

# BUILDING AND CONSTRUCTION LAW JOURNAL

Volume 25, Number 6

December 2009

## EDITORIAL

<b>Construction (and commercial) dispute resolution .....</b>	<b>365</b>
---	------------

## BOOK REVIEW – *Adrian Bellemore*

<i>Practical Guide to Engineering and Construction Contracts</i> by Philip Loots and Donald Charrett .....	366
--	-----

## TOPIC OF INTEREST

<b>Genuine and good faith negotiations – <i>Adrian Bellemore</i> .....</b>	<b>368</b>
--	------------

## ARTICLES

### **Alliance contracting – *John Cooper***

Alliance contracting is increasing in popularity in Australia. Although promoted by contractors, it has been accepted by principals in the civil construction, resources and defence industries. Recently, a number of Australian State governments have announced a desire to adopt alliance contracting to deliver infrastructure projects. Is it a better way of contracting? Does it overcome the problems said to be associated with more traditional forms of contracting? What are its advantages and disadvantages and when is it most appropriately applied? .....	372
---	-----

### **Why national legislation is required for the effective operation of the security of payment scheme – *Teena Zhang***

This article reviews the history of security of payment legislation in Australia and examines the problems incurred by implementing separate State and Territory regimes. It will show that the complex and disparate nature of the current set up does not effectively facilitate the fast resolution of interim disputes or ease the flow of cash. It is submitted that it is best to tackle the issue at a national level; the advantages and disadvantages entailed in the change will also be discussed. Finally, the article will propose a number of key reforms to be considered. ....	376
--	-----

## REPORTS

<b>Shorten v David Hurst Constructions Pty Ltd .....</b>	<b>399</b>
<b>Independent Fire Sprinklers (NT) Pty Ltd v Sunbuild Pty Ltd .....</b>	<b>409</b>

---

**VOLUME 25 – 2009**

Table of Authors .....	419
Table of Cases .....	421
Table of Cases Reported .....	435
Index .....	437

# Submission requirements

All contributions to the journal are welcome and should be emailed to the Production Editor, *Building and Construction Law Journal*, at [LTA.bcl@thomsonreuters.com](mailto:LTA.bcl@thomsonreuters.com) for forwarding to the Editor.

## Licences

- It is a condition of publication in the journal that contributors complete a licence agreement. Licence agreements can be downloaded at [http://www.thomsonreuters.com.au/support/as\\_contributors.asp](http://www.thomsonreuters.com.au/support/as_contributors.asp) and emailed with the submission or mailed separately to the Production Editor, *Building and Construction Law Journal*, Thomson Reuters (Professional) Australia Limited, PO Box 3502, Rozelle, NSW 2039.

## Letters to the Editor

- By submitting a letter to the Editor of this journal for publication, you agree that Thomson Reuters, trading as Lawbook Co, may edit and has the right to, and may license third parties to, reproduce in electronic form and communicate the letter.

## Manuscript

- Manuscript must be original, unpublished work that has not been submitted or accepted for publication elsewhere, including for online publication.
- Personal details (name, qualifications, position) for publication and a delivery address, email address and phone number must be included with the manuscript on a separate page.
- Manuscript must be submitted electronically via email in Microsoft Word format.
- Manuscript should not exceed 10,000 words for articles or 2,000 words for section commentary or book reviews.
- An abstract of 100-150 words must be included at the head of articles.
- Authors are responsible for the accuracy of case names, citations and other references. Proof pages will be emailed to contributors but excessive changes cannot be accommodated.
- **Graphics** (diagrams and graphs) to be grayscale; in .jpeg format; no more than 12 cm in width; within a box; of high resolution (at least 300 dpi); font is to be Times New Roman, no more than 10pt. The heading for a graphic should be placed outside the box.

## Peer review

- This journal complies with the Higher Education Research Data Collection (HERDC) Specifications for peer review. Each article is, prior to acceptance, reviewed in its entirety by a suitably qualified expert who is independent of the author.

## Style

1. **Levels of headings** must be clearly indicated (no more than four levels).
2. **Unpointed style** is to be used – there are no full stops after any abbreviation or contraction.
3. **Cases:**
  - Where a case is cited in the text, the citation follows immediately after the case name, not as a footnote.
  - Authorised reports must be cited where published, and one other reference can be used in addition.
  - For “at” references use media-neutral paragraph numbers within square brackets whenever available.
  - For international cases best references only should be used.
4. **Legislation** is cited as follows:
  - *Trade Practices Act 1974* (Cth), s 51AC (including in full within footnotes).
5. **Books** are cited as follows:
  - Ross D, *Ross on Crime* (3rd ed, Lawbook Co, Sydney, 2006) pp 100-101.
  - In footnotes do not use *ibid* or *op cit*. Repeat author surname and add footnote reference to first mention.
    - <sup>1</sup> Hayton D, “Unique Rules for the Unique Institution, The Trust” in Degeling S and Edelman J (eds), *Equity in Commercial Law* (Lawbook Co, Sydney, 2005) p 284.
    - <sup>2</sup> Hayton, n 1, p 286.
6. **Journals** are cited as follows:
  - Kirby M, “The Urgent Need for Forensic Excellence” (2008) 32 Crim LJ 205.
  - In footnotes do not use *ibid* or *op cit*. Repeat author surname and add footnote reference to first mention.
    - <sup>3</sup> Trindade R and Smith R, “Modernising Australian Merger Analysis” (2007) 35 ABLR 358.
    - <sup>4</sup> Trindade and Smith, n 3 at 358-359.
  - Wherever possible use official journal title abbreviations.
7. **Internet references** are cited as follows:
  - Ricketson S, *The Law of Intellectual Property: Copyright, Designs and Confidential Information* (Lawbook Co, subscription service) at [16.340], <http://www.thomsonreuters.com.au/default.asp> viewed 25 June 2007. Underline the URL and include the date the document was viewed.

## SUBSCRIPTION INFORMATION

The *Building and Construction Law Journal* comprises six parts a year.

The journal is available for subscription via paper and/or online. An online subscription can include access to archived volumes of the journal dating back to 1985 and has the following benefits: all content is fully searchable; PDF versions are provided for easier reading; users can subscribe to an RSS feed to be instantly informed of updates.

### **For further information on how to subscribe:**

Visit [www.thomsonreuters.com.au](http://www.thomsonreuters.com.au)

Tel: 1300 304 195

Email: [LTA.Service@thomsonreuters.com](mailto:LTA.Service@thomsonreuters.com)

### **Advertising inquiries:**

Contact Andrew Parsons on (02) 8587 7462 or email [a.parsons@thomsonreuters.com](mailto:a.parsons@thomsonreuters.com)

**Editorial inquiries:** Tel: (02) 8587 7000

### **Customer service and sales inquiries:**

Tel: 1300 304 195 Fax: 1300 304 196

Web: [www.thomsonreuters.com.au](http://www.thomsonreuters.com.au)

Email: [LTA.Service@thomsonreuters.com](mailto:LTA.Service@thomsonreuters.com)

### **Head Office**

100 Harris Street PYRMONT NSW 2009

Tel: (02) 8587 7000 Fax: (02) 8587 7100



**THOMSON REUTERS**

© 2009 Thomson Reuters (Professional) Australia Limited  
ABN 64 058 914 668

Lawbook Co.

Published in Sydney

ISSN 0815-6050

Typeset by Thomson Reuters (Professional) Australia Limited, Pyrmont, NSW

Printed by Ligare Pty Ltd, Riverwood, NSW