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9.5 CPD points!

# 4th annual queensland construction law masterclass

13 February 2008 Masterclass  
14 February 2008 Workshop  
**Stamford Plaza** Brisbane

Analysing recent decisions  
to enhance excellence  
in contemporary  
construction practice

Hear from experienced presenters  
on a range of topics including  
project delivery, drafting  
contracts and special conditions,  
assessing the role of a contract  
superintendent, reviewing the  
Building and Construction Industry  
Payments Act, managing risk, as  
well as responding to defective  
design and building work.

**Official Publication**  
**Lawyers Weekly**

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# masterclass

8:00

## Conference Registration

8:30

## Welcome and Opening from the Chair

MEET YOUR  
CHAIR

**Paul Muscat**, Special Counsel, **Sparke Helmore Lawyers** is a Special Counsel in the Construction, Projects and Infrastructure Practice Group having specialised in commercial and construction law for some 10 years. Before joining Sparke Helmore, Paul was a founding partner of Campbell Muscat Lawyers following his practice as a barrister at the Queensland Bar since his admission in 1996. Paul's post-admission experience has included an appointment as General Counsel for Commerce Queensland and establishing and managing Commerce Queensland's Legal Service. In addition to this Paul has successfully represented major project builders in relation to prosecutions and other actions against them by local authorities and building authorities in both the courts and specialist tribunals. Paul has acted for architects, construction companies, builders, sub-contractors, developers, land owners, tenants and home owners and as a result has dealt with these issues from every perspective. Paul has been a member of various industry working parties comprising peak industry bodies, major developers and other stakeholders in relation to legislative changes and implementation and has negotiated, drafted and implemented a memorandum of understanding between local government and developers in relation to compliance with relevant legislation.

8:40

## The Responsibilities and Authority of the Superintendent

- Determining the duties and responsibilities of the Superintendent within the boundaries of the contract
- Dealing with the Superintendent's inherent conflict between contractor and principal
- Disputing the valuation and calculation of works by a Superintendent
- Assessing the consequences of the Superintendent failing to certify claims under the contract

**Rocco Russo**, Partner, **Cooper Grace Ward**

9:40

## Making Sure That you Have Agreements in Writing

- Arranging pre-construction funding and post-construction profit sharing
- Being clear on whether costs incurred are definite and agreed upon by all relevant parties
- Determining whether parties are bound by original estimates
- Validating sub-contract and separate agreements

**Aleisa Crepin**, Solicitor, **Ebswoth & Ebswoth**

10:10 Morning Tea

10:30

## Reducing the Risk of Variation by Drafting Specific Clauses

- Case study - *Michael Davies Associates Pty Ltd v Auburn Council* [2007] NSWSC 877
- Overview of the facts
- Identifying the procedure for variation; the importance and practicalities associated with timing
- Highlighting the risks of proceeding without written authorisation
- Drafting clauses containing guarantees for works; determining the period of guarantee

**Ross Williams**, Partner, **Ebswoth & Ebswoth**

## Special Conference Discount

There are strong ties between property and construction practice - with one area often requiring an up-to-date awareness of issues occurring in the other.

Attend both the property law and construction law masterclasses and receive a **\$200 discount**.

\* cannot be taken concurrently with other discounts offered.

11:15

## Determining Liability & Making a Claim for Defective Construction

- Case Study - *Multiplex Construction (UK) Limited v Honeywell Control Systems Limited* [2007] EWHC 390
- Defining the procurement model and identifying what the problems were in this case
- Establishing what defective works are & why they frequently occur
- Determining the roles and responsibilities of the:
  - Employer's Agent
  - Lenders and
  - Lenders' Engineer
- Suggesting ways of how to approach recovery and the assessment of damages
- Considering recovery as it relates to the Civil Liability Act - what does it mean for proprietors on major construction projects?
- Underlining the relevance of this case in the United Kingdom to best practice in the Australian context

**Greg Richards**, Senior Associate, **Minter Ellison**

12:15 Lunch

1:15

## Considering Methods of Responding to a Cost Blow-out

- Case study: *Veolia Water Solutions v Kruger Engineering* [no 3] [2007] NSWSC 459
- Overview of the facts
- Responding to a contractor or subcontractor becoming insolvent
- Approaching an application for extending time frames outside the specified period
- Considering costs of delay in construction and litigation as bargaining tools
- Drafting of a cross-claim for costs
- Taking into account the requirements for proof of debt

