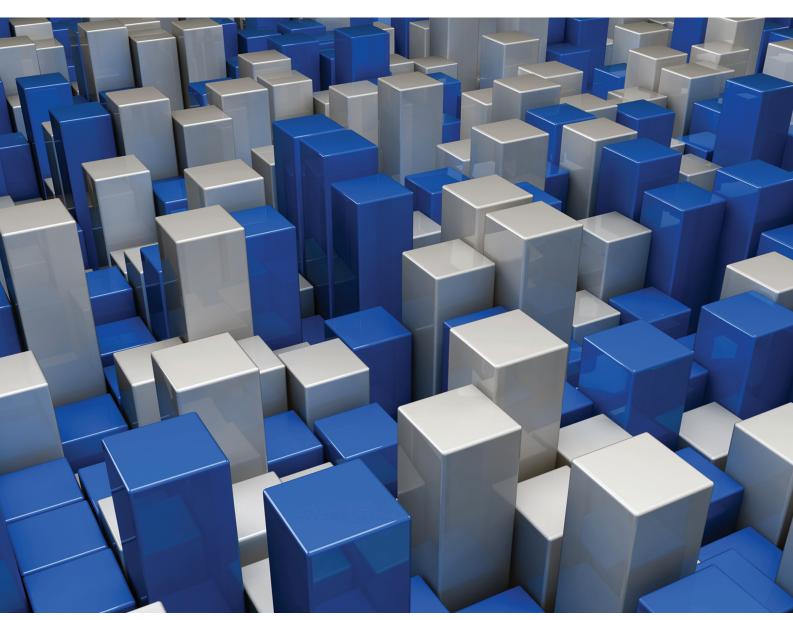




# **INDEX 2018**



# ACLN AUSTRALIAN CONSTRUCTION LAW NEWSLETTER

ABN 55 138 594 706

ISSN 1032 0288

#### **EDITOR**

Myra Nikolich

#### **PUBLISHER**

Myra Nikolich

#### CONTACT

PO Box R1140 Royal Exchange SYDNEY NSW 1225

Email: publisher@acln.com.au

Website: www.acln.com.au

#### **PUBLISHED BY**

ACLN is a joint publication between the Swap Exchange Pty. Ltd. and the Society of Construction Law Australia Ltd.

#### **SUBSCRIPTIONS**

Please see our contact details above or go to our website.

#### **CONTRIBUTIONS**

Contributions to the ACLN from readers are encouraged. Please submit articles for consideration to the publishers.

#### **PRINTING BY**

UTS Printing Services University of Technology, Sydney PO Box 123 BROADWAY NSW 2007

#### **ACKNOWLEDGEMENT OF COUNTRY**

The ACLN acknowledges the Australian Aboriginal and Torres Strait Islander peoples of this nation. We acknowledge the traditional custodians of the lands on which our company is located and where we conduct our business. We pay our respects to ancestors and Elders, past, present and emerging.

CONTENTS INDEX 2018	
AUTHORS	4
SUBJECTS	12
CASES	16
LEGISLATION	22
STANDARDS AND CONTRACTS	25

#### Abadee, Daniel

Construction contracts and the new 'ipso facto' insolvency reforms, Issue #180 p42

#### Alden, Scott

Developers, love thy neighbour—Accessing neighbouring land to undertake development, Issue #181 p50

#### Arciuli, Francesca

A new bill for payments—Important changes to the security of payment regime in New South Wales, Issue #183 p51

#### Bath, Michael

A triumph for clear drafting—Court of Appeal refuses to imply a reasonable care standard to an absolute compliance condition, Issue #182 p46

#### Bathurst, The Hon TF

The history of contract law, Issue #178 p6

#### **Baxter, Catherine**

Management of interface risks in major infrastructure projects—Strategies to avoid derailment, Issue #179 p50

#### Bell, Catherine

National review of security of payment laws by John Murray AM released, Issue #180 p47

Victoria moves to introduce a registration system for engineers, Issue #181 p20

#### Berry, Mark

FIDIC 2017 ... The end of the rainbow?, Issue #178 p46

# Besgrove, Nicole

New assessment process for major projects in Tasmania—Have your say, Issue #178 p43

#### Blain, Shannon

The insurance of project management activities, Issue #179 p45

#### Blyth, Toby

The insurance of project management activities, Issue #179 p45

#### **Bolton, Aaron**

Third parties left to foot the dispute settlement bill, Issue #181 p56

#### Bridgett, Joshua

Interpreting exclusions from arbitration agreements, Issue #179 p55

The cost of doing (building) business? How to value a quantum meruit claim, Issue #180 p59

# Briggs, Daniel

Security of payment—Primacy of contract and assessment of subsequently identified defects—*Vanguard Development Group Pty Ltd v Promax Building Developments Pty Ltd* [2018] VSC 386, Issue #182 p53

# **Britt, Tony**

Developers, love thy neighbour—Accessing neighbouring land to undertake development, Issue #181 p50

#### Brownlee, Emily

Third parties left to foot the dispute settlement bill, Issue #181 p56

#### **Bure, Wendy**

A triumph for clear drafting—Court of Appeal refuses to imply a reasonable care standard to an absolute compliance condition, Issue #182 p46

#### Burger, Jodie

New Commonwealth Procurement Act—Better rights for suppliers?, Issue #183 p44

#### **Burgess, Natalie**

A wolf in sheep's clothing—Hybrid design risk allocation in construction contracts, Issue #180 p24

#### Carbon, Luke

A new bill for payments—Important changes to the security of payment regime in New South Wales, Issue #183 p51

Transparency in investment arbitration—Australia, Issue #180 p44

#### Carroll, Ed

Eyes up—ensuring proper conduct by right of entry permit holders—*Australian Building and Construction Commissioner v McDermott (No 3)* [2018] FCA 11505, Issue #183 p54

#### Cecil, Nathan

Tightening the chain of responsibility—Implications for the construction sector, Issue #182 p44

#### Chapman, Andrew

Management of interface risks in major infrastructure projects—Strategies to avoid derailment, Issue #179 p50

#### Chew, Andrew

Cladding design in high rise buildings—Rethinking the approach, Issue #178 p52

New Commonwealth Procurement Act—Better rights for suppliers?, Issue #183 p44

New scheme to require New South Wales building owners to register buildings with cladding, Issue #178 p55

#### Cormican, Kate

Crane access licence agreements—What you need to know, Issue #183 p36

#### **Covington, Christine**

New scheme to require New South Wales building owners to register buildings with cladding, Issue #178 p55

#### Croft, The Hon Justice Clyde

Recent developments in arbitration—At home and abroad, Issue #179 p6

#### Downing, Nick

NEC4—Still at the edge of collaborative contracting, Issue #179 p52

#### Doyle QC, Shane

International arbitration—Trends, developments and opportunities for future growth, Issue #182 p34

#### **Duthie, Leigh**

Could your business benefit from the Commonwealth Indigenous Procurement Policy?, Issue #180 p34

#### Ellis, Mike

Recent cases on restrictions on vendor's right to rescind in off the plan contracts, Issue #180 p50

#### Faulkner, Angus

Security of payment—Can the blockchain help us avoid another Carillion?, Issue #182 p22

#### Firth, Adam

A new bill for payments—Important changes to the security of payment regime in New South Wales, Issue #183 p51

Transparency in investment arbitration—Australia, Issue #180 p44

#### Fischer, Lina

Get ready for the new NSW strata defects regime, Issue #179 p42

#### Fong, Anita

Belt and road initiative disputes—Bumps in the road?, Issue #183 p48

#### Gamble, Jennifer

New Commonwealth Procurement Act—Better rights for suppliers?, Issue #183 p44

#### Geddes, Hamish

Infrastructure delivery—Five tips for managing delay claims, Issue #180 p40

#### Gialamas, Billy

New ministerial directions and instructions for public construction procurement in Victoria, Issue #183 p25

#### Giudice, Geoffrey

Eyes up—ensuring proper conduct by right of entry permit holders—*Australian Building and Construction Commissioner v McDermott (No 3)* [2018] FCA 11505, Issue #183 p54

#### Glynn, Mark

Crane access licence agreements—What you need to know, Issue #183 p36

#### Grewal, Gurbinder

Contracting parties can agree up front who will take the risk of concurrent delay, Issue #178 p19

