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Construction Law Masterclass Queensland

**ANALYSING LEGISLATIVE DIRECTIONS AND MASTERING CONTRACTUAL
ISSUES TO PROMOTE EXCELLENCE IN CONSTRUCTION PRACTICE**

MASTERCLASS DATE: 24 February 2005 • **WORKSHOPS:** 25 February 2005 • **VENUE:** Stamford Plaza Hotel, Brisbane

Featuring



Jim Ritchie
SPECIAL
COUNSEL
**ALLENS
ARTHUR
ROBINSON**



Dan Young
PARTNER
**ALLENS
ARTHUR
ROBINSON**



John Baartz
PARTNER
**ALLENS
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**Stephen
Pyman**
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Arch Fletcher
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Ross Williams
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**EBSWORTH
& EBSWORTH**



Tony Cotter
PARTNER
**MCCULLOUGH
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Bill Morrissey
PARTNER
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Jim Feehely
PARTNER
PHILLIPS FOX

**WEBSTREAMING
FOR REGIONAL
PRACTITIONERS**
See back of brochure for
more details.

PLUS, Separately Bookable Workshop On:

Alternative Models of Contracting: A Practical Guide to Alliance Contracting

**HEAR UP-TO-DATE COMMENTARY
AND GAIN PRACTICAL ADVICE
FROM SENIOR EXPERTS:**

- Jim Ritchie, Special Counsel, **ALLENS ARTHUR ROBINSON**
- Warren Fischer, Queensland Chapter Vice-Chair and National Councillor, **INSTITUTE OF ARBITRATORS AND MEDIATORS**
- Dan Young, Partner, **ALLENS ARTHUR ROBINSON**
- John Baartz, Partner, **ALLENS ARTHUR ROBINSON**
- Stephen Pyman, Partner, **DIBBS BARKER GOSLING**
- Bill Morrissey, Partner, **MCCULLOUGH ROBERTSON**
- Tony Cotter, Partner, **MCCULLOUGH ROBERTSON**
- Robert Holt SC, **QUEENSLAND BAR**
- Ross Williams, Partner, **EBSWORTH & EBSWORTH**
- Jim Feehely, Partner, **PHILLIPS FOX**
- Arch Fletcher, Partner, **CLAYTON UTZ**
- Dale Brackin, Partner, **CLAYTON UTZ**

DON'T MISS THIS OPPORTUNITY TO:

- Consider **current legislative impacts**
- Analyse the **Building and Construction Industry Payments Act 2004**
- Review the **future role of Subcontractor's Charges Act**
- Examine **amendments to the Building Services Authority Act**
- Highlight **contractual issues**
- **Analyse implications** of Woolcock Street Investments v CDG
- Review issues in **construction insurance**
- Examine implications of **deemed progress payments**
- Improve knowledge of **relationship/alliance contracting**
- Hear a **practical case study** on PPPs

**Audio CD and
Papers Available
for Regional
Practitioners.**

OFFICIAL PUBLICATION:

Lawyers Weekly

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Thursday, 24 February 2005

8:30 Registration and Tea/Coffee

9:00 Welcome and Opening Remarks from the Morning Chair
Warren Fischer, Queensland Chapter Vice-Chair and National Councillor, INSTITUTE OF ARBITRATORS AND MEDIATORS

PART A: QUEENSLAND LEGISLATIVE IMPACTS

9:10 SESSION 1

Building And Construction Industry Payments Act 2004; Analysing The First Months Of Operation

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- Understanding application of the Act
- Procedural aspects of recovering progress payments
- Adjudication of disputes
- Reviewing progress of the Act to date
- Outlining recent decisions from NSW that provide guidance for Queensland practice

Dan Young, Partner, ALLENS ARTHUR ROBINSON, John Baartz, Partner, ALLENS ARTHUR ROBINSON

10:15 SESSION 2

Reconsidering The Role Of The Subcontractors Charges Act

- Review of the *Subcontractors Charges Amendment Act 2002*
- Recent Queensland decisions of note
- Intersection with the Building and Construction industry Payments Act 2004
- Understanding and defining choices for your clients

Dan Edwards, Associate, DIBBS BARKER GOSLING

11:15 Morning Tea

11:45 SESSION 3

Reviewing Amendments To The Building Services Authority Act 1991 By The New Security Of Payments Legislation

- Amended definitions for
 - payment claim
 - progress payment
 - building contract
 - construction work
- Set-offs under building contracts
- Void management provisions in construction management trade contract, subcontract and commercial building contract
- Reviewing implications for clients who have a judgment debt issued against them

Bill Morrissey, Partner, MCCULLOUGH ROBERTSON, Russell Thirgood, Senior Associate, MCCULLOUGH ROBERTSON

1:00 Luncheon for Speakers and Delegates

PART B: CONTRACTUAL ISSUES

2:00 Welcome Remarks from the Afternoon Chair
Jim Ritchie, Special Counsel, ALLENS ARTHUR ROBINSON

2:10 SESSION 4

The Decision Of Woolcock Street Investments Pty Ltd V CDG Pty Ltd (2004); What Liability Do Building Professionals Have To Subsequent Purchasers?

