



# solving construction law dilemmas

30 August 2007    Stamford Plaza    Brisbane

An in depth examination  
of select issues in  
construction law

Official Publications

Lawyers Weekly



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# Morning Conference 30 August 2007

## solving construction law dilemmas

8:30

### Conference Registration

8:50

### Welcome and Opening of Morning Conference from the Chair

MEET YOUR  
CHAIR

**Stephen Pyman**, Partner, **Holding Redlich** has practised in the field of building, construction and development law for more than 19 years. He has extensive experience in construction litigation, alternative dispute resolution, mediation, arbitration and adjudication under the Security of Payments Act. Stephen advises leading national and international construction companies, a number of major commercial and domestic builders, developers, project managers and key Government bodies regulating the building industry. Stephen is a registered Adjudicator.

9:00

### Update and Review of Construction Law Trends

This session provides a round up of recent construction law developments affecting practitioners and professionals working within the industry.

- Considering the role of the superintendent post *Eden Construction Pty Ltd v State of New South Wales (No2) [2007] FCA 689 (9 May 2007)*
- Evaluating recent court decisions
- Identifying future directions in construction law

**Melanie Hindman**, Barrister, **Queensland Bar**

9:20

### Contracting with Government Agencies – Public Private Partnerships (PPP)

Focus on government infrastructure is increasing making it imperative for construction professionals to be familiar with PPP. Examining key aspects of contracting with government agencies, this session considers:

- Defining the roles and obligations of the Government Agency and Private Party to ensure certainty
- Understanding crucial industrial relations requirements associated with service-based PPP projects
- Complying with risk allocation conditions and identifying risks to be borne by the Government Agency
- Implementing appropriate reporting requirements to maximise potential for success
- Taking policy considerations into account – scrutinising the Public Partnerships Policy and Value for Money Framework

**Daniel Edwards**, Senior Associate, **Allens Arthur Robinson**

10:10

### Spotlight on Alliance Contracting

High demand within the construction industry has made alliance contracting a popular and preferable method of contract structuring and delivery. This presentation provides an opportunity to thoroughly explore alliance contracting, including:

- Contemplating the rationales and benefits of alliance contracting
- Considering risk management, insurance, “no blame, no dispute”, costs and variation aspects particular to alliance contracting
- Selecting alliance partners and establishing a Board
- Demonstrating the success of alliance contracting by way of illustrations drawn from practice

**Michael Creedon**, Senior Associate, **Minter Ellison**

11:00

### Morning Tea

11:20

### Practical Strategies for Preparing Your Case for Adjudication

Adjudication is an essential aspect of construction practice. Providing an interactive forum this session looks at:

- Summarising legislative provisions and terms relating to adjudication - Part 3, Division 2 *Building and Construction Industry Payments Act* (BCIPA)
- Determining whether your case meets the preconditions of s21 BCIPA
- Drafting Payment Claims and Payment Schedules
- Preparing your adjudication submissions and including vital documentation to support your Adjudication Application
- Responding to an Adjudication Application – outlining essential points to include in an Adjudication Response and meeting the requirements of s24 BCIPA
- Considering the effectiveness of adjudication

**Jeremy Chenoweth**, Senior Associate, **Blake Dawson Waldron**

12:10

### Seeking Judicial Review of an Adjudicator's Decision

This session outlines the requirements to be met in seeking judicial review of an adjudicator's decision, in particular:

- Highlighting the relevant sections of the BCIPA and the *Judicial Review Act*
- Identifying common grounds for seeking judicial review – illegality, irrationality and procedural impropriety (*Council of Civil Service Unions v Minister for the Civil Service*)
- Reviewing case law developments post *Brodyn Pty Ltd t/as Time Cost and Quality v Davenport & Anor*
- Examining the procedural requirements of seeking judicial review
- Applying the principles in practice – tips for drafting effective court documents and making submissions

**David Rodighiero**, Partner, **Carter Newell**

1:00

### Close of Morning Conference

Customise the conference program to suit your needs - attend the morning conference or afternoon workshop or both.

