ARTICLES

FINAL AND BINDING EXPERT DETERMINATION AND THE DISCRETION TO STAY PROCEEDINGS

Logan Campbell

The growing use of expert determination to resolve questions of contractual rights, obligations and grievances highlights the finality of the expert’s decision and on what grounds it may be attacked or enforced. Practitioners must be aware of the limited review of an expert’s decision available to a disgruntled party. As with arbitration, de facto enforcement of the agreement to abide by expert determination and the determination itself can be obtained by a stay of court proceedings. These issues were examined in the recent NSW Supreme Court decision in Ipoh v TPS Property No 2. By examining apparently conflicting authorities in the area, principles on which the exercise of the court’s discretion should, it is submitted, be based, are identified..................................388

EDITORIAL

John Dorter ................................................................................................................ 387

REPORTS

ARBITRATION — Interim awards in the form of declarations — Application for leave to enforce award — No question of enforcement — Leave properly refused.

   Tridon Australia Pty Ltd v ACD Tridon Inc (Incorporated in Ontario)...............413

ARBITRATION — Submission and reference — Submission as a defence and as a ground for stay of proceedings — Whether dispute is a “matter agreed to be referred to arbitration” — Whether dispute is a matter capable of arbitration — Second defendant not a party to arbitration — Partial stay of proceedings — Extent of reference to arbitration.

   Origin Energy Resources Ltd v Benaris International NV and Woodside Energy Ltd (No 2)........................................................................................................435

BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT ACT

(2004) 6 BCL 383
1999 (NSW) — Time within which application for adjudication must be made — Payment schedule.
  Amflo Constructions Pty Ltd v Anthony Jefferies.....................................................452

CONTRACT — Construction of indemnities — Subcontractual indemnity “for or in respect of” personal injury — Insurance indemnity “for or in respect of” personal injury — Insurance exclusion clause “for” personal injury.
  National Vulcan Engineering Insurance Group Ltd v Pentax Pty Ltd t/as Lif-Rig....398

DAMAGES — Causation — Novus actus interveniens — Foreseeability of negligence by others in rectifying defective work.
  SAS Trustee Corporation v Scott Carver Pty Ltd ......................................................416

LIMITATION OF LIABILITY CLAUSE — Where architect discharged from liability after expiration of period during which it must hold professional indemnity insurance — No commencement date specified for period of insurance — Whether period of insurance ran from commencement or completion of the services.
  SAS Trustee Corporation v Scott Carver Pty Ltd ......................................................416

MEASURE OF DAMAGES FOR BREACH WHERE BUILDING SOLD BEFORE RECTIFICATION CARRIED OUT — No substantial performance.
  SAS Trustee Corporation v Scott Carver Pty Ltd ......................................................416

VOLUME 20, 2004

Table of authors (articles)...............................................................................................465
Table of authors (topics of interest)................................................................................466
Table of case notes.........................................................................................................467
Table of cases reported...................................................................................................468
Index.......................................................................................................................... .....470
Index to reports...............................................................................................................472
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## Table of authors (articles)

<table>
<thead>
<tr>
<th>Author</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>BELLEMORE, Adrian</td>
<td>Suspension of the work under the contract</td>
<td>26</td>
</tr>
<tr>
<td>CAMPBELL, Logan</td>
<td>Final and binding expert determination and the discretion to stay proceedings</td>
<td>388</td>
</tr>
<tr>
<td>CASEY, Barry</td>
<td>The dual system: problems with the Building and Construction Industry Security of Payment Act 1999 (NSW)</td>
<td>166</td>
</tr>
<tr>
<td>DORTER, John</td>
<td>Representations, risk and site conditions</td>
<td>7</td>
</tr>
<tr>
<td>GOLDFINCH, Antony</td>
<td>Quantum meruit, restitution, unjust enrichment and illegality — an update</td>
<td>86</td>
</tr>
<tr>
<td>KOURIS, Steven</td>
<td>To what extent are subsequent purchasers of commercial buildings in Australia protected against pure economic loss arising from latent defects in those buildings?</td>
<td>313</td>
</tr>
<tr>
<td>STEPHENSON, Andrew</td>
<td>Creating efficient dispute resolution processes: lessons learnt from international arbitration</td>
<td>151</td>
</tr>
<tr>
<td></td>
<td>Who owns the float and related legal issues</td>
<td>97</td>
</tr>
<tr>
<td>THOMAS, Bryan</td>
<td>The assessment of damages for breach of contract for defective building work</td>
<td>230</td>
</tr>
<tr>
<td>WALLWORK, Adam</td>
<td>A requirement of good faith in construction contracts</td>
<td>257</td>
</tr>
<tr>
<td>Author</td>
<td>Title</td>
<td>Page</td>
</tr>
<tr>
<td>---------------</td>
<td>-------------------------------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>BARON, Adrian</td>
<td>Quantifying and managing disruption claims (Dr Hamish Lal) (Thomas Telford, London)</td>
<td>150</td>
</tr>
<tr>
<td>DORTER, John</td>
<td>Understanding and negotiating Turnkey and EPC contracts (Joseph Huse) (2nd ed) (Thomson – Sweet &amp; Maxwell) (Book review)</td>
<td>6</td>
</tr>
<tr>
<td>LUAN, Jim</td>
<td>Multi-partite dispute resolution</td>
<td>310</td>
</tr>
</tbody>
</table>
Table of case notes

