

## Contact details

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## Summary

Gregory has a unique and broad experience of legal practice, particularly Government and Government commercial operations such as procurement and the probity issues relating to Procurement.

Gregory brings over 36 years legal experience as a Solicitor in NSW spanning litigious and non-litigious, civil and criminal contexts. Gregory concentrates his efforts in Government and Administrative Law, particularly advising and assisting the public sector to develop legislation, contracting and process arrangements to achieve the greatest value for taxpayers.

Highlights of his career include:-

- Long term involvement in Government procurement including tendering, contracting, expressions of interest, electronic tendering, reform of probity, policy and procedure for NSW Government Procurement, involvement in innumerable procurement and contract processes;
- long term involvement in Public Private Partnerships arrangements including reforming legislation to facilitate major infrastructure projects, including the 2000 Sydney Olympics;
- various law reform issues, including contribution to NSW Government policy on PPP<sup>1</sup>s and amending legislation to facilitate same as well as reform of Government Procurement and facilitating Electronic Commerce and electronic decision-making in Government.

Gregory also leads our firm Intellectual Property Practice. We deal with IP disputes and advice of various kinds, particularly involving Government where Australian Law gives the State certain additional rights over most citizens on to some IP issues.

Gregory has held community and legal roles, including membership of NSW Independent Commission Against Corruption's (ICAC's) Organisation Review Committee for a period from mid 2005 and has also been involved in reforms in areas such as pharmacy law, e-commerce, gaming, electricity and stamp duties legislation, application of Competition law to Government operations, electricity industry, Use of Automation in Government

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<sup>1</sup> Public Private Partnerships

Decision Making Process.. In 2010 Gregory spent time advising on COAG National Legal Profession reform proposals. Gregory is presently a member of the Legal Qualifications Committee of the Legal Profession Admissions Board of NSW

**Practice areas:**

- Government Commercial and Contract law
- Probity and Process in Procurement
- Government Empowerment Issues
- Government – probity & process and related audit services
- Intellectual Property
- Professional Responsibility
- Infrastructure Contracting, Process and Financing
- Statutory Interpretation
- State government revenue advice
- Probity Services and Audit

**Qualifications**

- Admitted to High Court of Australia (2000) and Supreme Courts of NSW (1976) and Norfolk Island (2000)
- Bachelor of Laws 1976 (Sydney University)
- Member Australian Institute of Management (NSW)
- Accredited Specialist Government and Administrative Law (2011 &12 Head Assessor for the NSW Law Society Committee administering same)
- Qualified Member Australian Association of Procurement and Contract Management

**Employment History**

**2001—April 2008: Eakin McCaffery Cox (EMC) Special Counsel & July 2010 to date Partner**

**Practice areas:**

- Government procurement including contracts, tenders, RFQ, RFP, EOI
- Probity and Process Advice and training
- Intellectual property including, trademarks, copyright and moral rights including legislative amendment proposals in respect of Copyright.
- legal professional standards

Gregory developed a cost effective legal service specifically meeting the needs of the public sector. He also leads our firm's intellectual property practice. Government related matters involve investigating, advising on, negotiating arrangements and documenting transactions and settlement arrangements concerning complying with good governance and probity requirements in respect of:-

- Empowerment issues and validity of exercises of power;
- Trademark registration as well as disputes and issues involving competing intellectual property claims;
- Advice in patent disputes;
- Confidentiality obligations;
- Lecturing and training on contracting;
- Lecturing on procurement, probity, contracting issues and intellectual property issues;
- Advice as to implications of creative commons and open source licensing on commercial operations of Government and the private sector;
- Advice on liability under sundry contract and procurement scenarios;
- Commercial tendering and procurement contracts;
- Commercial structuring and risk management for government agencies, particularly involving overseas operations;
- Government Funding Agreements, including their impact on intellectual property issues;
- Contracting and infrastructure issues such as related to the Cross City Tunnel and Privately Financed Schools;
- Intellectual property protection and enforcement of rights including ‘creative commons’ and open source licensing

