



Update

Construction & Infrastructure

01 February 2012

What's News? - 1 February 2012



PDF Format

Latest news

Report predicts improved outlook for 2012

A gradual improvement in the outlook for Queensland's building industry is predicted, according to the December 2011 Survey of Industry Conditions report released by Master Builders today (30 January 2012) [More...](#)

Building markets to look back to private sector

ABS building activity data confirms the last of the BER-funded work has 'passed through the system' and building markets across Australia have to increasingly look to the private sector for new workload, according to Rider Levett Bucknall (RLB) (30 January 2012) [More...](#)

More schools to go solar

Nearly 800 schools across the country have been awarded grants to help them install solar and other renewable power systems. The latest round of applications were assessed on value for money criteria, as well as environmental and educational benefits. Applications for the final round of the National Solar Schools Program (2012-13) will open on 13 February, 2012 (27 January 2012) [More...](#)

ABCC Replacement Bill Poor Policy

Richard Calver Acting CEO of Master Builders said the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2011, now the subject of a Senate Committee inquiry, would give a green light to building unions to take even more unlawful industrial action (23 January 2012) [More...](#)

Australian shale assets 'next big thing' for investors

Surging prices for shale gas and oil properties in the US are turning owners of deposits as far away as Australia into potential takeover targets (19 January 2012) [More...](#)

Port builder urged to buy Chinese

The builder of Australia's biggest infrastructure project claims that Australian companies will be locked out of lucrative contracts. Ms Gillard's spokesman said if any government had breached its WTO obligations, the Australian government would pursue this bilaterally and, if it remained unresolved, would take the matter to the WTO (18 January 2012) [More...](#)

Mining contracts 'lock out Aussies' with 'buy Chinese' clauses

The Australian Industry Group has warned that overseas-based prime contractors are giving preference to sub-contractors and suppliers in their country of origin "under explicit or implicit local preference arrangements and practices (17 January 2012) [More...](#)

HIA-RP data: trend is right, but land sales remain at low levels

The HIA-RP Data Residential Land Report provided by the Housing Industry Association and RP Data, found the volume of land sales increased by 1.3 per cent in the September 2011, however, volumes were still 16.8 per cent lower than in the September 2010 quarter (19 January 2012) [Trend is Right, but Land Sales Remain at Low Levels](#)

Builders go to the wall as corporate headcount of failure hits record high

Company insolvencies hit record levels last year led by the collapse of small building firms and corner shops, with the number of insolvencies in the year to November last year reaching 9718 (12 January 2012) [More...](#)

Building accidents 'not reported'

The construction union says half of accidents and injuries on Canberra building sites are not being reported properly. The Work Health and Safety Act 2011 requires employers to report workplace injuries and near-misses (16 January 2012) [More...](#)

Safety on site - Mining your own business

New technology and higher standards are ensuring that Australian levels of workplace safety are world leading, but workplace fatalities and industrial injuries still cost companies more than \$57 billion every year in medical expenses, lost hours and compensation (11 January 2012) [More...](#)

Vow to limit contractors' rights as business worried that industry protections will spread

Workplace Relations Minister vows that key planks of the Fair Work Act will not be extended to all independent contractors after business groups warned that a planned bill amending the FWA could spill into a slew of other industries - particularly road transport and building construction (11 January 2012) [More...](#)

Funds for derelict mines "substantially inadequate"

Derelict mines may represent the "largest contamination liability" facing the NSW Government and the funds allocated to the issue are not enough, according to a report by the Audit Office of NSW (11 January 2012) [More...](#)

Councils welcome NSW Local Infrastructure Renewal Scheme

The Local Government and Shires Associations of NSW (LGSA) have welcomed the commencement of the NSW Local Infrastructure Renewal Scheme (the Scheme). The Scheme provides interest subsidies of 4% that will substantially reduce the borrowing costs on significant loans that councils take out specifically to pay for infrastructure projects such as roads, community halls, libraries, parks, sports facilities and water facilities. (11 January 2012)

[Councils welcome NSW Local Infrastructure Renewal Scheme](#)

Report names Australia's deadliest highways

Queensland's Bruce Highway has been named as one of Australia's most dangerous stretches of major road in a new survey carried out by Australian Automobile Association (AAA), which analysed the traffic, death and serious injury statistics for the 20,000 kilometres of national highways (19 January 2012)

[More...](#)