#### Hacking, Matt

FIDIC 2017 ... The end of the rainbow?, Issue #178 p46

#### Hancock, Lucy

Combustible cladding and non-compliant building products—A summary of the steps taken in each jurisdiction, Issue #182 p28

The Shergold and Weir 'Building Confidence' report—Serious reform required for Australia's building certification, compliance and enforcement systems, Issue #182 p50

#### Hartmann, Alex

Could your business benefit from the Commonwealth Indigenous Procurement Policy?, Issue #180 p34

#### Hayford, Owen

Back to the past for dodgy construction payment adjudications—Probuild and Maxcon, Issue #179 p35

#### Heading, Tom

Maxcon—The most significant construction law case of 2018?, Issue #179 p32

#### Hender, Chris

Interpreting exclusions from arbitration agreements, Issue #179 p55

The cost of doing (building) business? How to value a quantum meruit claim, Issue #180 p59

#### Hepple, Nathan

Employer not liable when it did not know the risk of harm on construction site—A discount for vicissitudes to be applied to all future economic losses including damages for treatment and care—Avopiling Pty Ltd v Bosevski; Avopiling Pty Ltd v The Workers Compensation Nominal Insurer [2018] NSWCA 146, Issue #183 p56

#### Hibbard, John

Combustible cladding and non-compliant building products—A summary of the steps taken in each jurisdiction, Issue #182 p28

The Shergold and Weir 'Building Confidence' report—Serious reform required for Australia's building certification, compliance and enforcement systems, Issue #182 p50

#### Higgins, Karl

Dealing with 'unknown unknowns' in construction contracts, Issue #181 p52

#### **Higgins, Scott**

Combustible cladding and non-compliant building products—A summary of the steps taken in each jurisdiction, Issue #182 p28

The Shergold and Weir 'Building Confidence' report—Serious reform required for Australia's building certification, compliance and enforcement systems, Issue #182 p50

#### Hill, Richard

FIDIC 2017 ... The end of the rainbow?, Issue #178 p46

#### Holding, Simone

New ministerial directions and instructions for public construction procurement in Victoria, Issue #183 p25

#### Hurn, lain

Building Industry Fairness (Security of Payment) Act 2017 (Qld) Update—Phase 2 and 3, Issue #179 p40

#### Ivey, Scott

Building infrastructure in Asia Pacific—Issues and trends in construction disputes across the region, Issue #183 p38

#### Jackson, Sir Rupert

The role of good faith in construction contracts, Issue #182 p6

#### Jayasekara, Dilusha

Victoria moves to introduce a registration system for engineers, Issue #181 p20

#### Kabel, Bianca

International arbitration—Trends, developments and opportunities for future growth, Issue #182 p34

#### Kamali, Khash

Get ready for the new NSW strata defects regime, Issue #179 p42

#### Kearney, Thomas

Excluding claims for variations, delay and damages—10 years of Victoria's troublesome security of payment regime, Issue #178 p22

#### Kelly, Andrew

Building Industry Fairness (Security of Payment) Act 2017 (Qld) Update—Phase 2 and 3, Issue #179 p40 Debt factored invoices not enforceable payment claims, Issue #180 p32

#### Kelly, Sean

Payments for insolvent claimants—Approach to security of payment rejected as 'plainly wrong' by New South Wales Supreme Court, Issue #180 p52

#### Kenney, Mark

Dealing with 'unknown unknowns' in construction contracts, Issue #181 p52

#### Kilroy, Katharine

Payments for insolvent claimants—Approach to security of payment rejected as 'plainly wrong' by New South Wales Supreme Court, Issue #180 p52

#### Koo, Melissa

Recent decisions shed new light on scope of adjudications, Issue #180 p54

#### Krechster, Rani

A new bill for payments—Important changes to the security of payment regime in New South Wales, Issue #183 p51

#### Lau, Victor

Australia should embrace China's 'belt and road' initiative, Issue #179 p48

#### Lee, Meg

Recent VCAT decision sets out the limits to when a planning permit can be amended, Issue #181 p58

#### Leung, Yanlie

Recent cases on restrictions on vendor's right to rescind in off the plan contracts, Issue #180 p50

#### Lo, Clement

Is my contract truly ambiguous?—Contractual interpretation principles surrounding ambiguity clarified—*Cherry v Steele–Park* [2017] NSWCA 295, Issue #179 p58

#### MacKenzie, Duncan

'No questions, your Honour'—The future of evidence and proof in construction claims and disputes, Issue #183 p26

#### Mason, Cameron

National review of security of payment laws by John Murray AM released, Issue #180 p47

#### McCann, Greg

New plan to address safety record in New South Wales construction industry, Issue #182 p49

#### McDougall, The Hon Justice Robert

The interpretation of commercial contracts—Hunting for the intention of the parties, Issue #180 p6

#### McIntosh, Morgan

Six things to look for in an early works letter, Issue #180 p56

#### McTigue, Jonathan

Payments for insolvent claimants—Approach to security of payment rejected as 'plainly wrong' by New South Wales Supreme Court, Issue #180 p52

# Menon, the Hon Chief Justice Sundaresh

The special role and responsibility of arbitral institutions in charting the future of international arbitration, Issue #181 p6

#### Mok, Murphy

Building infrastructure in Asia Pacific—Issues and trends in construction disputes across the region, Issue #183 p38

#### Monichino QC, Albert

Court review of an arbitrator's preliminary jurisdictional ruling and arbitrability of domestic building disputes, Issue #180 p28

# Morgan-Payler, James

FIDIC 2017 ... The end of the rainbow?, Issue #178 p46

#### Morrissey, Michael

Infrastructure delivery—Five tips for managing delay claims, Issue #180 p40

Procurement models—What is early contractor involvement (ECI)?, Issue #179 p56

#### Mueller, Adrian

Most important decision concerning building defects in many years, Issue #182 p41

#### Nitek, David

NEC4—Still at the edge of collaborative contracting, Issue #179 p52

#### Niumeitolu, Rebecca

Tightening the chain of responsibility—Implications for the construction sector, Issue #182 p44

#### O'Brien, Leighton

Construction contracts and the new 'ipso facto' insolvency reforms, Issue #180 p42

#### Parsons, Jeremy

Are we there yet? Fair risk allocation for concurrent delays and Australian Standard form contracts, Issue #179 p16

#### Poole, Michael

FIDIC 2017 ... The end of the rainbow?, Issue #178 p46

# Pyman, Stephen

High Court of Australia confirms adjudication decisions are not amenable to review for non–jurisdictional error of law—*Probuild Constructions (Aust) Pty Ltd v Shade Systems Pty Ltd & Anor* [2018] HCA 4 and *Maxcon Constructions Pty Ltd v Vadasz & Ors* [2018] HCA 5, Issue #178 p58

#### Reilly, Brendan

Recent decisions shed new light on scope of adjudications, Issue #180 p54

#### Roberts SC, Ian

Supporting statements—A fork in the road?, Issue #180 p38

#### Rogers, James

Belt and road initiative disputes—Bumps in the road?, Issue #183 p48

#### Rollnik, Adam

Court upholds Victorian Civil and Administrative Tribunal decision on quantum meruit claim—Builder's windfall gain—*Mann v Paterson Constructions Pty Ltd* [2017] VSC 119, Issue #182 p56

## Sebbens, Trent

Eyes up—ensuring proper conduct by right of entry permit holders—*Australian Building and Construction Commissioner v McDermott (No 3)* [2018] FCA 11505, Issue #183 p54

#### Shnookal QC, Toby

The Application of Contracts in Engineering and Construction Projects by Dr Donald Charrett, Issue #183 p58

#### Shrestha, Prajesh

Transparency in investment arbitration—Australia, Issue #180 p44

#### Singh, Matthew

Personal liability for directors and managers of corporations under security of payment reforms, Issue #183 p46

#### Sjahadi, Iona

Employer not liable when it did not know the risk of harm on construction site—A discount for vicissitudes to be applied to all future economic losses including damages for treatment and care—Avopiling Pty Ltd v Bosevski; Avopiling Pty Ltd v The Workers Compensation Nominal Insurer [2018] NSWCA 146, Issue #183 p56

#### Smith, Claire

New assessment process for major projects in Tasmania—Have your say, Issue #178 p43

