

Early Bird expires  
19 February 2008  
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# commercial and retail leasing

1–2 April 2008

Hyatt Regency

Perth

Intensive skills and practical  
updates specifically tailored  
for WA practitioners

Containing:

- Latest case law and legislative report
- Future Direction of leasing
- Environmental concerns
- Practical advice to safeguard clients

**Official Publication:**

Lawyers Weekly

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Fax: (02) 9422 2338  
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Day 1 Tuesday 1 April 2008

# conference program

8:30  
**Conference Registration**

8:50  
**Opening Remarks from the Chair**

MEET YOUR  
CHAIR

**Anthony Aristei**, Litigation Consultant, **Council House** has practiced in the areas of commercial and property litigation for over 21 years. He is a Chevening Scholar to Oxford University. Tony has appeared in the Federal Court, Supreme Court and District Court in Property Law and Equity matters. He has also tutored and lectured at UWA and Murdoch. Tony was the author of the first students' Nutshell on real property law and has written an annotated commentary on retail shops law in WA.

9:00  
**Landlord's Actions: Commercial Nous or Unconscionable Conduct?**

- Providing a legislative update and considering the effects of the *Retail Shops and Fair Trading Legislation Amendment Bill 2005*
- Applying s15C of the *Commercial Tenancy (Retail Shops) Agreements Act 1985* in practice – factors to be assessed when determining whether a landlord's actions are unconscionable
- Reviewing the role of the State Administrative Tribunal in resolving allegations of unconscionable conduct
- Reviewing case law principles and developments

**Shane Sirett**, Consultant Counsel, **Downings Legal**

9:50  
**Drawing a Distinction Between Letters of Offer and Agreements to Lease**

- Comparing the characteristics of the letter of offer and an agreement to lease
- Considering case law principles to determine when offers and agreements to lease become binding
- Drafting effective letters of offer and agreements to lease including suggested clauses
- Exploring the rights of the tenant when the agreement to lease and the lease differ

**Brian Pass**, Partner, **DLA Phillips Fox**

10:40  
**Morning Tea**

11:00  
**Case Study: Registering Leases in Western Australia – Lighting by Design (Aust) Pty Ltd v Cannington Nominees Pty Ltd**

- Examining section 68 of the *Transfer of Land Act 1893*
- Outlining the factual scenario and arguments of the case
- Analysing the judgment and reasoning of Master Sanderson
- Comparing the case outcome to the operation of section 13 of the *Commercial Tenancy (Retail Shops) Agreements Act 1985*
- Adequacy of protecting lease interest by caveat

**Nicholas Dillon**, Barrister

11:50  
**Allegations of Misleading or Deceptive Conduct Arising from Pre-Lease Negotiations**

- Common issues that arise when these allegations are made by parties to a lease
- Actions that landlords, tenants and agents can undertake to safeguard their respective positions when negotiating and entering into a lease
- Understanding legal practitioners' duties to protect client's interest
- Discussing recent relevant cases

**Peter van der Zanden**, Partner, **Lavan Legal**

12:40  
**Networking Lunch for Speakers and Delegates**

1:40  
**Practical Approaches for Assigning, Renewing or Terminating Leases**

- Understanding the current legal position in leases transactions
- Identifying common mistakes in dealing with leases
- Applying the best practical method in such transactions, looking in particular into issues of rent reviews

**Gary Thomas**, Partner, **Tottle Partners**

2:30  
**Considering the Impact of Contaminated Land**

- Navigating the relevant provisions of the *Contaminated Sites Act 2003*
- Reviewing the classification of contaminated sites and the impact each classification has on leased or soon to be leased commercial or retail property
- Complying with the obligation to report and disclose contaminated sites
- Challenging a classification – tips for appealing to the Contaminated Sites Committee

**Brad Wylynko**, Partner, **Clayton Utz**

3:20  
**Afternoon Tea**

3:40  
**Future Directions and Proposed Amendments to the Commercial Tenancy (Retail Shops Agreements) Act**

