AECOM is a heavy hitter in the engineering sector, a Fortune 500 company with more than 100,000 employees worldwide. With revenues over $20 billion, the stakes are always high – but the potential rewards are even higher.

Overseeing Aecom's legal endeavours in Australia and New Zealand is chief counsel Gordon Kenwright. A former King & Wood Mallesons lawyer, Mr Kenwright has been with Aecom for more than five years. His legal team consists of 17 lawyers spread across the Australasian region.

What is the legal team's role within Aecom?

Our role is much more than just being a reactive, technical legal adviser. In the olden days, you had in-house teams that would be engaged by the business when they wanted a contract reviewed. The contract review would finish and they would unplug themselves from the process.

Now, the expectation from our business is that we need to be business enablers. It's about bringing to the table a greater level of expertise than purely legal advice. There's still a requirement for technically excellent legal advice, but with a more pragmatic commercial twist.

That's the strategy we're driving internally – how do we move beyond this very reactive service to be a proactive, strategic legal team, partnering with the business?

Part of my role is to develop a culture within the team that allows it to have the freedom and confidence to be more pragmatic.

When dealing with external lawyers, there is an inherent conservatism in the advice. They tick all the boxes. In-house, you don't have that luxury. It's about focusing on the big material risks and finding innovative ways around those risks. That way, the legal risks are covered off but you're also helping the business achieve its commercial imperatives.

As general counsel, how much influence do you have over strategy?

It's not officially part of our role. But if we're successful in developing this really strong relationship with the business, naturally they will come and engage with us earlier in the process.

By virtue of being engaged at that early stage, we will be providing input into ideas. We can say: “That won't work for a variety of reasons – why don't you try it this way?” I like to think that adds value to the company.

Traditionally, in-house teams of the past would not have had that opportunity because we would have been engaged at the last minute. At that point, sometimes the only answer is “sorry guys, you can't do that”, but it's too late to change course. By virtue of that earlier engagement, we are helping to generate revenue.

My view is you need a seat at the table to have influence. I'm an active member of our executive committee, which is the dozen or so senior executives across the Australia and New Zealand Aecom business who meet regularly on a monthly basis.

I'm also actively involved with the statutory directors that form a subset of that committee. That means I'm involved at the executive level and the board level. I need to be there to drive that strategy.

A number of years ago, we didn't have that active involvement and it was a real shame. It meant that we weren't getting a line of sight as to what was coming down the tube. Whereas now, with my current role, it allows us to be more proactive and insightful.

What are the big challenges in the construction sector?

At Aecom, we're at the bottom end of the food chain in the construction industry. Our leverage in terms of being able to obtain what you would consider reasonable commercial terms is very limited.

We're typically governed by a principal – that might be a government agency, with their standard terms and conditions. These agreements are then superimposed by a contractor, whether it's Lendlease or John Holland. As such we end up having little ability to insist on the sort of terms that we would like.

There are a lot of external lawyers out there dreaming up amazing template contracts, particularly for their government clients, without much consideration for allocation of risk. We're often forced to accept risks that we can't necessarily underwrite, lay off or control.

I think the industry could benefit from agreeing to standard terms, or several types of standard form agreement. Having standardised terms would take a lot of time and inefficiency out of the process. We spend a lot of time on negotiating contracts.
How does litigation affect your team?

Australia, in particular NSW, is the second most litigious region outside of California. That’s borne out by actuarial data – that’s not a reflection of Aecom’s track record. One reason may be that when the economic cycle is poor, you have a lot of different parties up and down the food chain doing it tough and trying to protect margins and cash flows.

But there are also some very plaintiff-friendly laws that exist in Australia. The most prominent one is the Australian Consumer Law, section 52. That allows plaintiffs to sue based on a misrepresentation without providing any subjective intent to mislead or deceive.

Moreover, section 18 will essentially undercut many of the deals we have in writing – including reports that are ostensibly governed by a contract we have negotiated with the client.

It makes litigation easier [for other parties] and that in turn locks up a lot of our time and effort in disputes. The only people who win out of that scenario are external lawyers and barristers.

We spend a lot of time and effort on litigation, as well as external legal costs. We have to spend a lot of time internally collecting documents, briefing management. I would rather be doing something more constructive, like landing great deals.

How do you weigh up risk with commercial pragmatism?

We work closely with our internal team, the Office of Risk Management (ORM). These are engineers, typically very senior.

What qualities are needed to succeed in-house?

The need for a black letter lawyer is somewhat less so at Aecom than if you were at a Telstra or a NAB, which are heavily regulated and where you need to dive into legislation on a daily basis.

By virtue of our business, we are much more pragmatic lawyers. My view is that legal expertise and excellence is necessary, but it’s not sufficient. When I recruit, having ticked the box of good legal experience, I ask what kind of personality they have. Do they engage well with others? Do they communicate well? Are they willing to roll up their sleeves and take some risks in their advice?

I look for these qualities as opposed to lawyers who will just provide you with the black letter law. These lawyers might provide you with the Mona Lisa of a legal opinion, but it might actually not be that useful to one of my commercial guys because it doesn’t make sense to them.

I challenge my team to not define themselves as lawyers, but as problem-solvers with a law degree. That might sound like semantics. But if you define your remit as a lawyer, you will tackle a problem in a certain way. If you define yourself as a problem-solver, you have more ownership over your advice and you’re at liberty to take a bit more risk and use pragmatism. I allow my guys to take that risk knowing they are sound operators and have sound judgement. That’s really been the key to our success internally.

$4.55bn USD

Aecom’s market capitalisation at 4 November 2015