#### Solomon, David

Fire hazards and containment netting, Issue #181 p18

ISO45001–2018 Occupational health and safety management systems requirement with guidance for use adopted by Australia and New Zealand, Issue #183 p42

The evolution of the hard hat, Issue #182 p32

#### Steinepreis, Gregory

Recent decisions shed new light on scope of adjudications, Issue #180 p54

#### Sullivan. Kate

New plan to address safety record in New South Wales construction industry, Issue #182 p49

#### Summerell, Tracey

Contracting parties can agree up front who will take the risk of concurrent delay, Issue #178 p19

#### Tang, Robert

When there's a will there is a way—Supreme Court of New South Wales endorses arbitration despite deficiencies in the parties' agreed arbitral procedure—*Broken Hill City Council v Unique Urban Built Pty Ltd* [2018] NSWSC 825, Issue #182 p58

#### Teoh, Zina

Recent VCAT decision sets out the limits to when a planning permit can be amended, Issue #181 p58

#### Thirgood, Russell

'Fast-track' arbitration rules—Room for development, Issue #182 p15

#### Thyagarajan, Rahul

A grand public policy ceiling or an 'unruly horse' bucking the ACL? Victorian Supreme Court rejects contractual limitations of liability for misleading or deceptive conduct, Issue #181 p48

#### Tiernan QC, Francis

Injunctive relief against calls made on unconditional bank guarantees, Issue #181 p22

#### Vickery QC, The Hon Peter

Process and evidence in international construction arbitration—'Tap root' principles, Issue #183 p6

#### Vincent, Brett

Rich man, poor man—Impecunious claimants enforcing an adjudication determination, Issue #179 p15

#### Waldek, Daniel

Building infrastructure in Asia Pacific—Issues and trends in construction disputes across the region, Issue #183 p38

#### Warner, Sefton

A wolf in sheep's clothing—Hybrid design risk allocation in construction contracts, Issue #180 p24

# Wen, Mary Ann

Procurement models—What is early contractor involvement (ECI)?, Issue #179 p56

#### Williams, Catherine

Sub-standard balconies are flooding the Victorian market: The legal context of causes and remedies, Issue #181 p37

#### Williams, Darren

'Fast-track' arbitration rules—Room for development, Issue #182 p15

#### Wood, Peter

'No questions, your Honour'—The future of evidence and proof in construction claims and disputes, Issue #183 p26

#### Woodhouse, Chris

Debt factored invoices not enforceable payment claims, Issue #180 p32

#### Wu, Alfred

Belt and road initiative disputes—Bumps in the road?, Issue #183 p48

#### Yong, Christopher

Developers, love thy neighbour—Accessing neighbouring land to undertake development, Issue #181 p50

#### **ACCESS AGREEMENTS**

Crane access licence agreements—What you need to know, Mark Glynn and Kate Cormican, Issue #183 p36

Developers, love thy neighbour—Accessing neighbouring land to undertake development, Scott Alden, Tony Britt and Christopher Yong, Issue #181 p50

#### **ADJUDICATION**

Recent decisions shed new light on scope of adjudications, Gregory Steinepreis, Brendan Reilly and Melissa Koo, Issue #180 p54

#### **ARBITRATION**

'Fast-track' arbitration rules—Room for development, Russell Thirgood and Darren Williams, Issue #182 p15

Court review of an arbitrator's preliminary jurisdictional ruling and arbitrability of domestic building disputes, Albert Monichino QC, Issue #180 p28

Recent developments in arbitration—At home and abroad, The Hon Justice Clyde Croft, Issue #179 p6

Transparency in investment arbitration—Australia, Adam Firth, Luke Carbon and Prajesh Shrestha, Issue #180 p44

#### **BANK GUARANTEES**

Injunctive relief against calls made on unconditional bank guarantees, Francis Tiernan QC, Issue #181 p22

#### **BOOK REVIEW**

The Application of Contracts in Engineering and Construction Projects by Dr Donald Charrett, Toby Shnookal QC, Issue #183 p58

#### **BUILDING REGULATION**

Cladding design in high rise buildings—Rethinking the approach, Andrew Chew, Issue #178 p52

Combustible cladding and non-compliant building products—A summary of the steps taken in each jurisdiction, Scott Higgins, Lucy Hancock and John Hibbard, Issue #182 p28

Fire hazards and containment netting, David Solomon, Issue #181 p18

Most important decision concerning building defects in many years, Adrian Mueller, Issue #182 p41

New scheme to require New South Wales building owners to register buildings with cladding, Andrew Chew and Christine Covington, Issue #178 p55

Sub-standard balconies are flooding the Victorian market: The legal context of causes and remedies, Catherine Williams, Issue #181 p37

The Shergold and Weir 'Building Confidence' report—Serious reform required for Australia's building certification, compliance and enforcement systems, Scott Higgins, Lucy Hancock and John Hibbard, Issue #182 p50

#### **CASE NOTE**

Court upholds Victorian Civil and Administrative Tribunal decision on quantum meruit claim—Builder's windfall gain—*Mann v Paterson Constructions Pty Ltd* [2017] VSC 119, Adam Rollnik, Issue #182 p56

Security of payment—Primacy of contract and assessment of subsequently identified defects—*Vanguard Development Group Pty Ltd v Promax Building Developments Pty Ltd* [2018] VSC 386, Daniel Briggs, Issue #182 p53

When there's a will there is a way—Supreme Court of New South Wales endorses arbitration despite deficiencies in the parties' agreed arbitral procedure—*Broken Hill City Council v Unique Urban Built Pty Ltd* [2018] NSWSC 825, Robert Tang, Issue #182 p58

#### **CONTRACTS**

A grand public policy ceiling or an 'unruly horse' bucking the ACL? Victorian Supreme Court rejects contractual limitations of liability for misleading or deceptive conduct, Rahul Thyagarajan, Issue #181 p48

Are we there yet? Fair risk allocation for concurrent delays and Australian Standard form contracts, Jeremy Parsons, Issue #179 p16

Contracting parties can agree up front who will take the risk of concurrent delay, Gurbinder Grewal and Tracey Summerell, Issue #178 p19

Dealing with 'unknown unknowns' in construction contracts, Mark Kenney and Karl Higgins, Issue #181 p52

Interpreting exclusions from arbitration agreements, Chris Hender and Joshua Bridgett, Issue #179 p55

Is my contract truly ambiguous?—Contractual interpretation principles surrounding ambiguity clarified—*Cherry v Steele–Park* [2017] NSWCA 295, Clement Lo, Issue #179 p58

NEC4—Still at the edge of collaborative contracting, David Nitek and Nick Downing, Issue #179 p52

Recent cases on restrictions on vendor's right to rescind in off the plan contracts, Mike Ellis and Yanlie Leung, Issue #180 p50

Six things to look for in an early works letter, Morgan McIntosh, Issue #180 p56

The cost of doing (building) business? How to value a quantum meruit claim, Chris Hender and Joshua Bridgett, Issue #180 p59

The history of contract law, The Hon TF Bathurst, Issue #178 p6

The interpretation of commercial contracts—hunting for the intention of the parties, The Hon Justice Robert McDougall, Issue #180 p6

The role of good faith in construction contracts, Sir Rupert Jackson, Issue #182 p6

Third parties left to foot the dispute settlement bill, Aaron Bolton and Emily Brownlee, Issue #181 p56

#### **DAMAGES**

Employer not liable when it did not know the risk of harm on construction site—A discount for vicissitudes to be applied to all future economic losses including damages for treatment and care—*Avopiling Pty Ltd v Bosevski; Avopiling Pty Ltd v The Workers Compensation Nominal Insurer* [2018] NSWCA 146, Nathan Hepple and Iona Siahadi, Issue #183 p56

#### **EXECUTIVE LIABILITY**

Personal liability for directors and managers of corporations under security of payment reforms, Matthew Singh, Issue #183 p46

#### INFRASTRUCTURE

Australia should embrace China's 'belt and road' initiative, Victor Lau, Issue #179 p48

Infrastructure delivery—Five tips for managing delay claims, Michael Morrissey and Hamish Geddes, Issue #180 p40

Management of interface risks in major infrastructure projects—Strategies to avoid derailment, Andrew Chapman and Catherine Baxter, Issue #179 p50