- Analysis of the 2007 amendments to the *Commercial Tenancy (Retail Shops) Agreements Act 1985*
- Considering commercial and retail leasing developments and trends in Western Australia
- Discussing issues with respect to the *Commercial Tenancy (Retail Shops) Agreements Act 1985*

**Peter Beekink**, Partner, **Lavan Legal**

4:30  
**Going Green: Ecologically Sustainable Development (ESD) and Commercial Leasing**

- Introducing the Australian Building Greenhouse Rating (ABGR) and the Green Star rating schemes
- Considering the Federal and State Governments' position - in particular the Commonwealth's *Energy Efficiency in Government Operations (EEGO) Policy*
- Incorporating ESD-specific terms into commercial lease agreements – outlining methods of inclusion and level of detail

**Laurence Iffla**, Partner, **Mallesons Stephen Jaques**

5:20  
**Closing Remarks from Chair**

5:30  
**Close of Day One**

Day 2 Wednesday 2 April 2008

# interactive skills based workshop

9:10  
**Workshop Registration**

## WORKSHOP

9:30 – 1:00  
**Drafting and Negotiating Commercial and Retail Leases**

This workshop provides an interactive forum promoting a best practice plain English approach to drafting retail and commercial leases and considers:

- Proving examples of the use of plain English when drafting leases
- Including essential clauses within the lease document
- Including rent review clauses
- Issuing notices and disclosure statements
- Determining negotiable points of the lease
- Addressing outgoings in leases
- Understanding how to protect the interest of landlords and tenants
- Recognising common litigious issues arising from badly drafted leases
- Interpreting the meaning of clauses

### Workshop Facilitators

ABOUT YOUR FACILITATORS

**Steven Brown**, Director, **Lynn and Brown** has been admitted to practice since 1997. He has extensive commercial law and commercial litigation experience. His practice involves advising on leases and draft leases for retail shops and commercial leasing. He has acted for landlords and tenants in the Supreme Court, District Court and Magistrates Court proceedings.

**Tony Fifield**, Legal Practice Director, **Avon Legal** has extensive experience in all aspects of property law including leasing. He has acted for major companies, property developers and landlords in respect of commercial leasing arrangements including drafting and negotiation of leases for shopping centres and hotels. Tony has also worked with cross-border and multi-jurisdiction transactions involving USA, UK and Asia.

1.00  
**Close of Workshop**

### Why Should You Attend?

Commercial and Retail Leasing is specifically designed to provide practitioners with a practical insight into the legal know-how of leasing in Western Australia.

The conference focuses on:

- Latest case law and legislative report
- Future direction of leasing
- Environmental concerns
- Practical advice to safeguard clients

Featuring an interactive workshop to heighten your skills and knowledge on negotiating, preparing and drafting commercial and retail leasing.

**Explore this area with the panel of expert speakers!!!**

### What Your Colleagues had to say about Previous Commercial Retail Leasing conference:

*“Good overview of emerging area”*

*“Handouts were excellent and informative”*

*“Very informative”*

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# commercial and retail leasing

## ABOUT THE PRESENTERS

**Peter Beekink**, Partner, **Lavan Legal** practices in the area of commercial property and has significant experience in all leasing aspects. He has acted for owners of shopping centres in WA as well as owners of commercial and industrial sites. Peter is a member of the Property Committee for the Law Council of Australia and Law Society of WA. He has written articles and presented papers on leasing issues. He now leads the Business Services division in his firm.

**Nicholas Dillon**, Barrister, **Francis Burt Chambers** is experienced commercial litigation and landlord and tenant issues. He initially qualified as a barrister in London where he worked in Chambers in the Inner Temple. He later worked in the USA and Southern Africa before moving permanently to Perth in 1986. He has practised in two major Australian law firms.