Road Report highlights need for strong Bruce Highway plan

Main Roads Minister said the Australian Road Assessment Program report identifies 110 priority projects including 340 kilometres of highway duplication, 50 new overtaking lanes, intersection upgrades, bridge replacements and 10 proposed ring roads, bypasses and deviations (19 January 2012)

[More...](#)

Northshore Hamilton east construction commences

Minister for Local Government declares Australand as the first developer to begin construction in the eastern end of Northshore Hamilton, the State Government's \$5 billion premier urban renewal precinct. Northshore Hamilton is the largest revitalisation of an urban area undertaken by the State Government in Brisbane since Southbank (17 January 2012)

[More...](#)

Bids for the Moreton Bay Rail Link

Construction companies interested in designing and building two of the three road bridges associated with the \$1.15 billion Moreton Bay Rail Link project have until 3 February to submit their best bids under the tender process being managed by the Queensland Government. The Moreton Bay Rail Link is being built with funding from the Commonwealth and State Labor Governments and the Moreton Bay Regional Council (18 January 2012)

[More...](#)

Insurance costs increase to hit home after QBE premium announcement

Households already struggling with higher costs of living will pay 15 per cent more to insure their homes after the nation's biggest insurer announced "substantially increased" premiums to counter a halving of profits (13 January 2012)

[More...](#)

Queensland government to extend building boost until April

The Queensland government will extend the \$10,000 Queensland building boost for a further three months. The \$10,000 grant is available to all home purchasers buying or building a new home worth less than \$600,000. (13 January 2012)

[More...](#)

Catastrophe-hit Queensland spends \$3.6bn on infrastructure rebuild

Infrastructure projects worth \$3.6 billion are being rolled out in Australia's biggest rebuild as the Queensland government accelerates its efforts in the state's flood reconstruction (12 January 2012)

[More...](#)

\$310,000 in State Government grants awarded to help regions

Acting Minister for Agriculture, Food and Regional Economies has announced \$310,000 in grants towards four projects under the Queensland Regional Development Initiative (QRDI) including

the Living Whitsundays project which is designed to meet the imminent housing and transport demand from the mining industry (11 January 2012)

[More...](#)

Victorian building permits don't guarantee quality, audit finds

The Victorian Auditor General's Office reports that 96 per cent of building permits issued did not comply with minimum statutory safety and building standards. The Auditor General's Office also found that a basic monitoring framework of the building surveyor's reports is yet to be established after five years which means the system itself also has insufficient quality assurance (31 January 2011)

[More...](#)

Another 50 jobs as Southbank Depot prepares for 50 new trams

Southbank Tram Depot is set to receive a \$24 million upgrade in a venture that will create more than 50 jobs and will help prepare the network for the arrival of 50 new low-floor trams (25 January 2012)

[Another 50 jobs as Southbank Depot prepares for 50 new trams](#)

Victoria's building permit value tops \$2 billion in November

The value of building permit activity in Victoria for the month of November 2011 was \$2.2 billion, the highest November on record and an 8 per cent increase on the same month last year (18 January 2012)

[More...](#)

New design for Melbourne Park's Western Precinct

Minister for Major Projects Denis Napthine and Minister for Sport Hugh Delahunty unveils the new design for Melbourne Park's Western Precinct, which includes a redeveloped Margaret Court Arena with an operable roof and increased capacity by 1,500 to 7,500 (18 January 2012)

[More...](#)

Grants for rural councils

Struggling rural councils have been handed a lifeline by the Victorian Government, with a funding boost of up to \$2.5 million has been offered to each without spending restrictions and allow financially burdened rural councils to reduce their infrastructure renewal gaps (18 January 2012)

[More...](#)

Builder appointed for Simonds Stadium Southern Stand redevelopment

Home of the Geelong Football Club, Simonds Stadium, is set to kick off works to improve the Southern Stand with Sports Minister Hugh Delahunty announcing the Club's appointment of builders Kane Constructions (16 January 2012)

[Builder appointed for Simonds Stadium Southern Stand redevelopment](#)

Articles

eSafe Construction Newsletter

Latest edition of eSAFE Construction - a bi-monthly e-newsletter providing information to subscribers on activities in the building and construction sector (25 January 2012)

[eSAFE Construction - January 2012 edition](#)

Survey of Industry Conditions 2012

Master Builders Australia

Master Builders Survey of Industry Conditions report provides information and analysis on industry expectations and business performance, based on a survey of Master Builders members across Queensland (January 2012)

