

Early Bird price expires
21 January 2008!

solving construction law dilemmas

20 - 21 February 2008 **Duxton Hotel** Perth

An in depth examination of construction
law issues tailored for WA practitioners

Key sessions on:

Piecing together liability caps,
insurance, exclusions clauses
and liquidated damages -
contractual mechanisms
for managing risk

Effectively dealing with
variations and delays

Contracting methods for driving
profits and project delivery

Remedying defective
building work

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avoiding dilemmas and creating successes

8:30
Registration and Coffee

9:00
Opening Remarks from the Chair
Chairperson TBA

Techniques for Avoiding Construction Dilemmas

9:10
Keeping the Project Moving with Effective Dispute Resolution Techniques

Litigation costs billions of dollars each year in lost production time. Gain crucial knowledge in dispute resolution to contain conflicts and avoid litigation

- Emerging trends in dispute resolution
- Identifying the most appropriate method for your situation
- Expert determination for efficient outcomes

Laurie James, *Chairman of Partners*, **Kott Gunning** was admitted as a Barrister and Solicitor in 1965 and has been a Partner at Kott Gunning since 1967. He is the National President of the IAMA and Past Chairman of the WA Chapter. Laurie is also a past National Chairman of the Construction and Infrastructure Law Committee of The Law Council of Australia. He is the Convenor of the Western Australian Dispute Resolution Association (WADRA) Inc. A Graded Arbitrator, approved Mediator and registered Adjudicator, Laurie is the Gas Disputes Arbitrator under the *Gas Pipelines Access (WA) Act 1998*.

10:00
Tips for Dealing with Variations and Delays

Construction projects are notorious for variations and time extensions. Different causes will create different consequences. Gain essential tips in avoiding dilemmas

- Adjudications under the Construction Contracts Act 2004
- Owner or Contractor caused delay
- Navigating variation clauses
- Mitigating losses
- Adjusting value of work

Kathryn Roach, *Senior Associate*, **Jackson McDonald**

10:50
Morning Tea

11:20
Utilising Liability Caps to Manage Risk

The normal risk allocation regime is significantly altered by capping liability. Major contractors seek these contractual mechanisms to manage risk. Consequential losses and delivery related risks are at stake making this a session a not-to-be-missed experience.

- Defining consequential losses/ latent defects
- Implications for normal risk allocation regime
- Incorporating liquidated damages, exclusion clauses and insurance measures
- Recent court treatment of liability cap clauses

Michael Hollingdale, *Partner*, **Allens Arthur Robinson**

12:10
Toolkit for Defective Building Work

This is an essential session for anyone advising the building or construction industry. Recent cases have altered the rights of owners with potentially huge consequences for contractors

- Update on recent court decisions
- Remedial measures for defective building work: rectification, compensation or rebuild?
- Valuing damages and incorporating reasonableness
- Liability for latent defects and to subsequent owners

Glynn Logue, *Adjudicator, Arbitrator and Consultant*

1:00
Networking Lunch for Speakers and Delegates

Tools for Creating Construction Success

2:00
Driving Performance in Construction Contracts: Contracting for Project Delivery

This session will ensure you are up to date with the latest trends in defining and structuring successful relationships and projects

- Consolidate your knowledge of the range of models in contracting
- Target Estimate Contracts
- EPC modelling- does it work?
- Maximum Price Contracts
- Alliance partnerships
- New models and interaction with traditional drafting and negotiating modes.

Gavin Witcombe, *Special Counsel*, **Clayton Utz**

2:50
PANEL DISCUSSION
The Rules of Attraction: How to Exploit Opportunities in Public-Private Partnerships

Government agencies make attractive clients with an abundance of work. This session will address the unique needs of this market including the WA Governments July 2007 report aiming "to assist those construction firms that are considering or seeking out new markets in the State" and advice from the panel on strategies for attracting government clients by analysing their needs

- Resolving profit objectives with public sector demand for value
- Satisfactory partnerships: what parties want from the relationship

Panellists:
Sean Gavin, *Gavin Construction*

3:40
Afternoon Tea

4:10
Innovating Sustainability in Building Practices

Sustainable business practices are an economic consideration which must be incorporated into the best practices of the construction industry. Learn how to meet the current requirements and take pre-emptive measures for the future

- Regulation or innovation: current measures
- Penalty provisions and enforcement
- Compliance auditing procedures
- Case study of practices in a company
- Future of sustainability practices in construction projects

John McGuire, *State Manager WA*, **Bassett**

5:00
Closing Remarks from the Chair

5:10
Close of Day One

post conference workshops

8:30

Workshop A Registration

9:30 - 12:30

WORKSHOP A

Analysing and Drafting Indemnity, Limits of Liability and Liquidated Damages Clauses

This workshop is a comprehensive look at indemnity, liability and liquidated damages clauses. Delegates will gain valuable insight into drafting considerations and implications. Specific emphasis will be on the following:

- Negotiation and drafting liquidated damages clauses
- Analysing the effectiveness of indemnity clauses
- Interpreting recent case law developments

Led by Ren Niemann, an interstate expert in this area and highly acclaimed speaker. The practical workshop content will refine your skills and knowledge of these critical types of clauses.

Be confident that you are up-to-date with the law and current trends in contract liability.