**Laurence Iffla**, Partner, **Mallesons Stephen Jaques** is a senior commercial property partner in the Perth office. His team's recent projects include the acquisition of a major property portfolio, leasehold developments for retail, commercial and industrial sites and several land development agreements. Larry is a member of the Mallesons Sustainable Enterprises Group which focuses on Green Building issue in both development and leasing.

**Brian Pass**, Partner, **DLA Phillips Fox** has over 25 years experience as a property and commercial lawyer with extensive experience in sales and leases including shopping centres and commercial premises. Brian served on the Council of the Law Society of Western Australia for 4 years and on its Property Law Committee for 10 years. He has acted as alternate chairman of the Land Valuation Tribunal (now part of the State Administrative Tribunal).

**Shane Sirett**, Consultant Counsel, **Downings Legal** has been admitted to practice in Western Australia since 1988. He has a broad based commercial litigation practice with particular focus on business and leasing litigation. Shane has also previously practiced as a barrister at the Francis Burt Chambers.

**Gary Thomas**, Partner, **Tottle Partners** specialises in commercial property, conveyancing and leasing and has acted for major banks, insurance companies, property trusts, governments and investors. Gary is a member of several Law Society Committees including the Property Law Committee and the Retail Tenancy Legislation sub-committee. He has lectured on leasing at UWA.

**Peter van der Zanden**, Partner, **Lavan Legal** has a strong commercial litigation practice covering all court jurisdictions, primarily the superior courts. He is in the Commercial Advice and Litigation Group in his firm. Peter acts on a wide range of matters including leasing and other contractual disputes, corporate litigation, debt recovery and insolvency litigation.

**Brad Wylynko**, Partner, **Clayton Utz** has extensive experience working with resource, industrial, property, finance and manufacturing companies in Australia and Canada. He is a member of the Environment Committee of the Chamber of Minerals and Energy. Brad leads his firm's environment and planning team and co-chair the climate change group. He lectures on environmental and planning law. He is ranked as a leading lawyer in the Environment Section of Chambers Global 2007.

## CONFERENCE DATE AND VENUE

1-2 April 2008  
Hyatt Regency, Perth  
99 Adelaide Terrace,  
Perth WA 6000  
Tel: (08) 9225 1234  
Fax: (08) 9325 8899  
www.perth.regency.hyatt.com

## 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 4 March 2008. If we receive written notification between 5 March and 18 March 2008 you will receive a 50% refund and conference documents. No cancellation requests will be accepted after 8 March 2008. You may nominate a replacement, however no refund will be issued.

## IMPORTANT PRIVACY NOTICE:

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

## Four 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: PD4207

ABN: 70 001 002 357

### I would like to register for the Commercial and Retail Leasing WA

#### A EARLY BIRD PRICE (expires on 19 February 2008)

- One-Day Conference + One Workshop \$1100 + GST = \$1210  
 One-Day Conference \$ 850 + GST = \$ 935

#### STANDARD PRICE

- One-Day Conference + One Workshop \$1200 + GST = \$1320  
 One-Day Conference \$ 950 + GST = \$1045  
 One Workshop \$ 400 + GST = \$ 440

#### 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 No: \_\_\_\_\_
- Expiry: \_\_\_\_/\_\_\_\_
- Name of cardholder \_\_\_\_\_
- Signature of cardholder \_\_\_\_\_

#### C CONFERENCE RESOURCES

I am unable to attend but would like to purchase a set of conference papers for Commercial and Retail Leasing WA \$270 + GST = \$297

#### TEAM DISCOUNTS\*

Register a team of 3 for the Commercial and Retail Leasing WA at the same time, from the same organisation and receive a free pass for the 4th delegate.

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

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

Mr/Ms/Dr \_\_\_\_\_  
first name surname

Position \_\_\_\_\_

Organisation \_\_\_\_\_

Postal Address \_\_\_\_\_

Suburb \_\_\_\_\_ Postcode \_\_\_\_\_ State \_\_\_\_\_

Telephone \_\_\_\_\_

Fax \_\_\_\_\_

Email \_\_\_\_\_

YES! I would like to receive information on upcoming events via email.