<table>
<thead>
<tr>
<th>Case Note</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Action Makers; Boral Formwork v..</td>
<td>33</td>
</tr>
<tr>
<td>Boral Formwork v Action Makers.</td>
<td>33</td>
</tr>
</tbody>
</table>

**Author of case notes:** Patrick Mead
## Table of cases reported

ACD Tridon Inc (incorporated in Ontario); Tridon Australia Pty Ltd v ............................................... 413
AJ Stockman Pty Ltd; Quasar Constructions NSW Pty Ltd v ........................................................................ 288
Allmore Constructions Pty Ltd v Failli ........................................................................................................... 65
Amflo Constructions Pty Ltd v Anthony Jefferys ....................................................................................... 452
Anthony Jefferys; Amflo Constructions Pty Ltd v ....................................................................................... 452
Aquatec-Maxcon Pty Ltd v Minson Nacap Pty Ltd ....................................................................................... 357

Benaris International NV and Woodside Energy Ltd (No 2); Origin Energy Resources Ltd v ........... 435
Blue Mountains Council; FPM Constructions Pty Ltd v ........................................................................ 115

CDG Pty Ltd (formerly Cardno & Davies Australia Pty Ltd); Woolcock Street Investments Pty Ltd v ................................................................................................................................. 176
Civil Tech Pty Ltd; Minister for Industrial Affairs v ................................................................................... 125
Consolidated Constructions Pty Ltd v Ettamogah Pub ............................................................................. 373

Demtech Pty Ltd; Quasar Constructions NSW Pty Ltd v ........................................................................... 276
Ettamogah Pub; Consolidated Constructions Pty Ltd v ........................................................................... 373

FPM Constructions Pty Ltd v Blue Mountains Council ................................................................................ 115
Failli; Allmore Constructions Pty Ltd v ........................................................................................................ 65

Graham Maxwell Pyle, International Malting Co Australia Pty Ltd v; Graham Maxwell Pyle v International Malting Co Australia Pty Ltd ............................................................................................. 293

HSH Hotels (Australia) Ltd as Trustee of SHR Kent Street Trust; Multiplex Constructions Pty Ltd v .............................................................................................................................. 321

International Malting Co Australia Pty Ltd v Graham Maxwell Pyle; Graham Maxwell Pyle v International Malting Co Australia Pty Ltd ......................................................................................... 293

Jonathon Danton Morton; Peter Schwarz (Overseas) Pty Ltd v ................................................................... 133

Minister for Industrial Affairs v Civil Tech Pty Ltd ...................................................................................... 125
Minson Nacap Pty Ltd; Aquatec-Maxcon Pty Ltd v ...................................................................................... 357
Multiplex Constructions Pty Ltd v HSH Hotels (Australia) Ltd as Trustee of SHR Kent Street Trust .............................................................................................................. 321

National Vulcan Engineering Insurance Group Ltd v Pentax Pty Ltd t/as Lif-Rig .................................. 398

Origin Energy Resources Ltd v Benaris International NV and Woodside Energy Ltd (No 2) ........... 435