- Reviewing key elements of the case
- Implications for terms of contract between original owner and builder
- Ensuring any limitations of warranty are reflected in the contract
- Protecting builders' rights with subsequent owners

Robert Holt SC, QUEENSLAND BAR

2:45 SESSION 5

Analysing Key Issues In Construction Insurance

- Assessing the current problems with insurance in the construction industry
- Overcoming the difficulties in obtaining construction insurance and exploring different Insurance alternatives for the construction industry
- Defining where the loss will fall; Contractual indemnity clauses and the implications of Speno Rail Maintenance Australia v Hamersley Iron Pty Ltd (2004)
- Allocating risk for uninsurable events

Tony Cotter, Partner, MCCULLOUGH ROBERTSON

3:30 Afternoon tea

3:45 SESSION 6

Deemed Progress Payments: Requirements For Issue Of Payment Certificate

- Outlining circumstances of *Daysea Pty Ltd v Watpac Australia Pty Ltd (2001) QCA*
- Construction of cl42.1 of AS 4300-1995
- Implications for issue of Payment Certificates
- Further treatment of this issue in subsequent cases

Stephen Pyman, Partner, DIBBS BARKER GOSLING

4:30 SESSION 7

Panel Discussion - Reviewing The Pros and Cons of the Standard Form Contract

- The positives and negatives of the Australian Form Contract
- Questioning the Australian Form Contract - which one to use for what situation, which forms are used more frequently and why
- Analysing the new forms and their application

Jim Ritchie (Chair), Special Counsel, ALLENS ARTHUR ROBINSON

Ross Williams, Partner, EBSWORTH & EBSWORTH Jim Feehely, Partner, PHILLIPS FOX

Friday, 25 February 2005

optional half-day Post Conference **workshop** (separately bookable)

8.30am Registration and tea/coffee for **Workshop A**



9.00am to 12.00pm

ALTERNATIVE MODELS OF CONTRACTING: A PRACTICAL GUIDE TO ALLIANCE CONTRACTING

New approaches to construction contracting bring with them greater flexibility in the relationship between owner and contractor - not only in project management but also in relation to costs and risk management.

This workshop will provide an in-depth examination of new relationship/alliance contracting approaches including:

- **Partnering** - where traditional contracts are retained but the parties have a separate agreement setting out commitments to trust, mutual objectives, fair dealing, good faith and co-operations, including their intentions to share unforeseen difficulties and divide any windfalls
- **Project alliancing** - in which the traditional approaches are entirely replaced by a new type of structure, the "alliance" through which each participant shares in decision-making, risk management and the success or failure of the project. The contract formally aligns the commercial interests of the participants, mainly through an incentive-

based remuneration structure, so it is in all their interests to work openly and co-operatively

- **Strategic alliance** - applying similar principles but over a longer term, extending beyond just one project
- **Managing contractor structures** - designed to minimise commercial tensions between the owner and the contractor, retain the benefits of conventional design and construction project delivery but provide much greater flexibility and control by the owner

Hear about these models and how they are being applied in Australia and Internationally from leading Sydney Construction lawyer

*Mr Doug Jones AM, Partner, CLAYTON UTZ - TBC
Arch Fletcher, Partner, CLAYTON UTZ
Dale Brackin, Partner, CLAYTON UTZ*

WHO SHOULD ATTEND:

THIS MASTERCLASS IS DESIGNED FOR QUEENSLAND CONSTRUCTION LAWYERS AND ALLIED PROFESSIONALS INCLUDING:

- Construction law specialists
- Property lawyers
- Barristers
- Government lawyers
- Construction project managers
- Developers
- Contractors
- Engineers
- Architects
- Surveyors
- Town planners
- Accountants

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This program has been developed and **tailored to the needs of Queensland practitioners**, with considerable time spent researching with Queensland lawyers and construction industry professionals to pinpoint your exact information needs. The result is a practical, relevant and timely program that delivers exactly what you want to hear.

Construction Law Masterclass Queensland

24-25 February 2005
Stamford Plaza Hotel,
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CLE/CPD POINTS

CLE units/hours
Mandatory CLE/CPD: If this conference is relevant to your immediate or long term professional development and practice of law, then you should claim one unit for each hour of actual attendance, not including refreshment breaks.

HOTEL DETAILS
Stamford Plaza Hotel, Brisbane
Cnr Edward & Margaret Streets,
Brisbane
Tel: 07 3221 1999
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1. Groups of 3 or more booking on the masterclass at the same time, from the same company receive a \$300 discount from the total registration fee*
2. Register a team of 4 to the masterclass at the same time, from the same company and receive a free pass for the fifth delegate*

* Discounts can not be taken concurrently

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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 21 January 2005. If we receive written notification between 24 January and 4 February 2005, you will receive a 50% refund and conference documents. No cancellation requests will be accepted after 4 February 2005. You may nominate a replacement, however no refund will be issued. Details regarding this conference were confirmed and correct at the time of printing. LexisNexis reserves the right to cancel or amend the conference details if required.

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*Early bird expires on 24 September 2004

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| <input type="checkbox"/> Papers + CD | \$400 + GST = | \$440.00 |

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exclusively for regional practitioners – note special introductory pricing

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