[Survey of Industry Conditions](#)

Proportionate Liability Principle in Australia

Author: Jacqueline Romero, Honan Insurance Group

Source: DesignBuild Online, 11 January 2012

The principle of "proportionate liability" is an important consideration in business particularly when entering into commercial contracts or agreements where parties to a contract may be attempting to contract out of the operation of the proportionate liability regime for construction. [More...](#)

The Role of Regulation in Facilitating or Constraining Adaptation to Climate Change for Australian Infrastructure

Maddocks Solicitors for the Department of Climate Change and Energy Efficiency

The report identifies areas within regulatory regimes where issues may arise in the future, and makes suggestions for further analysis by governments, regulators and owners of infrastructure assets (20 January 2012) [More...](#)

Coal seam gas royalties in Australian States and Territories

Author: Daniel Montoya, NSW Parliamentary Library

Including commentary from the Henry Tax Review on the use of royalties as a form of resource taxation, this e-brief looks at the CSG industry in NSW and compares petroleum royalty rates across Australia (23 January 2012) [Coal seam gas royalties in Australian States and Territories](#)

Worker representation and participation guide

Source: Safe Work Australia

This guide provides information on the representation and participation of workers in health and safety matters at the workplace, as well as guidance on resolving health and safety issues (24 January 2012) [Worker representation and participation guide](#)

Explanatory statement for the model Work Health and Safety Regulations

Source: Safe Work Australia

This statement accompanies and provides an explanation of the content of the provisions in the model Work Health and Safety Regulations (24 January 2012) [Explanatory statement for the model Work Health and Safety Regulations](#)

Practice notes

New Biannual Data Analysis Report released

The latest OFSC Biannual Data Analysis Report is now available online. The report provides an overview and analysis of data collected from companies accredited under the Australian Government Building and Construction OHS Accreditation Scheme, for the period July to December 2010. The report is available [here](#).

QLD: Building Boost extended for three months

Following industry demand and significant momentum in applications in recent weeks, the Government will extend the \$10,000 Queensland Building boost for a further three months (13 January 2012) [More...](#)

QLD: Public Warning – Cleaner Energy Pty Ltd and New Energy PV Pty Ltd (or NEPV Solar)

This is a warning by the General Manager of the BSA to the public under section 18(2)(f) of the Queensland Building Services Authority Act 1991 regarding two solar panel installation companies and a number of people associated with these companies (30 January 2012) [More...](#)

QLD: Building site audit in SEQ flood-affected areas

BSA will conduct a fourth flood recovery audit in flood-affected areas of Brisbane and Ipswich on 6 and 7 February, with approximately 1,800 sites audited by the BSA in conjunction with Queensland Reconstruction Authority (QRA) (19 January 2012) [More...](#)

VIC: Safety needed around rainwater tanks

Victorians are being urged to be vigilant about the maintenance of rainwater tank stands as many tanks are now at full capacity but not in use because of the lifting of water restrictions. For further information on water tank installation, visit www.pic.vic.gov.au. For advice on building regulations visit www.buildingcommission.com.au (January 2012) [Safety needed around rainwater tanks \(96KB\)](#)

NSW: Feedback required for mine expansions in NSW

31-Jan-2012 [Additional consultation on proposed sandstone quarry near Lismore](#)

31-Jan-2012 [Additional opportunity to comment on coal mine expansion in western NSW](#)

24-Jan-2012 [Feedback sought on proposed mine expansion in north-western NSW](#)

24-Jan-2012 [Feedback sought on proposed mine expansion on Central Coast](#)

EPBC Act Public notices - Public Notifications and Referrals – Projects

2012/6261 [PTTEP Australasia \(Ashmore Cartier\) Pty Ltd/Exploration \(mineral, oil and gas - marine\)/Timor Sea, 600 Km West of Darwin /Commonwealth Marine/Sandalford 3D Seismic Survey Invitation for Public Comment on Referral 20 Jan 2012](#)

2012/6263 [Whitehaven Coal Limited/Mining/25km north of Gunnedah/NSW/Vickery Coal Project Invitation for Public Comment on Referral 20 Jan 2012](#)

2011/6069 [Fitzroy Terminal Project Pty Ltd/Transport - water/Port Alma, approx 50km south-east of Rockhampton/QLD/Fitzroy Terminal Project Invitation for Public Comment on Assessment Process Notice: Draft EIS guidelines 30 Jan 2012](#)