Pentax Pty Ltd t/as Lif-Rig; National Vulcan Engineering Insurance Group Ltd v ................................ 398
<table>
<thead>
<tr>
<th>Table of cases reported</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peter Schwarz (Overseas) Pty Ltd v Jonathon Danton Morton ..................................................... 133</td>
</tr>
<tr>
<td>Quasar Constructions NSW Pty Ltd v AJ Stockman Pty Ltd .......................................................... 288</td>
</tr>
<tr>
<td>Quasar Constructions NSW Pty Ltd v Demtech Pty Ltd ................................................................. 276</td>
</tr>
<tr>
<td>SAS Trustee Corporation v Scott Carver Pty Ltd ................................................................. 416</td>
</tr>
<tr>
<td>Scott Carver Pty Ltd; SAS Trustee Corporation v ................................................................. 416</td>
</tr>
<tr>
<td>Seal Rocks Victoria (Australia) Pty Ltd; Victoria, State of v .................................................... 36</td>
</tr>
<tr>
<td>Time Developments Pty Ltd v Village Roadshow Jam Factory Pty Ltd; Village Roadshow Jam Factory Pty Ltd v Time Developments Pty Ltd ................................................................. 270</td>
</tr>
<tr>
<td>Tridon Australia Pty Ltd v ACD Tridon Inc (incorporated in Ontario) ........................................ 413</td>
</tr>
<tr>
<td>Victoria, State of v Seal Rocks Victoria (Australia) Pty Ltd ........................................................ 36</td>
</tr>
<tr>
<td>Village Roadshow Jam Factory Pty Ltd, Time Developments Pty Ltd v; Village Roadshow Jam Factory Pty Ltd v Time Developments Pty Ltd ................................................................. 270</td>
</tr>
<tr>
<td>Woolcock Street Investments Pty Ltd v CDG Pty Ltd (formerly Cardno &amp; Davies Australia Pty Ltd) ................................................................................................................................. 176</td>
</tr>
</tbody>
</table>

**Reporters:** Stuart Connor, Dominique Dalla-Pozza, Sheridan Emerson, JE Lunn, Ian Nosworthy, Kristy Owen, Sean Richardson
Index

Arbitration

arbitrator, interpretation of commercial documents by, 36
arbitrator, misconduct, extent of reasons in arbitration award, 293
arbitrator, power to remit matters to, 125
application for extension of time, leave to appeal, setting aside award for misconduct, sufficiency of statement of reasons, 133
award, application for leave to appeal, whether manifest error of law, 270
interim awards in form of declarations, application for leave to enforce, 413
international arbitration, efficient dispute resolution processes, and 151
leave to appeal, alleged error of law, whether agreement binding, 293
MBAV contract Form GCC3, cl 2(d), obligations of arbitrator who is required to hear and decide by reference to considerations of general justice and fairness, 65
submission and reference, 435

AS 4300-1995

payment, preliminaries, 115
suspension of the work under the contract, 26

AS 4303

clauses 42, 44, subcontractor entitlement to judgment for unpaid progress claims, 357

Breach of contract

assessment of damages for defective building work, 230

Building and Construction Industry Security of Payment Act 1999 (NSW)

“Forms part of” (s 7(2)(a)), “progress payment” in the Act and under construction contract, 2002 amendments to s 13, 373
judicial review of determination of adjudicator under, whether jurisdictional error of law, unpaid balance of lump sum price awarded as progress payment where contract terminated and part of contracted work incomplete (ss 8, 9, 10, 13, 14 and 22), 276
judicial review of determination of adjudicator under, whether jurisdictional error of law, requirement that adjudicator have regard to contract price in assessing value of work, whether adjudicator exercised judgment (ss 8, 9, 10 and 12), 288
problems with dual system, 166
time within which application for adjudication must be made, payment schedule, 452

Contract

construction of indemnities, subcontractual indemnity “for or in respect of” personal injury, insurance indemnity “for or in respect of” personal injury, insurance exclusion clause “for” personal injury, 398
subject to condition or illusory, consideration, construction, 293
Index

Damages
measure of for breach where building sold before rectification carried out, no substantial performance; causation, novus actus interveniens, foreseeability of negligence by others in rectifying defective work, 416

Defective building work
assessment of damages for breach of contract for, 230
causation, novus actus interveniens, foreseeability of negligence by others in rectifying defective work, 416