**Clients have included:**

- Universities
- Department of Education and Communities (formerly Education and Training) (NSW DEC/NSWDET)
- Ministry of Health
- Sydney Harbour Foreshore Authority
- Transport for NSW
- NSW Land and Property Information
- TAFE Commission
- NSW Treasury
- Department of Commerce (formerly Public Works)
- Insurance brokers
- Sydney Local Health

## Network

- issues as well as Trade Mark advice and registration;
- Child protection provisions in contracts where persons have access to children;
- Use of technology in tendering and to make Governmental Administrative decisions;
- Law reform work for the NSWDEC and the private sector;
- Commonwealth and NSW Government finance issues (particularly *Public Authorities (Financial Arrangements) Act 1987*);
- Probity Advisory service / Probity Audits;
- Advice and drafting on issues relating to sale / licensing of mapping and other services;
- Government Agency operations outside NSW – IP issues and contracts;
- Advise on application of Consumer and Competition laws to NSW government entity operations;
- Lecturing on NSW procurement law reforms and their deficiencies;
- Lecturing on Management of Government Contracts;
- Administrative Law issues;
- Gaming legislation and advice - Lotteries, Lotto and the like;
- Standard Contracts, disclaimers and releases;
- Joint use agreements between Government and others; and

## Matters of Note

- Insolvency of Ansett and related companies, particularly regarding staff payout arrangements and the 'ticket levy';
- Submissions to the Administrative Review Council on discussion paper *Automated Assistance in Administrative Decision Making*, with a number comments acknowledged in the final report that was launched by the Commonwealth Attorney General in December 2004;
- Advised on and briefed the Solicitor General of NSW for major Public Private Partnership project;
- Probity advice (including two years on NSW ICAC's Organisation Review Committee);
- Establishment of NSW Education Foundation;
- Resolving ownership dispute concerning "Powerball";
- Advising, negotiating and documenting the contract for the new Sydney Cancer Hospital for Royal Prince Alfred Hospital *Lifehouse at RPA – The Chris O'Brien Cancer Centre*;
- Advised on aspects of NSW Educations' public private partnership to establish and operate a number of privately financed public schools;
- Probity Audit and Advise NSW Transport & Infrastructure (Now Transport for NSW) – Electronic Taxi Licence Application and tender;
- Probity Audit and Advice NSW Education & Training's procurement process 2010-2011 for services for projects including National Partnerships Educations Committee including advice on process and as to evaluation methodology and transparency;
- Probity Advisory services relating to Centre for Education Statistics and Evaluation Advisory Council (CESEAC) involving Council members from overseas;
- Advise and represent Education & Communities on tender and contracts for transport services for disabled students, including successful defence of Supreme Court challenge to tender process **Teamcard Pty Limited v STATE OF NSW** [2011] NSWSC 1008; and
- Advice to Education & Communities on impact of law reform relating to financing of school operations

## May 2008—July 1010 : Shaw Reynolds Bowen & Gerathy -- Special Counsel

**Practice areas:**

- Commercial
- Contracts
- Intellectual Property
- Probity & Process

**Clients include:**

- NSW Health Department
- Department of Education and Training NSW (NSW DET)
- NSW Department of Transport and Infrastructure

Gregory advised a range of public sector clients in commercial and contracts law My role includes including:

- Probity Audit and Advice (NSW Transport & Infrastructure now Transport for NSW) paper based NSW Taxi Licence Tender Process 2010;
- Advising on issue of consistency of 2008/9 Commonwealth Funding Agreements prescribing contracting processes with state legislative requirements as to contracting;
- Drafting and negotiating various joint use agreements relating to Government owned property;
- Infrastructure development;
- Lecturing on procurement, contracting and intellectual property issues; and
- Undertaking computer based research to expedite provision of advice, including use of Voice Recognition Technology.