**Arch Fletcher**, Partner, **Clayton Utz**

2:00

## Drafting a Response to a BCIPA Claim

- Case Study - *F.K. Gardner & Sons Pty Ltd v Dimin Pty Ltd* [2007] 1 Qd R 10
- Overview of the facts
- Progressing claims and steps that require strict compliance
- Drafting a schedule and taking into account time constraints
- Counter claims & drafting clauses in a construction contract relating to payment
- Making the distinction between persons entitled and persons claiming to be entitled

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

2:45 Afternoon Tea

3:00

## Explaining Changes to the Independent Contractors Act 2006 Effective from March 2007

- Case Study: *Sweeney v Boylan Nominees Pty Ltd trading as Quirks Refrigeration* (2006) 227 ALR 46
- Distinguishing entrepreneurialism from misrepresentations of being an independent contractor
- To whom the new laws apply; considering the role of corporations
- The determination as to fact; contractor or employee
- The risks of misrepresenting as an employee and the consequences that are likely to follow

**Louise Floyd**, Special Counsel, **Biggs & Biggs Lawyers**

4:00

## Bringing a Claim to the Commercial and Consumer Tribunal

- An overview of CCT's role in disputes concerning construction law
- Considering what constitutes a 'minor commercial building dispute' and 'domestic building dispute' as the matters that the Commercial & Consumer Tribunal can hear
- Tips and tactics on drafting applications and responses with the CCT
- Feedback on the methods of delivering oral presentations within a relatively short time frame

**Julianne Shafer**, Chairperson, **Commercial & Consumer Tribunal**

4:40

## Conference Close

Thursday 14 February 2008

# construction contract workshop

**Be guided through a construction contract that could land on your desk tomorrow**

8:00 - 8:30

## Workshop Registration

8:30

### CONSTRUCTION CONTRACT WORKSHOP

Participate in an interactive environment where the facilitators will adopt the role of acting for the Principal in presenting a contract that is:

- Heavily weighted in favour of the Principal;
- Non-compliant with QBSA and BCIPA; and
- Non-compliant with recent cases such as John Goss and John Holland

As a delegate, you will act on behalf of the Contractor and engage in negotiations with the Principal regarding the terms of the contract.

A major aspect of this workshop is the de-briefing session which follows negotiations and focuses on tips and tactics concerned with approaching contracts involving construction projects.

10:00

## Morning Tea

10:15

## Resumption of Workshop

12:00

## Workshop Close

### Workshop Facilitators:

#### ABOUT YOUR FACILITATORS

**Stephen Pyman**, Partner, **Holding Redlich** has practiced in the field of building, construction and development law for more than 19 years. He has extensive experience in pre-contract and tender negotiations, contracts and sub-contracts as well as 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. He is a member of the Institute of Arbitrators and Mediators and is the author of the Building Law Library series and a registered Adjudicator.

**Scott Lambert**, Special Counsel, **Holding Redlich** practises in the areas of building, construction, workplace relations and occupational, health and safety and has experience in the construction and development industry, which spans more than 20 years. Prior to joining Holding Redlich, Scott was the National Executive Director of Industrial Relations, Legal and OH&S for the Housing Industry Association, Australia's largest Building and Construction Industry Association. He advises leading national construction companies, major commercial and domestic builders, developers and project managers. Scott has an in-depth understanding of construction and engineering contracts, employment agreements, consultancy contracts and OHS systems and risk management.

### CPD points

Claim 6 CPD points for attending the Construction Law Masterclass and 3.5 CPD points for attending the workshop

To discuss sponsorship opportunities please email: [sponsorship@lexisnexis.com.au](mailto:sponsorship@lexisnexis.com.au)



**ABOUT THE PRESENTERS**

**Rocco Russo**, Partner, **Cooper Grace Ward**, is a specialist commercial litigator whose focus is on identifying strategies for the resolution of commercial disputes. He practices across many industries, giving advice on dispute resolution strategies in contract and commercial law, building and construction, intellectual property, wills and estate, insolvency, property, leasing and business disputes. Rocco has been involved in many complex commercial litigation cases and leads one of Cooper Grace Ward's commercial dispute resolution teams. He acts for many of the firm's commercial and property clients in negotiating resolutions of disputes.

**Ross Williams**, Partner, **Ebsworth & Ebsworth**, has extensive experience in the areas of prospect development and documentation, litigation and dispute resolution, professional liability of architects, engineers and construction professionals, as well as major construction contracts, infrastructure projects and alliance contracting. Ross has been involved with commercial litigation matters in all Australian jurisdictions and is well experienced across the board in the area of construction, from joint venture arrangements through to actual construction.

