

Dispute Resolution Board Foundation

Real time avoidance and resolution of disputes

Dispute Avoidance Boards in Australia



Dispute Board Concept

→ A Dispute Board (DB) is a Board of impartial, experienced professionals formed at the beginning of the project to follow construction progress, encourage dispute avoidance by having issues raised and discussed and to assist in the resolution of disputes for the duration of the project. Dispute Boards are commonly referred to in Australia as a Dispute Avoidance Board (DAB) and, internationally, as a Dispute Review Board (DRB) or a Dispute Avoidance / Adjudication Board (DAAB). Although they may be referred to in different ways, their function is essentially the same, which is to encourage dispute avoidance and prevention to avoid issues becoming disputes, to resolve any disputes and to avoid costly and relationship-destroying litigation or arbitration.

DABs in Australia

The “best practice” model for DABs developed in Australia has these features:

- A three-person DAB for high value / high risk projects, a one-person DAB for less complex projects.
- All DAB members must be independent, conflict-free, agreed to by all parties, and, where a three-person DAB, members should have complementary skills including governance, technical and decision-writing skills.
- The tripartite DAB Agreement is signed concurrently with the Project Agreements.
- A DAB is a standing board for the duration of the project and has both avoidance and determination roles and responsibilities.
- DAB members conduct regular DAB meetings and site visits every two months or so, or when project circumstances dictate. Senior on-site and off-site representatives of the Principal/Owner and the Contractor also attend.

→ The DAB members’ fees and expenses are shared between the parties and vary depending upon travel requirements, frequency of routine DAB meetings and the extent of avoidance and determination activities.

→ All meetings, communications, reports, and the like for DABs (except Determinations / Decisions) are held on an “In Confidence and Without Prejudice” basis.

→ Avoidance techniques include actively raising and tracking issues, ensuring that issues are being discussed and proposing solutions, advisory opinions, facilitations, workshops, and the like.

→ All formal determinations/decisions of a DAB are with prejudice and are interim binding (i.e., binding unless one party lodges a Notice of Dissatisfaction within an agreed period, 42 days).

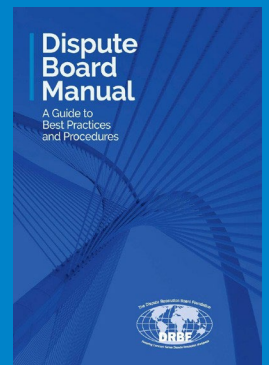
Successful track record of the Dispute Board process

→ As at March 2024, there are 117 projects in Australia that currently have, or have had, a DAB, with total contract values in excess of AUD\$73 billion. All disputes on those projects to date have been resolved within the DAB process, without proceeding to an arbitral award or litigation judgment.

FREE DOWNLOAD

The DRBF offers a free download of the definitive guide to Dispute Boards.

Visit the DRBF website at:
<https://www.drb.org/dispute-board-manual>



The DRBF offers resources for owners and contractors who want to avoid and resolve their disputes using this successful and cost effective method. Resources include education and training in the effective use of the DB process, and assistance in establishing and operating a DB, including providing sample documents and best practice guidelines. In addition, the DRBF hosts conferences and meetings as a forum for discussion of advances in the development of the process.

For more information, visit www.drb.org or contact
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