**Matters of Note**

- Advising on probity review and change of procurement policy and procedure for major NSW Government Department as part of the Department being accredited to conduct its own procurement;
- Advising, negotiating and documenting the contract for the new Sydney Cancer Hospital for Royal Prince Alfred Hospital *Lifehouse at RPA – The Chris O'Brien Cancer Centre*
- Advising on liquidated damages provisions in contract between State and Commonwealth for delivery of services to third parties
- Probity audit and advice in respect of major tender for Department of Transport and Infrastructure relating to issue of Taxi Licences.
- Probity and process advice for major Information Technology Project for NSW Education

**2005—2006: Independent Commission Against Corruption – Part time appointment****Practice areas:**

- Member - Operations Review Committee

Reviewed complaints and their handling by ICAC and made recommendations as to their management.

**2000—2001: Andersen Legal (Director)****Practice areas:**

- Specialist Government Counsel

I acted in matters including:

- Statutory interpretation;
- Procurement and procurement process including Probity aspects;
- Administrative Law issues;
- Privatisation of NSW Freightcorp; and
- Private Sector involvement in provision of water.

**Clients:**

- NSW Education & Training
- NSW Health
- NSW Department of State & Regional Development
- Sydney Harbour Foreshore Authority
- Freightcorp
- Sydney Water

I also lectured in Australia and on topics such as privatisation, corporate governance for State Owned Corporations and Managing External Lawyers.

**1999—2000: Sole Practice****Clients include:**

After retiring from NSW Crown Solicitors Office (NSWCSO), it

- NSW Crown Solicitors
- NSW Health
- NSW Ambulance Service
- NSW Treasury
- NSW Premier's
- NSW Department of State & Regional Development
- Land Information Centre NSW
- Sydney Harbour Foreshore Authority

engaged Gregory to consult on a range of matters affecting Government. These included some sports related infrastructure matters.

I set myself up and practised on my own account until the size and nature of the matters required me to merge into another firm with greater support.

## 1990—1999: Crown Solicitor's Office

### Practice areas:

- High level policy and legislative considerations
- Contracts (PPPs)
- Commercial
- Intellectual Property
- Revenue Litigation
- Pharmacy Legislation and professional standards

### Clients include:

- NSW Government agencies and Ministers
- Range of NSW Government agencies
- Pharmacy Board NSW

### Assistant Crown Solicitor

Gregory worked closely with the Parliamentary Counsel and the Solicitor General,

Gregory was a major change agent in the reform of NSWCSO, its management, attitude to clients and the development of its commercial practice.

Gregory managed, as an increasingly fee charging group, and restructured the Property Commercial Branch of NSWCSO comprising 30 staff, as well as the NSWCSO generally (approx 130 staff) as well as legislative reforms in various areas.

Following the restructure, Gregory led the Commercial Group that advised on:

- Reform of Government procurement, including electronic tendering;
- Corporatisation and privatisation (including State Bank, GIO and Government Cleaning Service), electricity industry;
- Advising ICAC on exercise of various of its powers;
- Government Banking arrangements;
- Probity advice services – particularly for move of Royal Agricultural Society to Homebush which was the subject of a number of legal and probity challenges and which processes survived challenge, even to the High Court of Australia;
- Advising Mapping Agency of Government of People's Republic of China on copyright issues in mapping;
- Outsourcing provision of goods and services to government, including drafting of "period contracts" for the supply of goods and services to government;
- Review of procedures both generally and in respect of specific procurement exercises by State Contracts Control Board;
- Walter Filtration Plant finance arrangements;
- Advising Government on contractual and other grounds of liability (unjust enrichment) in a range of situations;
- Facilitated legislative reform for major projects including Olympic Games, proposals for high speed rail, Airport railway, implementation of Light Rail system in Sydney and reform of State taxation legislation;
- Facilitated legislative reform for e-commerce, gaming, electricity and Stamp Duties law;
- Implications of the split of State Rail Authority into component parts and consequent issues relating to ownership of and responsibility for various component parts;
- Advise and represent Government agencies in challenges to successful defence of challenges to process in respect of move of Royal Agricultural Society from Moore Park to Homebush Bay;
- Lottery and gaming operations, and the development of