#### **INSOLVENCY**

Construction contracts and the new 'ipso facto' insolvency reforms, Leighton O'Brien and Daniel Abadee, Issue #180 p42

#### **INSURANCE**

A triumph for clear drafting—Court of Appeal refuses to imply a reasonable care standard to an absolute compliance condition, Michael Bath and Wendy Bure, Issue #182 p46

#### INTERNATIONAL ARBITRATION

International arbitration—Trends, developments and opportunities for future growth, Shane Doyle QC and Bianca Kabel, Issue #182 p34

Process and evidence in international construction arbitration—'Tap root' principles, The Hon Peter Vickery QC, Issue #183 p6

The special role and responsibility of arbitral institutions in charting the future of international arbitration, The Hon Chief Justice Sundaresh Menon, Issue #181 p6

#### INTERNATIONAL DISPUTE RESOLUTION

Belt and road initiative disputes—Bumps in the road?, James Rogers, Alfred Wu and Anita Fong, Issue #183 p48 Building infrastructure in Asia Pacific—Issues and trends in construction disputes across the region, Murphy Mok, Daniel Waldek and Scott Ivey, Issue #183 p38

#### **MAJOR PROJECTS ASSESSMENT PROCESS**

New assessment process for major projects in Tasmania—Have your say, Claire Smith and Nicole Besgrove, Issue #178 p43

#### OCCUPATIONAL HEALTH AND SAFETY

ISO45001–2018 Occupational health and safety management systems requirement with guidance for use adopted by Australia and New Zealand, David Solomon, Issue #183 p42

#### **PLANNING**

Recent VCAT decision sets out the limits to when a planning permit can be amended, Meg Lee and Zina Teoh, Issue #181 p58

#### **PROCUREMENT**

Could your business benefit from the Commonwealth Indigenous Procurement Policy?, Leigh Duthie and Alex Hartmann, Issue #180 p34

New Commonwealth Procurement Act—Better rights for suppliers?, Andrew Chew, Jodie Burger and Jennifer Gamble, Issue #183 p44

New ministerial directions and instructions for public construction procurement in Victoria, Simone Holding and Billy Gialamas. Issue #183 p25

Procurement models—What is early contractor involvement (ECI)?, Michael Morrissey and Mary Ann Wen, Issue #179 p56

#### PROFESSIONAL REGISTRATION

Victoria moves to introduce a registration system for engineers, Catherine Bell and Dilusha Jayasekara, Issue #181 p20

#### PROJECT MANAGEMENT

The insurance of project management activities, Toby Blyth and Shannon Blain, Issue #179 p45

#### **RISK**

A wolf in sheep's clothing—Hybrid design risk allocation in construction contracts, Sefton Warner and Natalie Burgess, Issue #180 p24

#### **SECURITY OF PAYMENT**

A new bill for payments—Important changes to the security of payment regime in New South Wales, Adam Firth, Luke Carbon, Rani Krechster and Francesca Arciuli, Issue #183 p51

Back to the past for dodgy construction payment adjudications—*Probuild* and *Maxcon*, Owen Hayford, Issue #179 p35

Building Industry Fairness (Security of Payment) Act 2017 (Qld) Update—Phase 2 and 3, Andrew Kelly and Iain Hurn, Issue #179 p40

Debt factored invoices not enforceable payment claims, Andrew Kelly and Chris Woodhouse, Issue #180 p32

Excluding claims for variations, delay and damages—10 years of Victoria's troublesome security of payment regime, Thomas Kearney, Issue #178 p22

High Court of Australia confirms adjudication decisions are not amenable to review for non–jurisdictional error of law–*Probuild Constructions (Aust) Pty Ltd v Shade Systems Pty Ltd & Anor* [2018] HCA 4 and *Maxcon Constructions Pty Ltd v Vadasz & Ors* [2018] HCA 5, Stephen Pyman, Issue #178 p58

Maxcon—The most significant construction law case of 2018?, Tom Heading, Issue #179 p32

National review of security of payment laws by John Murray AM released, Catherine Bell and Cameron Mason, Issue #180 p47

Payments for insolvent claimants—approach to security of payment rejected as 'plainly wrong' by New South Wales Supreme Court, Jonathan McTigue, Sean Kelly and Katharine Kilroy, Issue #180 p52

Rich man, poor man—Impecunious claimants enforcing an adjudication determination, Brett Vincent, Issue #179 p15

Security of payment—Can the blockchain help us avoid another Carillion?, Angus Faulkner, Issue #182 p22 Supporting statements—A fork in the road?, Ian Roberts SC, Issue #180 p38

#### STANDARD FORM CONTRACTS

FIDIC 2017 ... The end of the rainbow?, Mark Berry, Richard Hill, Matt Hacking, Michael Poole and James Morgan-Payler, Issue #178 p46

#### STRATA REGULATIONS

Get ready for the new NSW strata defects regime, Lina Fischer and Khash Kamali, Issue #179 p42

#### **TECHNOLOGY**

'No questions, your Honour'—The future of evidence and proof in construction claims and disputes, Peter Wood and Duncan MacKenzie, Issue #183 p26

#### **WORK HEALTH AND SAFETY**

New plan to address safety record in New South Wales construction industry, Greg McCann and Kate Sullivan, Issue #182 p49

The evolution of the hard hat, David Solomon, Issue #182 p32

Tightening the chain of responsibility—Implications for the construction sector, Nathan Cecil and Rebecca Niumeitolu, Issue #182 p44

#### **WORKPLACE RELATIONS**

Eyes up—ensuring proper conduct by right of entry permit holders—*Australian Building and Construction Commissioner v McDermott (No 3)* [2018] FCA 11505, Trent Sebbens, Geoffrey Giudice and Ed Carroll, Issue #183 p54

470 St Kilda Road Pty Ltd v Robinson [2013] FCA 1420, Issue #179 p47

Abourjaily v Parkview Estate Pty Ltd [2017] NSWSC 1256, Issue #180 p50

Acquista Investments Pty Limited v Urban Renewal Authority (2015) 123 SASR 147, Issue #183 p44, 45

Addicoat v Fox (No 2) [1979] VR 347, Issue #181 p58

ADI Limited and Bains Harding Limited v State Electricity Commission of Victoria (1997) 13 BCL 337, Issue #181 p28

Adyard Abu Dhabi v SD Marine Services [2011] EWHC 848 (Comm), Issue #178 p21

Agricultural & Rural Finance Pty Ltd v Gardiner (2008) 238 CLR 570, Issue #180 p12, 16

Aktieselskabet Dansk Skibsfinansering v Wheelock Marden [1994] HKCA 384, Issue #182 p10

Albania v Becchetti (Unreported, Westminster Magistrates' Court, Tempia DCJ, 20 May 2016), Issue #179 p7

Alkero Development Pty Ltd v Stonnington CC (Red Dot) [2018] VCAT 1120, Issue #181 p58, 59

Altain Khuder LLC v IMC Mining Inc (No 2) [2011] VSC 12, Issue #182 p36, 37

Amasya Enterprises Pty Ltd v Asta Developments (Aust) Pty Ltd [2015] VSC 233, Issue #179 p37

Appleby v Pursell [1973] 2 NSWLR 879, Issue #180 p15

Arcadis Consulting (UK) Limited v AMEC (BSC) Limited [2016] EWHC 2509 (TCC), Issue #180 p58

Arnold v Britton [2015] UKSC 36; [2015] AC 1619, Issue #182 p13

Astro Nusantara International BV v Pt Aynnda Prima [2016] HKCA 595, Issue #182 p11

Astro Nusantara International BV v PT Ayunda Prima Mitra [2015] HKCFI 274, Issue #179 p11

Aurecon Australasia Pty Ltd v BMD Constructions Pty Ltd [2017] VSC 382, Issue #179 p8

Australian Broadcasting Tribunal v Bond (1990) 170 CLR 320, Issue #183 p9

Australian Building and Construction Commissioner v McDermott (No 3) [2018] FCA 11505, Issue #183 p54

Australian Building and Construction Commissioner v McDermott (No 2) [2017] FCA 797, Issue #183 p55

Automasters Pty Ltd v Bruness Pty Ltd [2002] WASC 286, Issue #182 p9

Avopiling Pty Ltd v Bosevski; Avopiling Pty Ltd v The Workers Compensation Nominal Insurer [2018] NSWCA 146, Issue #183 p56