### Why you should sponsor this event

- Showcase your product or service over the course of the Solving Construction Law Dilemmas conference
- Meet senior practitioners, executives and decision makers to leverage your product or service
- Gain direct access to your target market

For more details on sponsorship and exhibition opportunities please call Angela Kurtz on Ph: (07) 3335 0093 or email [angela.kurtz@lexisnexis.com.au](mailto:angela.kurtz@lexisnexis.com.au)

Afternoon Workshop 30 August 2007

# construction litigation and dispute resolution

1:30

**Registration Workshop Delegates**

2:00

**Welcome and Opening of Afternoon Workshop from the Chair**

MEET YOUR  
CHAIR

**Troy Lewis**, Senior Associate, **Holding Redlich** practises in construction litigation, specialising in claims involving the BCIPA. Troy has advised both Claimants and Respondents in relation to claims under the BCIPA and has prepared numerous payment claims, payment schedules, adjudication applications and adjudication responses. Troy also advises on and has been involved in applications for judicial review and appeals from adjudication decisions under the Act.

2:10

**Construction Litigation and Dispute Resolution**

Experiencing difficulty in resolving a construction law matter? Unsure which way to turn to achieve the optimal outcome for your client? This workshop addresses these issues within a practical and interactive forum.

Considering alternative dispute resolution and arbitration as well as commencing and conducting litigation within a construction law context the topics to be canvassed at the workshop include:

#### **Alternative Dispute Resolution**

- Considering common contractual clauses regarding ADR
- Summarising appropriate ADR options for construction disputes
- Identifying the most appropriate time to commence the ADR process

#### **Overview of Arbitration**

- Including effective "no litigation" and arbitration clauses within the contract
- Preparing effectively for adjudication - taking instructions, correlating documents and knowing your case
- Making the most of the arbitration process – tips for conducting successful arbitration

#### **Commencing and Conducting Construction Litigation**

- Overcoming difficulties in identifying relevant parties to the action
- Claiming and proving loss of profit, production, revenue and use
- Reviewing emerging trends of appointing joint experts in construction cases and understanding difficulties which may subsequently arise
- Undertaking discovery when multiple parties hold discoverable documents
- Managing a case which has been placed on the Supervisory Case List
- Developing practical strategies for calculating damages

#### **Settling Litigious Cases**

- Exploring out of court options for settlement when proceedings are on foot
- Comparing possible trial outcomes and enforcing judgment

#### **Workshop Facilitators**

**Robert Holt SC**, Barrister, **Queensland Bar**

**Dale Brackin**, Partner, **Clayton Utz**

**Susan Burke**, Barrister, **Queensland Bar**

3:20

**Afternoon Tea**

3:40

**Commencement of Workshop**

4:50

**Close of Workshop**

**Here's what your colleagues had to say about the 2007 3rd Annual LexisNexis Construction Law Masterclass:**

**"The conference was well structured and held my interest throughout the day"**

**Melissa Hill**, Solicitor, **McCullough Robertson**

**"I found the content of the various papers relevant, practical and interesting"**

**Sean Kelly**, Partner, **Boulton Cleary & Kern**

**"Glad I attended. Will prove to be of great benefit to me in the performance of my current role"**

**Andrew Pippia**, Commercial Lawyer,  
**Thiess Services Pty Ltd**

**"Great venue, well organised, excellent speakers"**

**Glen Williams**, Partner, **Thynne & Macartney**

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## ABOUT THE PRESENTERS

Dale Brackin, Partner, Clayton Utz has specialised in litigation, arbitration and alternative dispute resolution techniques, especially in relation to construction and engineering projects since 1986. He has represented parties in disputes on projects throughout Australia, Asia and the Pacific.

**Susan Burke**, Barrister, Queensland Bar is in private practice in Brisbane. Susan has been in practice since 1986 and specialises predominantly in construction law.

**Jeremy Chenoweth**, Senior Associate, **Blake Dawson Waldron** practises in general commercial and construction litigation and dispute resolution. His area of practice focuses on the mining, petroleum and energy sectors. Jeremy is experienced with arbitration, adjudication, expert determination and mediation and has handled some of Queensland's largest contested claims under the BCIPA.

**Michael Creedon**, Senior Associate, **Minter Ellison** specialises in construction law. Michael reviews a wide range of construction, engineering, maintenance and consultancy agreements for major infrastructure projects, embracing many different delivery methods. He also has experience in handling construction related disputes. Having practised as a civil engineer, Michael adds a practical perspective to the legal services he is able to offer.

**Daniel Edwards**, Senior Associate, **Allens Arthur Robison** has over 9 years experience as a specialist construction lawyer. He is a member of the energy, resources and infrastructure department of the firm and has experience in advising government, contractors and financiers in relation to alliance contracting projects in addition to advising clients on all aspects of project, finance and construction documents.

**Melanie Hindman**, Barrister, Queensland Bar has a substantial practice in property and construction litigation, acting for major building and mining companies, developers and contractors, as well as statutory authorities such as the Queensland Building Services Authority. In addition to her law degree, Melanie has completed a Bachelor of Applied Science (physics) and a Master of Laws.