**Greg Richards**, Senior Associate, **Minter Ellison** is a specialist in dispute resolution and avoidance for the construction and engineering industries. He has over thirteen years experience in dispute resolution – and has practiced for the last seven years exclusively in construction and engineering related disputes. Greg specialises in resolving and avoiding construction disputes, especially on major projects. Greg also advises on risk management, contract administration and dispute avoidance with a view to minimising and managing the risk of disputes. He has acted in a range of matters for clients in the water and mining industries as well as core construction clients and has acted for proprietors and contractors. He also acts in professional negligence actions in construction and engineering related matters.

**Arch Fletcher**, Partner, **Clayton Utz**, has wide reaching experience in the practice area of construction law, including the preparation, negotiation and review of a wide range of construction, performance and completion guarantees as well as related financing agreements for major infrastructure projects. Arch regularly advises on matters such as project risk allocation and selection of project delivery

models; tendering procedures and tender evaluation; time-related claims (extensions of time, prolongation and disruption costs, acceleration claims and liquidated damages); variation claims; defective work and structure failure claims (including professional negligence claims); latent conditions claims; disputes over retention moneys; bank guarantees and subcontractor's charge claims; disputes over performance warranties; claims under payment certificates and disputed set-off claims; project insurance; contract termination disputes, and time bar disputes.

**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 BCIP Act. David is also a registered Adjudicator and Mediator.

**Louise Floyd**, Special Counsel, **Biggs & Biggs Lawyers**, specialises in employment and industrial law. Prior to joining Biggs & Biggs, Louise was a tenured Lecturer at the University of Queensland Law School. In addition to her full time appointment with Biggs, she writes annotations for the Workplace Relations Act and is the author of the employment law chapter of Australian Commercial Law. She has a PhD from the University of Sydney; has been a Visiting Fellow to Cornell University in New York; a Visiting Scholar to Southern Methodist University in Dallas, Texas; and is a former Judges' Associate to Justice Margaret McMurdo.

**Julianne Schafer**, Chairperson, **Commercial & Consumer Tribunal**, a solicitor for almost 30 years, has been president of the Queensland Law Society and is currently Chairperson of the Commercial and Consumer Tribunal which has commercial, administrative and disciplinary jurisdiction in relation to a broad range of industry groups as diverse as builders, body corporate and community management, property agents and motor dealers, and retirement villages to name a few. Ms Schafer is a former adjunct professor in law at the University of Queensland and has held memberships on the law faculty advisory boards at four Queensland tertiary institutions.

**WHO SHOULD ATTEND?**

- Construction law specialists
- Property lawyers • Barristers
- Government lawyers • Developers
- Construction project managers
- Contractors • Engineers
- Architects • Surveyors

**CONFERENCE DATE AND VENUE**

13-14 February 2008  
Stamford Plaza Brisbane  
Cnr Edward & Margaret Streets  
Brisbane, QLD 4000  
Telephone: (07) 3221 1999

**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 26 January 2008. If we receive written notification between 27 January 2008 and 12 February 2008 you will receive a 50% refund and conference documents. No cancellation requests will be accepted after 12 February 2008. 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: **PD2508** CPD reference no. **CPD532**

**A** I would like to register for the **4th Annual Queensland Construction Law Masterclass**

ABN: 70 001 002 357

**EARLY BIRD (expires 21 December 2007)**

- One-day Construction Masterclass \$850.00 + GST = \$935.00
- Construction & Property Masterclasses \$1600.00 + GST = \$1760.00

**STANDARD PRICES**

- One-day Construction Masterclass \$950.00 + GST = \$1045.00
- One-day Construction Masterclass + Workshop \$1400.00 + GST = \$1540.00
- Construction Workshop only \$450.00 + GST = \$495.00
- Special combined deals**
- Construction & Property Masterclasses \$1800.00 + GST = \$1980.00
- Construction & Property Masterclasses + Construction or Property Workshop# \$2100.00 + GST = \$2310.00
- Construction & Property Masterclasses + both Construction & Property Workshops \$2400.00 + GST = \$2640.00

#If only attending one workshop, please indicate which workshop

- Construction Workshop OR  Property Workshop

**CONFERENCE RESOURCES**

I am unable to attend but would like to purchase a set of conference papers for 4th Annual Queensland Construction Law Masterclass \$300 + GST = \$330

**TEAM DISCOUNTS\***

Register a team of 3 to the conference 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

**B** **Payment details** Payment is due upon registration

- Enclosed is my cheque for \$ \_\_\_\_\_ made payable to LexisNexis
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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