

RESUME

JOSEPH M. MANNER

**Barrister at Law
Mediator/Arbitrator
Probity Advisor**

SYDNEY CHAMBERS

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Professional Overview

I am a practising Barrister at Law, Alternative Dispute Resolution Practitioner (Mediator/Arbitrator) and Probity Advisor, practising principally in Queensland and NSW. I appear regularly in the Queensland and NSW jurisdictions in the Magistrates, District, Supreme Courts and Federal Courts in complex commercial and property matters including applications, trials, and appeals. I also regularly provide legal opinions and advices in relation to complex or contentious points of law.

I am an experienced and Nationally Accredited Mediator acting regularly as Mediator in commercial and mineral and energy resources matters conducted regularly in Sydney and Brisbane. I also act regularly as Counsel representing parties in similar ADR mediation matters.

Relevantly, I act regularly by appointment as Mediator and ADR Facilitator in land disputes and mineral and energy resources matters in Queensland proceeding pursuant to the provisions of the *Mineral and Energy Resources (Common Provisions) Act 2014* (Qld) and *Mineral and Energy Resources (Common Provisions) Regulation 2016* (Qld), conducted between Resource and Authority Holders (typically multi-national petroleum companies) and Landowners in mediations seeking to establish acceptable terms of Conduct and Compensation Agreements between the parties. Those provisions under which I regularly conduct mediations as duly appointed Mediator, mirror the provisions of the *Petroleum Regulations 2020* (NT) under which the panel of Mediators that Northern Territory Government now seeks to appoint will operate. Accordingly, I have extensive and direct experience in precisely the mediation type and structure in which the newly formed panel will operate.

In consequence of my relevant experience and knowledge, I was selected by the

Resolution Institute to assist in forming and instituting the protocols for mediations and other ADR Processes conducted by application to the Institute pursuant to the *Mineral and Energy Resources (Common Provisions) Act 2014* (Qld) and *Mineral and Energy Resources (Common Provisions) Regulation 2016* (Qld) – those protocols are currently in use by the Institute for ADR Processes including mediations under those provisions.

I am also appointed as a Probity Advisor to the NSW and Queensland Governments providing probity and procurement advice to those governments on selected major projects and procurements. In this capacity I have had extensive probity, tendering and procurement experience providing professional Probity Advisory and Probity Auditing services to Government and Private Sector for projects of up to \$7 billion in value including most recently the Gold Coast Light Rail Stage 2 and Stage 3a public private partnership, the 2018 Commonwealth Games, and the Sydney Metro (City and North West) Rail Project.

Prior to commencing practice as a barrister in 2016, I was engaged and acted as an advisor in in the property development, government and finance sectors managing and advising upon residential, commercial, industrial, tourism, educational and aged care development within the Government and private sectors at project values of up to \$1.5 billion.

Appointments and Admissions

- Barrister at Law (Call - 2016)
- Legal Practitioner - Admitted High Court, Queensland and ACT
- Member - NSW Bar Association
- Member - Queensland Bar Association
- Professional Member – Resolution Institute
- Nationally Accredited Mediator (NMAS)
- Graded Arbitrator – Resolution Institute
- Fellow – Chartered Institute of Arbitration
- Accredited Whole of Government Panel Member - Probity Advisor to NSW Government, NSW Treasury and Queensland Government

Qualifications

- Bachelor of Laws
- Bachelor of Business and Commerce (Finance and Macroeconomics)
- Master of Laws (Commercial Law)
- Postgraduate Diploma in Legal Practice
- Postgraduate Certificate in Urban and Environmental Planning
- Mediators Course – Resolution Institute
- International Arbitration Course / International Arbitration Award Writing Course – Chartered Institute of Arbitration

Particular Areas of Expertise

- Mediation – Mining and Energy Resources
- Commercial Litigation
- Building and Construction
- Planning and Environment
- Property

- Property Development
- Trade Practices, Competition and Consumer Law
- Government – Contracts, Procurement, Administrative Appeals