Workshop Facilitator:

ABOUT YOUR FACILITATOR

Ren Neiman, Partner, **Allens Arthur Robinson** specialises in construction and major infrastructure projects. He has acted for all levels of Government, financiers, principals and contractors across a number of industries in major projects, including PPPs. Currently Ren is advising the QLD Government on its Toowoomba Bypass Project. Ren also acts for owners and contractors in the mining and resources industries, in drafting, negotiating and advising owners, financiers and contractors in relation to complex contracts.

12:30

Networking Lunch for Speakers and Delegates Attending Both Workshops

1:15

Workshop B Registration

1:30 - 4:30

WORKSHOP B

Construction Litigation: Achieving an Optimal Outcome

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
- Appropriate ADR options for construction disputes

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

- Challenges in identifying relevant parties to the action
- Claiming/proving loss of profit, production, revenue and use
- Emerging trends of appointing joint experts in construction cases and subsequent difficulties
- Undertaking discovery when multiple parties hold discoverable documents
- 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 Facilitator:

ABOUT YOUR FACILITATOR

Clive Luck, Partner, **Minter Ellison** is experienced in dispute resolution representing clients in mediation, adjudication, arbitration and litigation relating to construction and resource disputes in Australia, Britain, Hong Kong, India and Indonesia. Clive also has experience drafting and negotiating commercial contracts for construction and resource projects assisting owners, contractors and engineers in significant projects.

4:30

Close of Conference

What Your Colleagues Had to Say About Previous Construction Law Conferences:

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

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

"Subject matter was current, relevant and well presented"

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ABOUT THE PRESENTERS

Professor Phil Evans, Associate Dean, **Notre Dame University** holds a Bachelor of Science (Engineering) degree, a Master of Engineering (Honours) degree and a NSW Local Government Engineers Certificate. He also holds an LLB from UWA and a PhD from Curtin University. He is a Fellow of the Institution of Engineers (Aust) and the Australian Institute of Building. He is currently Professor and Associate Dean of the School of Law. He is also a graded arbitrator, accredited mediator and registered adjudicator under the *Construction Contracts Act 2004 (WA)*.

Laurie James, Chairman of Partners, **Kott Gunning** was admitted as a Barrister and Solicitor in 1965 and has been a Partner at Kott Gunning since 1967. He is the National President of the IAMA and Past Chairman of the WA Chapter. Laurie is also a past National Chairman of the Construction and Infrastructure Law Committee of The Law Council of Australia. He is the Convenor of the Western Australian Dispute Resolution Association (WADRA) Inc. A Graded Arbitrator, approved Mediator and registered Adjudicator, Laurie is the Gas Disputes Arbitrator under the *Gas Pipelines Access (WA) Act 1998*.

Michael Hollingdale, Partner, **Allens Arthur Robinson** practises in the area of major Projects. He has particular expertise in large infrastructure projects in WA. Recent projects include railways (DC&M), power stations (EPC) highways (early contractor involvement) and mine development (Alliances). Michael mainly advises government instrumentalities and private sector principals and developers. He is also an experienced commercial mediator.

Kathryn Roach, Senior Associate, **Jackson McDonald** practises in the areas of building and construction and insurance. Kathryn advises clients involved in contractual disputes, arbitrations and adjudications, including appearing in the Supreme Court on behalf of clients. Kathryn also advises insurers and clients on all aspects of professional indemnity, directors and officers insurance and reinsurance.

Gavin Witcombe, Special Counsel, **Clayton Utz**, has over 20 years experience in construction law. Gavin practises in all areas of construction law, particularly front end engineering and construction work. Acting for owners, financiers and contractors in drafting, negotiating and settling contracts and project structuring, Gavin has been involved in numerous major infrastructure, mining and processing projects.

WHO SHOULD ATTEND?

- Solicitors, senior associates, partners
- In-House Counsel
- Barristers
- Building and Construction Consultants
- Directors and CEOs in Construction
- Architects and surveyors
- Construction and engineering managers
- Construction project managers
- Contractors and developers
- Town planners

CONFERENCE DATE AND VENUE

20-21 February 2008
Duxton Hotel
1 St Georges Terrace
Perth WA 6832
Ph: 08 9261 8000
Fax: 08 9261 8038
www.duxton.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 23 January 2008. If we receive written notification between 24 January 2008 and 6 February 2008 you will receive a 50% refund and conference documents. No cancellation requests will be accepted after 6 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

TEAM DISCOUNTS*

Register a team of 3 for Solving Construction Law Dilemmas 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

Official Publication

Lawyers Weekly

4 easy ways to register

Phone: 1800 772 772
Fax: (02) 9422 2338
Online: 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: **PD4807** ABN: 70 001 002 357

A I would like to register for Solving Construction Law Dilemmas

Early Bird* (expires 21 January 2008)

Standard Price

<input type="checkbox"/> One Day Conference + Both Workshops	\$1450 + GST = \$1595	\$1600 + GST = \$1760
<input type="checkbox"/> One Day Conference + One Workshop#	\$1100 + GST = \$1210	\$1200 + GST = \$1320
<input type="checkbox"/> One Day Conference	\$850 + GST = \$935	\$950 + GST = \$1045
<input type="checkbox"/> Both Workshops	\$800 + GST = \$880	\$900 + GST = \$990
<input type="checkbox"/> One Workshop Only#		\$450 + GST = \$495

CONFERENCE RESOURCES

I am unable to attend but would like to purchase a set of conference papers for Solving Construction Law Dilemmas
\$270 + GST = \$297

If only attending one workshop, please indicate which workshop Workshop A Workshop B

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