**Robert (Bob) Holt SC**, Barrister, Queensland Bar has specialised in construction litigation for over 20 years, 10 of those as Senior Counsel. He has acted in respect of complex litigation relating to high rise buildings, mining infrastructure contracts and civil, electrical and hydraulic engineering disputes. Bob has acted as an arbitrator, mediator and expert and has acted in matters where referrals have been made to experts. He is a member of the Chartered Institute of Arbitrators.

**David Rodighiero**, Partner, **Carter Newell** holds a Bachelor of Laws and a Masters of Laws focusing on construction disputes and insurance issues. David specialises in the area of construction disputes including time-related claims (prolongation, disruption, acceleration and liquidated damages), variation claims, defective works claims, subcontractors' charges claims and payments claims under the BCIPA. David also holds certificates in adjudications and mediations.

By attending the morning conference and afternoon workshop you will be able to claim 6 CPD points.

### WHO SHOULD ATTEND?

- Construction law specialists
- Property lawyers
- Barristers
- Government lawyers
- Construction project managers
- Contractors

### CONFERENCE DATE AND VENUE

30 August 2007  
Stamford Plaza Brisbane  
Cnr Edward and Margaret Streets  
BRISBANE QLD 4000  
Tel: (07) 3221 1999  
Fax: (07) 3221 6895

### PROGRAM CHANGES

Details regarding this conference were confirmed and correct at the time of printing. LexisNexis reserves the right to cancel or amend the conference details at any time if required.

### CANCELLATION

Your registration will be confirmed in writing when full payment is received. We will refund your registration in full less a \$165 administration fee if notification is received in writing by 2 August 2007. If we receive written notification between 3 August 2007 and 16 August 2007 you will receive a 50% refund and conference documents. No cancellation requests will be accepted after 16 August 2007. You may nominate a replacement, however no refund will be issued.

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Tick here if you DO NOT wish to receive information about upcoming events

## 4 easy ways to register

**Phone:** 1800 772 772  
**Fax:** (02) 9422 2338  
**Online:** [www.lexisnexis.com.au](http://www.lexisnexis.com.au)

**Mail:** Conference Co-ordinator, LexisNexis  
Locked Bag 2222,  
Chatswood Delivery Centre, Chatswood NSW 2067

Please complete sections A, B and C

Conference code: **QPD297** CPD reference no. **CPD537**

ABN: 70 001 002 357

### A I would like to register for the Solving Construction Law Dilemmas Conference

#### EARLY BIRD PRICE\* (expires on 5 July 2007)

- Morning conference only
- Afternoon workshop only
- One-day conference (workshop and conference)

\$450 + GST = \$495  
\$450 + GST = \$495  
\$850 + GST = \$935

#### STANDARD PRICE

- Morning Conference only
- Afternoon workshop only
- One-day conference (workshop and conference)

\$500 + GST = \$550  
\$500 + GST = \$550  
\$950 + GST = \$1045

#### CONFERENCE RESOURCES

- I am unable to attend but would like to purchase a set of conference papers for the morning conference of the Solving Construction Law Dilemmas Conference

\$150 + GST = \$165

#### TEAM DISCOUNTS\*

Register a team of 2 for the Solving Construction Law Dilemmas at the same time, from the same organisation and receive a free pass for the 3rd delegate.

\* Early Bird, team discounts and any other discount cannot be taken concurrently

### B Payment details Payment is due upon registration

- Enclosed is my cheque for \$ \_\_\_\_\_ made payable to LexisNexis
  - Pay by credit card  
Please charge \$ \_\_\_\_\_ to  Mastercard  Visa  
 American Express
- Card number \_\_\_\_\_  
Expiry \_\_\_\_/\_\_\_\_  
Name of cardholder \_\_\_\_\_  
Signature of cardholder \_\_\_\_\_
- Charge to my LexisNexis account: \$ \_\_\_\_\_  
Account number \_\_\_\_\_  
Signature \_\_\_\_\_

### C Delegate details (for additional delegates please photocopy form)

- Mr/Ms/Dr \_\_\_\_\_  
First name Last name
- Position \_\_\_\_\_
- Organisation \_\_\_\_\_
- Postal address \_\_\_\_\_
- Suburb \_\_\_\_\_ Postcode \_\_\_\_\_ State \_\_\_\_\_
- Telephone \_\_\_\_\_
- Fax \_\_\_\_\_
- Email \_\_\_\_\_
- YES! I would like to receive information on upcoming events via email