

Separately bookable days

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Includes
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NSW Property Law and Conveyancing Masterclass

Enhancing legal expertise in
a changing environment

13 – 14 May 2009
Crowne Plaza
Darling Harbour
Sydney

Don't miss this opportunity to:

- Discover trends in **alliance contracting**
- Overcome common errors in applying **GST**
- Examine the practice and repercussions of **predatory lending**
- Explore the legality of **split loan schemes**
- Understand the implications of the amendments to **off-the-plan projects**
- Examine the liability of valuers for breach of **tortious duty of care**
- Scrutinise the rights of **unregistered mortgagees**

Expert speakers include:

Tim Coleman, Partner, **Piper Alderman**
Neville Allen, Partner, **Holding Redlich Lawyers**
Amrit Macintyre, Partner, **Baker & McKenzie**
Peter Laverick, Partner, **Tresscox Lawyers**
Matthew Bransgrove, Principal, **Bransgroves Lawyers** and
Co-Author, *Essential Guide to Mortgage Law in New South Wales*
Tony Cahill, Legal Author and Commentator
Patrick Dwyer, General Counsel, Home Lending, **GE Money**
Stephen Blanks, Partner, **SBA Lawyers**
Gary Newton, Partner, **Colin Biggers & Paisley**

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NSW Property Law and Conveyancing

Enhancing legal expertise in a changing environment

Day One – Wednesday, 13th May 2009

8.30 **Conference registration**

8.50 **Opening Remarks from the Chair**
Peter McMahon, Partner, Clayton Utz

9.00 **Addressing the concerns of the Urban Development Industry in NSW**
Nick Duncan, CEO, UDIA NSW

INDUSTRY UPDATE
9.10 **NSW Property Market: Trends in alliance contracting**

- Role of government and the private sector
- Implementing key property projects in partnership with State governments
- Trends in alliance contracting
- Maximising opportunities in the post-crisis property market

Tim Coleman, Partner, Piper Alderman

10.00 **Successfully navigating the complexities surrounding mixed-use developments**

- Determining the challenges of volumetric development and providing options in overcoming legal pitfalls
- Assessing the feasibility of development or redevelopment of state land and potential contractual complications
- Measures the practitioner needs to consider when drafting a mixed-use development submission

Neville Allen, Partner, Holding Redlich Lawyers

10.50 **Morning tea**

Interactive Workshop
11.10 **Micro-Workshop: A practical guide to retail leases**

- Preparation and negotiations of lease agreements for retail premises including premises in shopping complexes
- Preparation of landlord's disclosure statements for retail premises
- Advising on lease administration
- Workshop problem

Gary Newton, Partner, Colin Biggers & Paisley

12.20 **Networking lunch for speakers and delegates**

Tax Update
1.20 **GST developments in property transactions**

- Considering the intricacies of land holder duty
- Property sales by insolvent entities - GST
- GST and residential sales - examining the *South Steyne* case
- Compulsory acquisitions of land
- GST and land valuation

Amrit Macintyre, Partner, Baker & McKenzie

Who Should Attend

- Property Lawyers
- Property and Real Estate Practice Groups
- Property Developers
- Real Estate Agents
- Conveyancers
- Finance Practice Groups
- Mortgage Recovery Lawyers
- In-house Counsel
- Property Sector Executives

2.10 **Mortgages: how the predatory lending wave is coming crashing down in the courtroom**

- Examining how the practice of predatory lending, also known as asset lending, infected the Australian lending industry
- Identifying potential defendants and remedies available to victims of predatory lending
- Assessing when lenders may lose their capital
- The application of the Consumer Credit Code
- Reviewing the view of the courts through the decisions handed down in cases including:
 - *Kowalczyk v Accom Finance* [2008]
 - *Perpetual Trustee Company Limited v Khoshaba* [2006]
 - *Khan v Hadid* [2008]
 - *Kent v Rebfin Pty Ltd* [2008]

Stephen Blanks, Partner, SBA Lawyers

3.00 **Afternoon tea**

Hot Topic
3.30 **Assessing the commercial and legal practicalities of entering into a "green lease"**

- The concept of green buildings has increasingly manifested itself in some form of "green lease" between landlords and tenants. How are "green standards" determined, and what are the cost implications?
- Identifying a "green lease" from a conventional lease
 - Introducing ESD principles into commercial leasing arrangements
 - Assessing the value of a "green lease" from the tenant's, landlord's and developer's point of view: is it a win-win situation?
 - *drafting a suitable contract for all parties*
 - Determining both the tenant's and landlord's obligations in accordance with the building rules
 - How does a "green lease" change the conventional lease contract?
 - What remedies are available to the tenant if the promised building's green performance is not delivered?