AWG Construction Services Limited v Rockingham Motor Speedway Limited [2004] EWHC 888 (TCC), Issue #178 p34

Bachmann Pty Ltd v BHP Power New Zealand Limited [1999] 1 VR 420, Issue #181 p22, 28, 36

Barclay Mowlem Construction Limited v Simon Engineering (Australia) Pty Ltd (1991) 23 NSWLR 451, Issue #181 p28

Barrie Toepfer Earthmoving and Land Management Pty Ltd c CGU Insurance Ltd [2016] NSWCA 67, Issue #182 p47

Baulderstone Hornibrook Pty Limited v Queensland Investment Corporation [2006] NSWSC 522, Issue #178 p29

Beaton v McDivitt (1987) 13 NSWLR 162, Issue #178 p13

Bhasin v Hrynew [2014] SCC 41, Issue #182 p10

Bicheno Investments Pty Ltd v Winterbottom [2017] NSWSC 536, Issue #180 p16, 17, 18, 19

Biggin & Co Ltd v Permanite Ltd [1951] 1 KB 422, Issue #181 p56, 57

Brambles Holdings Ltd v Bathurst City Council (2001) 53 NSWLR 153, Issue #180 p12

Branlin Pty Ltd v Totaro [2014] VSC 492, Issue #178 p30, 31, 33, 34

Brighton Australia Pty Ltd v Multiplex Constructions Pty Ltd [2018] VSC 246, Issue #181 p46, 48

Briginshaw v Briginshaw [1938] HCA 34, Issue #183 p11

Brodyn Pty Ltd t/as Time Cost and Quality v Davenport & Anor [2004] NSWCA 394, Issue #178 p26; Issue #179 p35, 37, 39; Issue #180 p39

Broken Hill City Council v Unique Urban Built Pty Ltd [2018] NSWSC 825, Issue #182 p58

Brookfield Multiplex Ltd v Owners Corporation Strata Plan 61288 [2014] HCA 36, Issue #181 p42

Buckley v Metal Mart Pty Ltd [2008] ACTSC 79, Issue #182 p47

Bukton v Tounsende (1348) 22 Lib Ass, pl 41, Issue #178 p8

Carmichael v National Power Plc [1999] 1 WLR 2042, Issue #180 p12

Carr v JA Berriman Pty Ltd (1953) 89 CLR 327, Issue #179 p32

Casino Show Society v Norris (1984) 3 ANZ INS CAS 60-580, Issue #182 p46, 48

Caydon High Street Development Pty Ltd v Darebin CC [2017] VCAT 1422, Issue #181 p59

Central Projects Pty Ltd v Davidson [2018] NSWSC 523, Issue #180 p38

CFMMEU v ABCC (The Non-Indemnification Personal Payment Case) (No 2) [2018] FCAFC 117, Issue #183 p55

Chase Oyster Bar Pty Ltd v Hamo Industries Pty Ltd [2010] NSWCA 190, Issue #179 p35, 38; Issue #180 p39

Cherry v Steele-Park [2017] NSWCA 295, Issue #179 p58, 59; Issue #180 p10

China Nanhai Oil v Gee Tai Holdings [1995] 2 HKLR 215, Issue #182 p11

Clough Engineering Limited v Oil and Natural Gas Corporation Limited (2008) 249 ALR 458, Issue #181 p26, 28, 36

Codelfa Construction Pty Ltd v State Rail Authority of New South Wales (1982) 149 CLR 337, Issue #179 p58; Issue #180 p8, 9, 11; Issue #181 p25

Commonwealth of Australia v Amann Aviation Pty Ltd (1991) 174 CLR 64, Issue #179 p19, 20

Constructpro Pty Ltd v Maicome Pty Ltd [2014] VCC 1719, Issue #178 p31

Costain Ltd v Tarmac Holdings Ltd [2017] EWHC 319 (TCC), Issue #182 p12

Dalton v Mareshchall [or Waldon v Marshall] (1369) YB Mich 43 Edw III, fo 33, Issue #178 p8

Dana Shipping and Trading SA v Sino Channel Asia Ltd [2016] HKCFI 440, Issue #179 p11

Dedert Corporation v United Dalby Bio-Refinery Pty Ltd [2017] VSCA 368, Issue #181 p26, 29, 34, 36

Deputy Industrial Injuries Commissioner; Ex parte Moore [1965] 1 QB 456, Issue #183 p9

Duro Felguera Australia Pty Ltd v Samsung C&T Corporation [2018] WASCA 28, Issue #180 p54

Eastwood v Kenyon (1840) 11 Ad & El 438, Issue #178 p12

Ecosse Property Holdings Pty Ltd v Gee Dee Nominees Pty Ltd [2017] HCA 12, Issue #181 p25

Eddy Lau Constructions Pty Ltd v Transdevelopment Enterprise Pty Ltd [2004] NSWSC 273, Issue #182 p57

Electricity Generation Corporation v Woodside Energy Ltd (2014) 251 CLR 640, Issue #180 p13

Façade Treatment Engineering (in liq) v Brookfield Multiplex Constructions [2016] VSCA 247, Issue #180 p48, 52, 53

FAL Management Group Pty Limited as Trustee for TF Investment Trust v Denham Constructions Pty Ltd [2017] NSWSC 150. Issue #179 p15

Farah Constructions Pty Ltd v Say-Dee Pty Ltd (2007) 230 CLR 89, Issue #180 p52

Fenridge Pty Ltd v Retirement Care Australia (Preston) Pty Ltd [2013] VSC 464, Issue #180 p12

Firstmac Fiduciary Services Pty Ltd & Anor v HSBC Bank of Australia Ltd [2012] NSWSC 1122, Issue #181 p48

Fitzpatrick v Job & Anor [2007] WASCA 63, Issue #179 p46

Fletcher Construction Australia Limited v Varnsdorf Pty Ltd [1998] 3 VLR 812, Issue #181 p22, 23, 26, 29, 36

Fosse Motor Engineers v Conde Nast [2008] EWHC 2037 (TCC), Issue #183 p10

Fosters Group Ltd v Mornington Peninsula SC [2010] VCAT 104, Issue #181 p59

Fujitsu Services Ltd v IBM United Kingdom Ltd [2014] EWHC 752, Issue #182 p13

Gaymark Investments Pty Ltd v Walter Construction Group Ltd (1999) 16 BCL 449, Issue #179 p19

Ghunaim v Bart [2004] NSWCA 28, Issue #183 p57

GIO General Ltd v Newcastle City Council [1996] NSWSC 322, Issue #179 p46

Globe Motors Inc v TRW LucasVarity Electric Steering Ltd [2016] EWCA Civ 396, Issue #182 p8

Gold Group Properties Ltd v BDW Trading Ltd [2010] EWHC 1632, Issue #182 p12

Gollin & Co Ltd v Karenlee Nominees Pty Ltd (1983) 153 CLR 455, Issue #180 p17

GR Engineering Services Ltd v Eastern Goldfields Ltd [2018] WASC 19, Issue #179 p55

Grocon Constructors v Planit Cocciardi Joint Venture [No 2] [2009] VSC 426, Issue #178 p26

Hall v Adventure Training Systems Pty Ltd & Anor [2005] NSWSC 1079, Issue #179 p46

Hawkes v Saunders (1782) 1 Cowp 289, Issue #178 p12

Herbei Import and Export Corporation v Polytech Engineering [1999] 2 HKCFAR 111, Issue #182 p11

Hobbs v Norton (1682) 1 Vern 136, Issue #178 p13

Home Site Pty Ltd v ACN 124 452 786 (formerly Nahas Construction (NSW) Pty Ltd) [2017] NSWSC 698, Issue #182 p57

Hong Jing Co Ltd v Zhuhai Kwok Yuen Investment Co Ltd [2012] HKCA 296, Issue #182 p10

Hortico (Australia) Pty Ltd v Energy Equipment Co (Australia) Pty Ltd [1985] 1 NSWLR 545, Issue #181 p22, 32

Howe v Botwood [1913] 2 KB 387, Issue #180 p15

Hrvastska Elektroprivreda d.d. v Republic of Slovenia, ICSID Case No. ARB/05/24, dated 6 May 2008, Issue #181 p10