- electronic gaming legislation;
- Industry facilitation projects such as Mine Hunter construction project, Fox Studios, telecommunications, banking and other industries, involving not only commercial issues and how to facilitate In light of legislation, such as the **State Development and Industries Assistance Act 1966**, but a familiarity with legislation requiring amendment to implement some projects in compliance with the law, including environmental law and political imperatives.
- Copyright issues affecting Government

## Matters of Note

- Advised the Pharmacy Board of NSW of commercial structure under the Pharmacy Act 1964, including one prosecution (reported as **White v District Court** [1999] NSWCA 406 (29 October 1999));
- Provision of training on probity and process in conjunction with NSW Independent Commission Against Corruption for major infrastructure procurement;
- Major litigation between **State of NSW v British Telecom**;
- Advised NSW Government on entitlements in respect of termination of Luna Park lease and related compulsory acquisition and valuation dispute (arbitration and appeal to High Court of Australia);
- Developed project, process and finance arrangements (i.e. PPPs), and facilitated amendments of legislation to enable infrastructure projects to proceed including the Airport Railway, Olympic Stadium, various freeways, Fox Studios Development at Moore Park;
- Facilitating project by running litigation (**Sydney Showground Markets Pty Limited v State of NSW** Matter 21345/95 (16 September 1997) successfully defending challenge to process;
- Advised the Olympic Coordination Authority and Sydney Olympic Games Organising Committee regarding infrastructure provision and broadcasting rights;
- Regularly worked with clients to ensure Probity resilience of proposed procurement processes for a range of situations;
- Regularly advised ICAC and Police Integrity Commission on sensitive contractual procurements and surveillance issues.

**1979—1989: Smithers Warren and Tobias, from 1985, Phillips Fox.**

### Practice areas:

- Range of commercial property matters and some litigation including Privy Council Appeal **SH Lock v Coghlan**

**1976—1979: Sly & Russell**

### Practice areas:

- Range of Commercial, property and litigation including commercial test case **Commissioners of State Savings Bank of Victoria v Patrick Intermarine Acceptances Limited**

## Professional Involvement

### *Law Society of NSW member:*

- Licensing Committee 2001-2013 (previously named Membership)

- Ethics Committee, 2000
- Government Lawyers Committee 1993 -1999 and 2003 to 2013
- 2009 - 10 Working Party on Specialist Accreditation for Government and Administrative Law
- 2010 and 2011 Submissions to COAG and LPAB on National Legal Profession Reform
- 2011-2014 - member Advisory Committee Specialist Accreditation for Government and Administrative Law
- 2011-13 Head Assessor – Government and Administrative Law Specialist Accreditation for Law Society of NSW



## ***Other Professional Affiliations***

### ***College of Law***

- Professional Development Committee (Advisory committee to College board on continuing legal education issues), - member 1996 and continuing
- Practical Experience Committee member 1996-98, - Appeals Committee member, 1998 and continuing
- Alumnus Member of College of Law Limited
- Vice President of College of Law Alumni Association.