Expert determination
final and binding, and discretion to stay proceedings, 388

Float
legal and commercial implications of early and delayed completion of works, effect of construction programmes on legal obligations of principals and contractors, 97

Good faith
whether a requirement for in construction contracts, 257

Limitation of liability clause
where architect discharged from liability after expiration of period during which it must hold professional indemnity insurance, no commencement date specified for period of insurance, 416

Multi-partite dispute resolution
whether system in Australia copes adequately with increased potential need for, 310

Negligence
duty of care, whether engineers liable to subsequent owners of commercial premises who suffer pure economic or financial loss (Woolcock Street Investments v CDG), 176
to what extent are subsequent purchasers of commercial buildings protected against pure economic loss arising from latent defects in those buildings (Woolcock Street Investments v CDG), 313

Quantum meruit, restitution, unjust enrichment and illegality
an update on, 86

Referee
reference, adoption or rejection of report, competing applications (SCR, Pt 72 r 13) to adopt or reject referee’s reports, references not to be constrained by rigorous application of rules; referee’s report, whether relevant evidence must be dealt with in conclusions; “rule” in Brown v Dunn, competing experts’ reports, no cross-examination of expert, application of principles in Hull v Thompson; court’s power under SCR, Pt 72 r 9 where referee has power to amend and refuses amendment, 321

Representations, risk and site conditions
risk allocation and risk management, 7

Trade Practices Act 1974 (Cth), s 51AC
autonomous operation of commercial instruments, Boral Formwork v Action Makers, 33

(2004) 20 BCL 471
Index to reports


Quasar Constructions NSW Pty Ltd v Demtech Pty Ltd ................................................ 276


Quasar Constructions NSW Pty Ltd v AJ Stockman Pty Ltd ........................................ 288

AMENDMENT — Court’s power under Supreme Court Rules, Pt 72 r 9 in circumstances where referee has power to amend and refuses amendment.

Multiplex Constructions Pty Ltd v HSH Hotels (Australia) Ltd as Trustee of SHR Kent Street Trust ................................................................................................................... ..321

ARBITRATION — Application for extension of time — Leave to appeal — Setting aside award for misconduct — Sufficiency of statement of reasons.

Peter Schwarz (Overseas) Pty Ltd v Jonathon Danton Morton ........................................ 133

ARBITRATION — Award — Application for leave to appeal — Whether manifest error of law.

Time Developments Pty Ltd v Village Roadshow Jam Factory Pty Ltd; Village Roadshow Jam Factory Pty Ltd v Time Developments Pty Ltd..................................................... 270

ARBITRATION — Interim awards in the form of declarations — Application for leave to enforce award — No question of enforcement — Leave properly refused.

Tridon Australia Pty Ltd v ACD Tridon Inc (incorporated in Ontario) ................................................................. 413

ARBITRATION — Leave to appeal — Alleged error of law — Whether agreement binding — Construction of agreement.

International Malting Co Australia Pty Ltd v Graham Maxwell Pyle; Graham Maxwell Pyle v International Malting Co Australia Pty Ltd ......................................................... 293

ARBITRATION — Power to remit matters to arbitrator.

Minister for Industrial Affairs v Civil Tech Pty Ltd .............................................................................. 125

ARBITRATION — Submission and reference — Submission as a defence and as a ground for stay of proceedings — Whether dispute is a “matter agreed to be referred to arbitration” — Whether dispute is a matter capable of arbitration — Second defendant not a party to arbitration — Partial stay of proceedings — Extent of reference to arbitration.

Origin Energy Resources Ltd v Benaris International NV and Woodside Energy Ltd (No 2). ......................................................................................................................... 435

AS 4300 — Payment — Preliminaries.
FPM Constructions Pty Ltd v Blue Mountains Council ......................................................... 115

AS 4303 — Clauses 42 and 44 — Subcontractor entitlement to judgment for unpaid progress claims.

Aquatec-Maxcon Pty Ltd v Minson Nacap Pty Ltd .......................................................... 357

BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT ACT 1999 (NSW), S 7(2)(a) — "Forms part of" — "Progress payment" in the Act and under the construction contract — 2002 amendments to s 13.