Hughes Brothers Pty Ltd v Telede (1991) 7 PCL 210, Issue #181 p28

Hyundai Engineering and Construction Co Ltd v Vigour Ltd [2004] HKCFI 205, Issue #182 p10

Indian Farmers Fertiliser Cooperative Ltd v Gutnick (2015) 304 FLR 199, Issue #179 p10

Informax International Pty Ltd v Clarius Group Ltd (2011) 192 FCR 210, Issue #180 p52, 53

Interfoto Picture Library Ltd v Stiletto Visual Programmes Ltd [1989] QB 433, Issue #182 p6

Janney & Ors v Stellar Works Pty Ltd [2017] VSC 363, Issue #183 p37

Jerram Falkus Construction Ltd v Fenice Investments Inc (No 4) [2011] EWHC 1935 (TCC), Issue #178 p21

Joslyn v Berryman [2003] HCA 34, Issue #183 p57

Kim v Cole [2002] QCA 176, Issue #182 p47, 48

Kioa v West (1985) 159 CLR 550, Issue #178 p24, 25

Kirk v Industrial Relations Commission of New South Wales [2010] HCA 1, Issue #179 p35, 36

Kitchen Xchange Pty Ltd v Formacon Building Services Pty Ltd [2014] NSWSC 1602, Issue #179 p37; Issue #180 p38

Ku Ring Gai Council v Chan [2017] NSWCA 226, Issue #182 p51

Kyle Bay Removals Pty Ltd v Dynabuild Project Services Pty Ltd [2016] NSWSC 334, Issue #180 p38

Lane Cove Council v Davies & Associates [2012] NSWSC 727, Issue #181 p48

Lin Tiger Plastering Pty Ltd v Platinum Construction (Vic) Pty Ltd [2018] VSC 221, Issue #180 p28

London Borough of Merton v Leach (1985) 32 BLR 51, Issue #182 p11, 13

Maaden v Thyssen, ICC Arbitral Award n. 6653, Journal du Droit International 1040 (Int'l Comm. Arb. 1993), Issue #183 p18

MacDonald v Longbottom (1859) 120 ER 1177, Issue #180 p10

Macmahon Mining Services v Cobar Management [2014] NSWSC 502, Issue #181 p54

Major Engineering Pty Ltd v CGU Insurance Limited [2011] VSCA 226, Issue #179 p46

Malec v JC Hutton [1990] HCA 20, Issue #183 p57

Mann v Paterson Constructions Pty Ltd [2017] VSC 119, Issue #180 p59; Issue #182 p56

Maxcon Constructions Pty Ltd v Vadasz (No 2) [2017] SASCFC 2, Issue #178 p58

Maxcon Constructions Pty Ltd v Vadasz & Ors [2018] HCA 5, Issue #178 p58, 59; Issue #179 p32, 33, 35, 37

Maxstra Constructions Pty Ltd v Joseph Gilbert & Ors [2013] VSC 243, Issue #178 p32

MCA International BV v Northern Star Holdings Ltd (1991) 4 ASCR 719, Issue #180 p11

Mid-Essex Hospital Services NHS Trust v Compass Group UK and Ireland Ltd [2013] EWCA Civ 200, Issue #182 p9

Miller v Minister of Pensions [1947] 2 All ER 372, Issue #183 p11

Moama Bowling Club Ltd v Thomson & Ors [2013] VSC 744, Issue #183 p10

Moorabool Shire Council & Anor v Taitapanui & Ors [2006] VSCA 30, Issue #181 p42

Mount Bruce Mining Pty Ltd v Wright Prospecting Pty Ltd (2015) 256 CLR 104, Issue #181 p25

MSC Mediterranean Shipping Co SA v Cottonex Anstalt [2016] EWCA Civ 789, Issue #182 p7

MT Højgaard A/S v E.ON Climate and Renewables UK [2017] UKSC 59, Issue #178 p48; Issue #181 p40

Multiplex Constructions (UK) Limited v Honeywell Control Systems Limited [2007] BLR 195, Issue #178 p20, 21

Musico v Davenport [2003] NSWSC 977, Issue #179 p35, 39

National Australia Bank Ltd v Clowes [2013] NSWCA 179, Issue #180 p18

National Private Air Transport Services Company (National Air Services) Ltd v Creditrade LLP & Anor [2016] EWHC 2144 (Comm), Issue #182 p8

Nesterczuk v Mortimore (1965) 115 CLR 140, Issue #183 p9

North Midland Building Limited v Cyden Homes Limited [2017] EWHC 2414 (TCC), Issue #178 p20

Olex Focas Pty Ltd v Skoda Export Co Limited [1998] 3 VR 380, Issue #181 p26

Owners SP 62930 v Kell & Rigby Pty Limited [2009] NSWSC 1342, Issue #181 p48

Paciocco v Australia and New Zealand Banking Group Limited [2016] HCA 28, Issue #178 p16

Pearson Bridge (NSW) Pty Ltd v State Rail Authority of New South Wales (1982) 1 ACLR 81, Issue #181 p28

Peninsula Balmain Pty Limited v Abigroup Contractors Pty Limited [2002] NSWCA 211, Issue #179 p19, 32

Petromec Inc v Petroleo Brasileiro SA [2005] EWCA Civ 891, Issue #182 p9

Phoenix Commercial Enterprises Pty Ltd v City of Canada Bay Council [2010] NSWCA 64, Issue #180 p10

Pillans v Van Mierop (1765) 3 Burr 1663, Issue #178 p12

Pioneer v QBE [2002] NSWSC 137, Issue #179 p46

Pipeline Services WA Pty Ltd v ATCO Gas Australia Ltd [2014] WASC 10, Issue #182 p36

Portsmouth City Council v Ensign Highways Ltd [2015] EWHC 1969 (TCC), Issue #182 p9, 11

Probuild Constructions (Aust) Pty Ltd v Shade Systems Pty Ltd & Anor [2018] HCA 4, Issue #178 p58, 59; Issue #179 p32, 35, 36, 37, 38, 39

Project Blue Sky v Australian Broadcasting Authority (1998) 194 CLR 355, Issue #178 p32

Property Alliance Group Ltd v The Royal Bank of Scotland Plc [2016] EWHC 3342 (Ch), Issue #182 p8

Quasar (Constructions) Commercial Pty Limited v Trilla Group Pty Limited [2017] NSWSC 860, Issue #179 p15 Rann v Hughes (1778) 7 Term Rep 350, Issue #178 p12

RCR O'Donnell Griffin Pty Ltd v Forge Group Power Pty Ltd (rec and mgr appt) (in liq) [2016] QCA 214, Issue #181 p35

Regreen Asset Holdings Pty Ltd v Castricum Brothers Australia Pty Ltd [2015] VSCA 286, Issue #180 p12 Reliance Rail Pty Ltd v Permanent Custodians Ltd [2017] NSWSC 1111, Issue #180 p13

Rheinland Versicherungen v S.r.l. Atlarex and Allianz Subalpina S.p.A. (12 July 2000, n. 405), Issue #183 p18

Romania v Bodgan-Alexander Adamescu (Unreported, Westminster Magistrates' Court, Zani DJ, 13 April 2018) Issue #179 p7

Royal Botanic Gardens and Domain Trust v South Sydney City Council (2002) 240 CLR 45, Issue #180 p16

Russell v Russell (1880) 14 Ch D 471, Issue #179 p10

Samsung C&T Corporation v Duro Felguera Australia Pty Ltd [2018] WASCA 27, Issue #180 p54

Seabay Properties Pty Ltd v Galvin Construction Pty Ltd & Anor [2011] VSC 183, Issue #178 p29, 31, 32

Seymour Whyte Constructions Pty Ltd v Ostwald Bros Pty Ltd (in liq) [2018] NSWSC 412, Issue #180 p52

Shade Systems Pty Ltd v Probuild Constructions (Aust) Pty Ltd (No 2) [2016] NSWCA 379, Issue #178 p58

Sharington v Strotton (1565) Plowd 301, Issue #178 p11

Sheikh Tahnoon Bin Saeed Bin Shakhboot Al Nehayan v Ioannis Kent [2018] [2018] EWHC 333, Issue #182 p7

Shipton v Dogge (No 2) (1442) YB Trin 20 Hen VI, fo 34, pl 4, Issue #178 p9

Simic & Ors v New South Wales Land and Housing Corporation & Ors [2016] HCA 47, Issue #179 p58; Issue #180 p10; Issue #181 p22, 23, 24, 25, 27