### **Other**

- Law Council of Australia – member
- Institute of Public Administration Australia – member
- Australian Institute of Management - Member
- Qualified Member - **Australian Association of Procurement and Contract Management**
- Affiliate Member **Chartered Institute of Procurement and Supply Australia**
- Member **NSW Council Chartered Institute of Procurement and Supply Australia**
- Commonwealth Lawyers Association - member
- Commonwealth Public Sector Lawyers Association - member and Secretary and, presently, Acting Chair
- Copyright Society of Australia – member
- NSW Law Society **Head Assessor** – Government and Administrative Law Specialist Accreditation 2011-2013
- LawAsia – member
- Member **Legal Qualifications Committee** (and related Practical Experience subcommittee) of **NSW Legal Profession Admission Board** August 2006 and continuing
- Australia India Business Council - member
- Member Government and Related Employees Appeals Tribunal 1994 to 1998
- Member Anglo-Australian Lawyers Society

### **Teaching and Writing**

- Insurance Law Bulletin (in the 1980s) - interplay State consumer credit legislation and Commonwealth law in context of insurance premium financing
- Australian Encyclopaedia of Forms and Precedents
- 1989 part of "Solicitors" title prepared by Phillips Fox
- 1991-1997 author "Partnership" title
- 2000/2001 Sundry articles for Andersen Legal newsletters
- NSW Law Society Journal
  - 1993 An Extended Liability For Partners. Vol 31
  - 1995 Who exercises the Authorities Functions? Vol 33
  - 2001 What has happened under PAFA? Vol 39

1999 **A "Hypothetical" on Ethics** for the 1999 Public Sector Lawyers Continuing Legal Education day at Parliament House Sydney

2001 Paper on **Managing External Lawyers** - Parliament House, Sydney for a primarily Government audience.

2001 Paper on **Privatisation** - 2001 Organisation of Commonwealth Caribbean Bar Association Law Conference - Nassau.

- 2001 NSW Government Legal Heads meeting on “**PAFA 2000 – NSW Governments Comprehensive Finance Regime One Year On**”
- 2003 Paper to NSWDET, Legal Services staff - **Commercial Contracting Legal Issues.**
- 2003 Commonwealth Public Sector Lawyers Association - Melbourne - **Public Private Partnerships.**
- 2005 Workshop on the **Many Wonders of Contracting** for TAFE staff (February)
- A series of Seminars on **Who, What When and Why of Contracting** for NSW Department of Education and Training, TAFE and Australian TAFE Marketing Association
- Seminar on **Intellectual Property Issues in operations of NSW Education** for NSW DET and Teachers Federation NSW.
- 2007 Seminar **State Owned Asset Management** Macquarie University for delegation from Peoples Republic of China
- 2007 Chairing Session on **Legal Training and Professional Standards** – Commonwealth Law Conference Nairobi, Kenya September 2007
- 2007 Chair NSW Law Society Government Solicitors Committee **Government Legal Conference** October 2007.
- 2008 Chair IIR Seminar Public Sector In House Counsel and delivered paper on Issues in **Public Private Partnerships** including writing and delivering 'hypothetical' on probity issues in project procurement
- 2008 Delivered Seminar on **Contracting and IP issues in Overseas Transactions** for NSW Education and Training).
- 2011 NSW TAFE – **Who What Where of Contracting** – lecture/symposium
- 2011 Delivered paper - Commonwealth Law Conference Hyderabad, India, **Mobility of Legal Profession.**
- 2012 Delivered paper - **Procurement & The Who, What When and Why of Contracting** for Procurement Solutions staff of NSW Department of Education & Communities.
- 2013 Lecture to students at SP Jain School of Global management – **Government and Contracting in a Global Economy**
- 2013 Paper Published in Australian Construction Law Newsletter, **Liquidated Damages Provisions and Proportionality - What about a formula?** (May edition)
- 2013 Legalwise Seminar 14 June 2013 - NSW Procurement Reforms - **Procurement - Keeping Procurement Under Control**
- 2013 National Public Sector Contracts and Procurement Management Summit paper “**Post Contract Management: We have the Contract, Now What**”
- 2014 Legal WISE Seminar 12 March 2014 **Managing Procurement in Government Agencies**

## INTERESTS

Reading  
Theatre & Music

Walking  
Entertaining at home

## REFEREES

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Others referees are available on request