Mediation

- 5 years continuous experience, practising as Mediator or Counsel in disputes including disputes relating to:
 - Mining and Energy
 - Construction
 - Contractual Disputes
 - Trusts
 - Charitable Associations
 - Environmental
 - Australian Consumer Law / Trade Practices
 - Property and Leasing
- Nationally Accredited Mediator with Professional Level Membership with the Resolution Institute.
- Extensive specific experience as Mediator appointed under the as Mediator and ADR Facilitator in mineral and energy resources matters in Queensland proceeding pursuant to the provisions of the *Mineral and Energy Resources (Common Provisions) Act 2014* (Qld), conducted between Resource and Authority Holders and Landowner in mediations seeking to establish terms of Conduct and Compensation Agreements between the parties.
- Selected as an experienced Mediator practitioner in the relevant field to assist the Resolution Institute in the development of protocols for the appointment of ADR Facilitators/Mediators/Arbitrators pursuant to *Mineral and Energy Resources (Common Provisions) Act 2014* (Qld) and the *Mineral and Energy Resources (Common Provisions) Regulation 2016* (Qld) - the protocols subsequently were adopted and implemented.

Prior to Barrister Practice – Relevant Experience

- Legal Practitioner - 9 years
- Advisor to local government in respect of property development, government and finance sectors managing and advising upon residential, commercial, industrial, tourism, educational and aged care development within the Government and private sectors at project values of up to \$1.5 billion (3 years).
- Advisor and manager in respect of residential property development projects in the Sydney metropolitan area (16 years).

Barrister Practice

- **Practising Barrister** – 5 years appearing as Counsel regularly in trials and interlocutory matters in:
 - Qld – Magistrates Court, District Court, Supreme Court and Court of Appeal

- NSW - NCAT, District Court and Supreme Court

▪ **Practice Areas as Counsel in complex matters:**

- Commercial Litigation
- Building And Construction
- Corporations
- Taxation/Revenue
- Planning And Environment
- Property Development
- Trade Practices, Competition And Consumer
- Government – Contracts, Procurement, Administrative Appeals
- Insolvency
- Property
- Equity
- Insurance
- Intellectual Property
- Defamation
- Mediation

▪ **General Experience as Counsel:**

- Conduct of matters and appearances at trial and interlocutory matters
- Representing Clients in ADR processes
- Preparing complex legal opinions and advices on legal position, evidence, prospects of success
- Drawing and settling pleadings and originating processes

Seminars

I am regularly invited and present as speaker on substantive law in Legalwise Seminars to the legal profession in areas of Taxation Law, Insolvency Law, Construction Law, Consumer Law and Defamation Law including for example:

- Presenter - Legalwise - 12th Annual Advanced Commercial Litigation Conference
- Chairman – Australasian Lawyer - Contract Law Masterclass 2019
- Presenter – Legalwise - Contract Dispute Essentials: Seminal Steps in the Process

- Presenter – Clarence Chambers - Unfair Contract Terms in the Australian Consumer Law

Research Papers

I have authored numerous research papers in the areas of taxation law, construction law, consumer law, planning law and government contracts, including the following:

- **Government and Consumer Law** - "Extension of the Australian Consumer Law Unfair Terms Provisions to Small Business and the Impact Upon Government Contracting" 2017 - Presented at 2017 Government Law Conference;
- **Contract Law** - "Does The Penalties Doctrine Serve Its Purpose? – Penalties In The Context Of Commercial Certainty, Freedom Of Contract And Unconscionability" 2016;
- **Taxation Law** - "Business Entity Structuring and Part IVA of the Income Tax Assessment Act 1936 – How the Anti- Avoidance Provisions Traverse Business Structuring Within the Context of Consistency of Legal Application" 2015;
- **Insolvency Law** - "Solvent or Not? – The Current State of the Australian Law as Regards the Occurrence of Insolvency in a Corporate Entity" 2015;
- **Construction Law** - "The AS 4300 1995 Construction Contract Reviewed" 2014;
- **Consumer Law** - "Unconscionable conduct is like an elephant: impossible of simple and exhaustive definition, but easily recognisable when presenting itself – An Analysis of Unconscionability in Sections 20 and 21 of the Australian Consumer Law" 2013