Sino Dragon Trading Ltd v Noble Resources International Pte Ltd (No 2) [2016] FCA 1169, Issue #182 p36

Slade v Morley (1602) 4 Co Rep 9, Issue #178 p15

Smith v Hughes (1871) LR 6 QB 597, Issue #178 p13

Societe Les Marechaux Cass Comm, 10-07-2007, Issue #182 p11

Somerton v Colles (1433) YB Pas 11 Hen VI, fo 25, Issue #178 p9

Sopov v Kane Constructions Pty Ltd (No 2) (2009) 24 VR 510, Issue #180 p59; Issue #182 p56

Southern Han Breakfast Point Pty Ltd (in liq) v Lewence Construction Pty Ltd [2016] HCA 52, Issue #179 p38; Issue #180 p48; Issue #183 p51

Spiers Earthworks Pty Ltd v Landtec Projects Corporation Pty Ltd [No 2] (2012) 287 ALR 360, Issue #179 p20

SSC Plenty Road Pty Ltd v Construction Engineering (Aust) Pty Ltd [2016] VSCA 119, Issue #178 p31, 34, 35

SSC Plenty Road v Construction Engineering (Aust) [2015] VSC 631, Issue #178 p31, 34

Subway Systems Australia v Ireland [2013] VSC 550, Issue #179 p11

Sugar Australia Pty Ltd v Lend Lease Services Pty Ltd [2015] VSCA 98, Issue #181 p26, 28, 31, 36

Suncorp Metway Insurance Ltd v Landridge Pty Ltd [2005] VSCA 223, Issue #179 p46

Surfstone v Morgan Consulting Engineers [2017] Qd R 66, Issue #181 p52, 53

Sydney City Council v Goldspar Australia Pty Ltd (2006) 230 ALR 437, Issue #180 p13

Synergy Protection Agency Pty Ltd v North Sydney Leagues' Club Ltd [2009] NSWCA 140, Issue #180 p9

Tamanna v Zattere; Thakorlal v Zattere; Rabac Pty Ltd v Zattere [2017] NSWSC 1388, Issue #180 p51

TCL Air Conditioner (Zhongshan) Co Ltd v Castel Electronics Pty Ltd (2014) 311 ALR 387, Issue #179 p10

TCN Channel 9 Pty Ltd v Hayden Enterprises (1989) 16 NSWLR 130, Issue #180 p17

Tesco Stores Ltd v Constable [2008] EWCA Civ 362, Issue #179 p46

The Duke of Buckingham's case YB 20 Hen VII Mf 10, pl 20, Issue #178 p11

The One Suits Pte Ltd v Pacific Motor Credit (Pte) Ltd [2015] SGCA 21, Issue #182 p9

The Owners-Strata Plan No 66375 v King [2018] NSWCA 170, Issue #182 p41, 43

The Royal Brompton Hospital National Health Service Trust v Hammond [2002] EWHC 2037, Issue #179 p45

Tobacco Plain Packaging Legislation: Phillip Morris Asia Limited v Commonwealth of Australia, UNCITRAL, (PCA Case No 2012–12), Issue #180 p46

Trant Engineering Ltd v Mott MacDonald Ltd [2017] EWHC 2061, Issue #183 p31

Trina Solar (US) Inc v Jasmin Solar Pty Ltd [2017] FCAFC 6, Issue #182 p35

TSG Building Services v South Anglia Housing Ltd [2013] EWHC 1151 (TCC), Issue #182 p13

Turner (East Asia) Pte Ltd v Builders Federal (Hong Kong) Ltd & Anor [1988] SLR 1037, Issue #181 p13

Turner Corporation Ltd (in prov liq) v Co-ordinated Industries Pty Ltd (1994) 11 BCL 202, Issue #179 p19

Twelve Walker Street Pty Ltd v Lee [2017] NSWSC 1807, Issue #181 p51

UGL Rail v Wilkinson Murray [2014] NSWSC 1959, Issue #181 p57

Unity Insurance Brokers v Rocco Pezzano Pty Ltd [1998] HCA 38, Issue #181 p56

Vanguard Development Group Pty Ltd v Promax Building Developments Pty Ltd [2018] VSC 386, Issue #182 p53

Victoria v Tatts Group [2016] HCA 5; (2016) 328 ALR 564, Issue #179 p59; Issue #180 p9, 10

Victorian Workcover Authority v Concept Hire Ltd [2009] VSC 194, Issue #182 p47

Walford v Miles [1992] 2 AC 128, Issue #182 p9

Walter Lilly & Company Ltd v (1) Mackay and (2) DMW Developments Ltd [2012] EWHC 1773 (TCC), Issue #178 p19

Watkin's case (1425) YB Hil 3 Hen VI fo 36, pl 33, Issue #178 p9

Watpac Construction (NSW) Pty Ltd v Austin Corp Pty Ltd [2010] NSWSC 168, Issue #178 p26

WFI Insurance Ltd v Manitowog Platinum Pty Ltd [2018] WASCA 89, Issue #182 p46

WIN Corporation v Nine Network Australia Pty Ltd [2016] NSWCA 297, Issue #179 p59

Wood Hall Limited v Pipeline Authority (1979) 141 CLR 443, Issue #181 p22, 26

Wright v Lend Lease Building Pty Ltd [2014] NSWCA 46, Issue #181 p53

Yam Seng Pte Ltd v International Trade Corporation Ltd [2013] EWHC 111, Issue #182 p7, 9, 10, 11

Ye v Zeng (No 5) [2016] FCA 850, Issue #182 p36

# **LEGISLATION**

Access to Neighbouring Land Act 2000 (NSW), Issue #180 p50, 51; Issue #181 p50; Issue #183 p36, 37

Arbitration Institute of the Stockholm Chamber of Commerce Rules, Issue 183, p12, 14, 15, 17

Arbitration Rules of the German Institution of Arbitration, Issue #181 p12

Asian International Arbitration Centre Fast Track Arbitration Rules (formerly the KLRCA Fast Track Arbitration Rules), Issue #182 p18, 20, 21

Australian Centre for International Commercial Arbitration Expedited Arbitration Rules, Issue #182 p18, 20, 21

Australian Solicitor Conduct Rules 2015 (Vic), Issue #179 p9

Building Act 1993 (Vic), Issue #181 p20, 37, 38, 41, 43; Issue #182 p29

Building and Construction Industry Payments Act 2004 (Qld), Issue #178 p30, 33, 35, 36; Issue #182 p17; Issue #183 p52

Building and Construction Industry Security of Payment (Amendment) Act 2006 (Vic), Issue #178 p22, 24, 27, 28, 29, 30, 31, 33, 34, 36

Building and Construction Industry Security of Payment Act (Cap 30B 2006 Rev Ed) (Singapore), Issue #180 p33

Building and Construction Industry Security of Payment Act 1999 (NSW), Issue #178 p24, 58; Issue #179 p15, 37; Issue #180 p32, 38; Issue #182 p15, 23; Issue #183 p46, 51

Building and Construction Industry Security of Payment Act 2002 (Vic), Issue #178 p22; Issue #179 p37; Issue #180 p52; Issue #182 p53

Building and Construction Industry Security of Payment Act 2009 (SA), Issue #178 p59; Issue #179 p32

Building and Construction Industry Security of Payment Amendment Bill 2018 (NSW), Issue #183 p46, 51, 52, 53

Building and Construction Industry Security of Payment Bill 2002 (Cth), Issue #180 p47

Building and Development Certifiers Bill 2018 (NSW), Issue #182 p51

Building Control Act 1981 (Vic), Issue #181 p38

Building Industry Fairness (Security of Payment) (Transitional) Regulation 2018 (Qld), Issue #179 p40, 41

Building Industry Fairness (Security of Payment) Act 2017 (Qld), Issue #179 p40

Building Industry Fairness (Security of Payment) Regulation 2018 (Qld), Issue #179 p40

Building Products (Safety) Act 2017 (NSW), Issue #182 p29

Building Professionals Act 2005 (NSW), Issue #178 p53; Issue #181 p21; Issue #182 p51

Building Regulations 2006 (Vic), Issue #181 p37

Building Services Corporation Legislation Amendment Act 1996 (NSW), Issue #180 p30