Thomas Sterling, Partner, Gadens Lawyers

4.20 **Avoiding the tax man's microscope: examining the legality of split loan schemes**

- Split loan facilities offer tax benefits to the borrower through the use of the one loan to finance the acquisition of a business asset and a private asset. The roll-on effect of the decision stemming from the *Commissioner v Hart* is significant to not only the ATO but all businesses and borrowers in relation to tax avoidance.
- Structuring a loan to obtain a tax benefit by demonstrating a commercial purpose
 - Examining the legal complexities of a split loan system
 - Understanding the legal process attached to Part IVA of ITAA 1936 (Cth)
 - Successfully navigating tax minimisation strategies

Peter Laverick, Partner, Tresscox Lawyers

5.10 **Closing remarks from the Chair**

5.20 **Close of day one**

Day Two – Thursday, 14th May 2009

8.30 **Conference registration**

8.50 **Opening Remarks from the Chair**
Peter McMahon, Partner, Clayton Utz

9.00 **Addressing the concerns of the Urban Development Industry in NSW**
Nick Duncan, CEO, UDIA NSW

9.10 **Addressing developer's rights in consideration of the NSW strata reforms**

- Understanding the fundamental changes to the *Strata Schemes Management Act 1996* and the *Home Building Act 1989* and how these changes will affect property developers
- Examining the exclusive use of by-laws and the exemptions that will take effect
- What will the increased disclosure requirements mean for owners?
- Analysing the complaints put forth to the Office of Fair Trading and its implications for property developers
- Understanding the implications of the amendments to off-the-plan projects

Richard D'Apice, Partner, and Ian McKnight, Special Counsel, Makinson & D'Apice Lawyers

10.00 **Executing mortgagee sales**

2009 will present a number of challenges for the mortgage industry. Woeful financial forecasts along with a shaky employment outlook will force many property-owners into foreclosure. What do you need to be wary of and where does the law stand when conducting a mortgagee sale?

- Determining rights and responsibilities under section 420A(1)(a) of the *Corporations Act 2001* (Cth)
- The danger of engaging in 'fire sales': responsibilities and remedies available to both parties
- Discussing why mortgagee sales are inherently problematic and strategies to minimise these problems

Matthew Bransgrove, Principal, Bransgroves Lawyers and Co Author, Essential Guide to Mortgage Law in New South Wales

10.50 **Morning tea**

11.10 **Micro-Workshop: Off-the-plan property contracts**

Key documentation when preparing and collating off-the-plan contracts:

- Structuring and drafting the required special conditions and attachments
- Disclosure of vendor's development in contract
- Tips and Tricks to ensure compliance with the legislative framework
- Purchaser's acknowledgment of plans and subject matter of sale
- Matters specific to strata title and community title

Tim L'Orange, Partner, DLA Phillips Fox

12.20 **Networking lunch for speakers and delegates**

1.20 **Renovating the Home Warranty Insurance Scheme: the latest changes**



- Discussing the implications of *SP 57504 v. Building Insurers' Guarantee Corporation* [2008]
 - Examining the terms of contract covered by the Scheme
 - Inspecting provisions of a contract to which insurance does not apply
 - Insurer's cash flow? Determining *what* insurance will cover
- Tony Cahill, Legal Author and Commentator*

2.10 **Valuers - recourse and liability**

This session focuses on the position of valuers and solicitors in the particular context of mortgage lending.

- Examining the liability of valuers and their relationship with lenders
- Understanding the liability of a valuer for breach of a contractual or tortious duty of care
- Responses to allegations of guilty or misleading conduct
- Addressing the evidentiary difficulties faced by regulators in succeeding with claims of misleading, deceptive and unconscionable conduct, involving property marketing schemes

Patrick Dwyer, General Counsel, Home Lending, GE Money

3.00 **Afternoon tea**

3.30 **Examining the rights of unregistered mortgagees and charges to enforce their securities**

- Unregistered mortgagees' rights to obtain possession of and sell real property
- Duties to other mortgagees' to hold a security over the same property
- Assessing the institution of proceedings and practice to enforce the security

John Armfield, Barrister-at-Law, Second Floor Wentworth Chambers

4.20 **Exploring the scope and enforceability of caveatable interests**

- What to disclose on the face of the valid caveat – concise but specific
- Avoiding wrongful lodgement of caveats and exposure to damages – determining whether there is a genuine interest in the land
- The status of equitable interests and trusts
- Contractual prohibitions on lodging a caveat
- Department of Lands perspective – balancing the proprietor and caveator interests at the counter
- Possible directions in law reform – a national perspective

Joseph Grassi, Solicitor – Director, Joseph Grassi & Associates and Vice President, Penrith Valley Chamber of Commerce

5.10 **Closing remarks from the Chair**

5.20 **Close of day two**

Priority registration form NSW Property Law and Conveyancing Masterclass

4 easy ways to register

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Position: _____

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First name Last name

Position: _____

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

- # Please select day you wish to attend: Wednesday 13 May 2009
 Thursday 14 May 2009

- Yes, I wish to purchase The Essential Guide to Mortgage Law in New South Wales book \$135.45 + GST = \$149.00

CONFERENCE RESOURCES

- I am unable to attend but would like to purchase a set of conference papers for NSW Property Law and Conveyancing Masterclass \$360.00 + GST = \$396.00

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- Register a team of 2 to the conference 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

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