Consolidated Constructions Pty Ltd v Ettamogah Pub ..................................................... 373

BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT ACT 1999 (NSW) — Time within which application for adjudication must be made — Payment schedule.

Amflo Construction Pty Ltd v Anthony Jefferies ........................................................... 452

CONTRACT — Construction of indemnities — Subcontractual indemnity “for or in respect of” personal injury — Insurance indemnity “for or in respect of” personal injury — Insurance exclusion clause “for” personal injury.

National Vulcan Engineering Insurance Group Ltd v Pentax Pty Ltd t/as Lif-Rig........ 398

CONTRACT — Subject to condition or illusory — Consideration — Construction.

International Malting Co Australia Pty Ltd v Graham Maxwell Pyle; Graham Maxwell Pyle v International Malting Co Australia Pty Ltd.............................................. 293

DAMAGES — Causation — Novus actus interveniens — Foreseeability of negligence by others in rectifying defective work.

SAS Trustee Corporation v Scott Carver Pty Ltd .................................................................. 416

INTERPRETATION OF COMMERCIAL DOCUMENTS BY ARBITRATOR.

State of Victoria v Seal Rocks Victoria (Australia) Pty Ltd................................................ 36

LIMITATION OF LIABILITY CLAUSE — Where architect discharged from liability after expiration of period during which it must hold professional indemnity insurance — No commencement date specified for period of insurance — Whether period of insurance ran from commencement or completion of the services.

SAS Trustee Corporation v Scott Carver Pty Ltd ................................................................. 416

MBAV CONTRACT FORM GCC3 (REVISED JULY 1994), CL 2(d) — Obligations of an arbitrator who is required to hear and decide by reference to considerations of general justice and fairness.

Allmore Constructions Pty Ltd v Failli ................................................................................. 65

MEASURE OF DAMAGES FOR BREACH WHERE BUILDING SOLD BEFORE RECTIFICATION CARRIED OUT — No substantial performance.

SAS Trustee Corporation v Scott Carver Pty Ltd ................................................................. 416

MISCONDUCT — Extent of reasons in arbitration award.

International Malting Co Australia Pty Ltd v Graham Maxwell Pyle; Graham Maxwell Pyle v International Malting Co Australia Pty Ltd .................................................. 293

NEGligENCE — Duty of care — Where pure economic or financial loss — Whether engineer owed duty of care to subsequent owner of commercial premises — Vulnerability — Anterior step — Relevance of the contract with the original owner — Effect on subsequent owner where duty of care not owed to original owner.
Index to reports

Woolcock Street Investments Pty Ltd v CDG Pty Ltd (formerly Cardno & Davies Australia Pty Ltd) .........................................................................................................................................................176

OFFER OF COMPROMISE FROM PLAINTIFF TO TWO DEFENDANTS BUT REFUSED BY BOTH — One defendant found liable to the plaintiff and the case against the other dismissed — Whether defendant found liable was therefore liable to pay indemnity costs from the date of the offer under the Supreme Court Rules, Pt 52A r 22.

Multiplex Constructions Pty Ltd v HSH Hotels (Australia) Ltd as Trustee of SHR Kent Street Trust ..................................................................................................................................................321

PRACTICE AND PROCEDURE — Where appeal to High Court on stated case — Where court asked to extend existing common law principle — Sufficiency of pleading — Limitations on determining separate questions.

Woolcock Street Investments Pty Ltd v CDG Pty Ltd (formerly Cardno & Davies Australia Pty Ltd) .........................................................................................................................................................176

REFERENCE — Adoption or rejection of report — Competing applications pursuant to Supreme Court Rules 1970, Pt 72 r 13 to adopt or reject referee’s report — Court’s approach to such applications — References not to be constrained by the rigorous application of rules.

Multiplex Constructions Pty Ltd v HSH Hotels (Australia) Ltd as Trustee of SHR Kent Street Trust ..................................................................................................................................................321

REPORT OF REFEREE — Whether relevant evidence must be dealt with in conclusions.

Multiplex Constructions Pty Ltd v HSH Hotels (Australia) Ltd as Trustee of SHR Kent Street Trust ..................................................................................................................................................321


Multiplex Constructions Pty Ltd v HSH Hotels (Australia) Ltd as Trustee of SHR Kent Street Trust ..................................................................................................................................................321