China International Economic and Trade Arbitration Commission Arbitration Rules, Issue 183, p50

Civil Law and Justice Legislation Amendment Bill 2017 (Cth), Issue #180 p45

Civil Liability Act 2002 (NSW), Issue #181 p57; Issue #183 p56, 57

Civil Procedure Act 2010 (Vic), Issue #179 p9

Commercial Arbitration Act 1984 (NSW), Issue #182 p15

Commercial Arbitration Act 2010 (NSW), Issue #179 p6; Issue #182 p58; Issue #183 p14

Commercial Arbitration Act 2011 (Vic), Issue #179 p8; Issue #180 p28

Commercial Arbitration Act 2012 (WA), Issue #179 p55

Competition and Consumer Act 2010 (Cth), Issue #183 p54, 55

Construction Contracts Act 2004 (Act), Issue #180 p54

# **LEGISLATION**

Conveyancing Act 1919 (NSW), Issue #180 p50, 51; Issue #181 p50; Issue #183 p36

Corporations Act 2001 (Cth), Issue #180 p52; Issue #182 p46

Domestic Building Contracts Act 1995 (Vic), Issue #180 p28; Issue #181 p38; Issue #182 p56

Domestic Building Contracts Regulations 2017 (Vic), Issue #180 p29

Dubai International Arbitration Centre Rules, Issue 183, p12, 17, 19

Dubai International Financial Centre-London Court of International Arbitration Rules, Issue 183, p12, 14

Engineers Registration Bill 2018 (Vic), Issue #181 p20

Environment Planning and Assessment Act 1979 (NSW), Issue #179 p42

Environmental Management and Pollution Control Act 1994 (Tas), Issue #178 p43

Environmental Planning and Assessment Act 1979 (NSW), Issue #182 p42

Environmental Planning and Assessment Amendment (Fire Safety and Building Certification) Regulation 2017 (NSW), Issue #178 p52

Environmental Planning and Assessment Amendment (Identification of Buildings with Combustible Cladding) Regulation 2017 (NSW), Issue #178 p55

Environmental Planning and Assessment Amendment (Identification of Buildings with External Combustible Cladding) Regulation 2018, Issue #182 p29

Fair Work Act 2009 (Cth), Issue #183 p54, 55

Government Procurement (Judicial Review) Act 2018 (Cth), Issue #183 p44

Home Building Act 1989 (NSW), Issue #180 p30; Issue #182 p31, 42

Hong Kong International Arbitration Centre Administered Arbitration Rules, Issue #181 p8; Issue 183, p12, 14, 15, 17, 19, 50

Housing Grants, Construction and Regeneration Act 1996 (UK), Issue #178 p21; Issue #179 p53; Issue #182 p22, 23

Insurance Contracts Act 1984 (Cth), Issue #182 p31, 48

International Arbitration Act 1974 (Cth), Issue #179 p8; Issue #180 p28, 45; Issue #182 p35, 58

International Arbitration Act 1994 (Singapore), Issue #181 p8

International Bar Association Rules on Taking of Evidence in International Arbitration, Issue 183, p12, 13, 16, 17 International Centre for Dispute Resolution Rules, Issue 183, p12, 14, 16, 49

International Chamber of Commerce Arbitration Rules, Issue #181 p9, Issue #182 p18, 20, 21, Issue 183, p12, 14, 15, 17, 49

Interpretation of Legislation Act 1984 (Vic), Issue #178 p32; Issue #181 p58, 59

Land and Environment Court Act 1979 (NSW), Issue #181 p50

Land Use Planning and Approvals Act 1993 (Tas), Issue #178 p43

Land Use Planning and Approvals Amendment (Major Projects) Bill 2018 (Tas), Issue #178 p43, 44

Legal Profession Act 1967 (Singapore), Issue #181 p13

Legal Profession Uniform Conduct (Barristers) Rules 2015 (Vic), Issue #179 p9

Limitation Act 1969 (NSW), Issue #181 p57; Issue #182 p31

Local Democracy, Economic Development and Construction Act 2009 (UK), Issue #179 p53, 54

Local Government Act 1989 (Vic), Issue #182 p30

# **LEGISLATION**

London Court of International Arbitration Rules, Issue #181 p12, Issue 183, p12, 15, 16, 49

Major Infrastructure Development Approvals Act 1999 (Tas), Issue #178 p43

New Zealand International Arbitration Centre Rules, Issue 183, p12, 14, 15, 17, 19

Oaths Act 1900 (NSW), Issue #180 p39

Occupational Health and Safety Act 1985 (Vic), Issue #182 p47

Owners Corporations Act 2006 (Vic), Issue #181 p41

Permanent Court of Arbitration Rules 2012, Issue #181 p12

Planning and Environment Act 1987 (Vic), Issue #181 p58

Professional Engineers Act 2002 (Qld), Issue #181 p20

Queensland Building and Construction Commission Act 1991 (Qld), Issue #179 p40; Issue #182 p30

Scheme for Construction Contracts (England and Wales) Regulations 1998 (UK), Issue #178 p35

Singapore International Arbitration Centre Rules, Issue #181 p8, 9, 10, Issue #182 p18, 20, 21, 39, Issue 183, p8, 12, 14, 15, 17, 50

State Policies and Projects Act 1993 (Tas), Issue #178 p43

Strata Schemes Management Act 2016 (NSW), Issue #179 p42

Strata Schemes Management Regulations 2016 (NSW), Issue #179 p42

Subcontractors' Charges Act 1974 (Qld), Issue #179 p41

Trade Practices Act 1974 (Cth), Issue #181 p26, 47

UNCITRAL 'Model Law' on International Commercial Arbitration, Issue 183, p12, 13, 14, 16, 19

Workers Compensation Act 1987 (NSW), Issue #183 p56

# STANDARDS AND CONTRACTS

AS 11000-2015, Issue #178 p50; Issue #179 p16, 22, 25, 26, 27, 28

AS 1530-1993, Issue #181 p19

AS 1576-2010, Issue #181 p18

AS 2124-1992, Issue #178 p49; Issue #179 p20, 21, 25, 27, 28

AS 4000-1997, Issue #178 p49; Issue #179 p22, 25, 26, 27, 28

AS 4300-1995, Issue #179 p21, 22, 27, 28; Issue #180 p24

AS 4576-1995, Issue #181 p18

AS 4654-2012, Issue #181 p38

AS 4902-2000, Issue #179 p22, 26, 27, 28; Issue #181 p34

AS 4910-2002, Issue #181 p31

AS 5113-2016, Issue #178 p53

AS/NZS 1801-1997, Issue #182 p33

AS/NZS 4801-2001, Issue #183 p43

AS/NZS ISO/IEC 27001-2013, Issue #183 p42

AS/NZS ISO14001-2015, Issue #183 p42

AS/NZS ISO45001-2018, Issue #183 p42, 43

AS/NZS ISO9001-2015, Issue #183 p42

BS 7955-1999, Issue #181 p19

BS ISO45002-2018, Issue #183 p43

BS ISO45003-1995, Issue #183 p43

BS ISO45004-1995, Issue #183 p43

BS OHS18001-2007, Issue #183 p43

FIDIC Gold Book 2008, Issue #178 p47

FIDIC Green Book 1999, Issue #178 p47

FIDIC Pink Book 2005, Issue #178 p47, 48

FIDIC Red Book 1999, Issue #178 p51

FIDIC Red Book 2017, Issue #178 p46, 48

FIDIC Silver Book 2017, Issue #178 p46, 51

FIDIC Yellow Book 1999, Issue #178 p46, 48, 50, 51

FIDIC Yellow Book 2017, Issue #178 p46, 47, 48, 50; Issue #179 p54

JCT Design & Build Contract-2005, Issue #178 p19, 20

JCT Standard Form Contract-1963, Issue #182 p11

LPS 1215-2014, Issue #181 p19

NEC3 FC, Issue #182 p12

NEC3 SST, Issue #182 p12

NEC3, Issue #179 p52, 53; Issue #182 p12

NEC4, Issue #179 p52, 53, 54; Issue #182 p12

AUSTRALIAN CONSTRUCTION LAW NEWSLETTER SWAP EXCHANGE PTY. LTD. PO BOX R1140 ROYAL EXCHANGE SYDNEY NSW 1225 AUSTRALIA