2012/6266 [John Holland Pty Ltd /Water management and use/4.5km southeast of Birregurra Town Centre/VIC/Refurbishment of a section of the Wurdee Buloc Inlet Channel Invitation for Public Comment on Referral 30 Jan 2012](#)

2011/5979 [Port of Townsville Limited/Transport - water/Cleveland Bay approx 3km east of Townsville/QLD/Port of Townsville - Port Expansion Project Invitation for Public Comment on Assessment Process Notice: Draft EIS guidelines 30 Jan 2012](#)

2012/6265 [TRUenergy/Energy generation and supply \(non-renewable\)/863 Gladstone -Mt Larcom Road, Gladstone /QLD/Aldoga Power Station Invitation for Public Comment on Referral 24 Jan 2012](#)

2012/6262 [IMC Mining Group Pty Ltd /Mining/22km west of Emerald /QLD/Taraborah Coal Project Invitation for Public Comment on Referral 20 Jan 2012](#)

2012/6260 [BMAlliance Coal Operations Pty Limited /Mining/Bowen Basin, 22km south of Moranbah/QLD/7 North Dam Extension Project - Peak Downs Mine Invitation for Public Comment on Referral 19 Jan 2012](#)

2012/6258 [Gold Coast City Council /Tourism and recreation/1983 Springbrook Road /QLD/Springbrook Conservation Area and Day Use Facilities Invitation for Public Comment on Referral 19 Jan 2012](#)

2012/6257 [SunWater Ltd/Water management and use/Goonyella Road /QLD/Moranbah to Alpha Pipeline Project Invitation for Public Comment on Referral 18 Jan 2012](#)

2010/5711 [Whitsunday Regional Council/Waste management \(sewerage\)/1km north of Proserpine township/QLD/Proserpine Waste Water Treatment Facility upgrade Notification of Publication of Preliminary Documentation: Invitation to comment 18 Jan 2012](#)

2012/6252 [TRUenergy/Energy generation and supply \(non-renewable\)/Swanbank Coal Road, Ipswich/QLD/Blackstone Power Station](#) Invitation for Public Comment on Referral 16 Jan 2012

2011/6177 [Svitzer Australia/Transport - water/Abbott Point Coal Terminal /QLD/Addition Cyclone Mooring within the Port Limits](#) Decision whether action needs approval/Approval Not Required - particular manner 15 Jan 2012

2012/6266 [John Holland Pty Ltd /Water management and use/4.5km southeast of Birregurra Town Centre/VIC/Refurbishment of a section of the Wurdee Buloc Inlet Channel](#) Invitation for Public Comment on Referral 30 Jan 2012

2012/6264 [Roads Corporation t/a VicRoads /Transport - land/Between Mitta Mitta and Omeo /VIC/Upgrade and seal existing unsealed sections of the Omeo Highway](#) Invitation for Public Comment on Referral 23 Jan 2012

2012/6256 [Trident Energy Limited/Exploration \(mineral, oil and gas - marine\)/Exploration Permit VIC/P62 18 km off coast of sthn Victoria/Commonwealth Marine/3D Marine Seismic Survey - Torquay Sub-basin](#) Invitation for Public Comment on Referral 18 Jan 2012

2011/6217 [Nexus Energy/Exploration \(mineral, oil and gas - marine\)/38km southeast of Lakes Entrance /Commonwealth Marine/Longtom South -1 Exploration Drilling](#) Decision whether action needs approval/Approval Not Required - particular manner 15 Jan 2012

Legislation

Commonwealth

Legislation commencing 01 January 2012

Work Health and Safety Act 2011 (Act 137/2011)

This Act commences on 1 January 2012.

Coal Mining Industry (Long Service Leave) Legislation Amendment Act 2011 (Act 142/2011)

Schedules 1, 2, 3, Schedule 4, Item 2 and Schedule 5

Work Health and Safety (Transitional and Consequential Provisions) Act 2011 (Act 146/2011)

Schedules 1 to 4 - At the same time as the Work Health and Safety Act 2011 commences.

1/01/2012 Sections 4 and 5 - At the same time as the Work Health and Safety Act 2011 commences.

Coal Mining Industry (Long Service Leave Funding) Amendment Regulations 2011 (No. 1) (SLI 243/2011)

These Regulations commence on 1 January 2012.

Work Health and Safety Regulations 2011 (SLI 262/2011)

Remainder **1/01/2013** Regulation 164 commences on 1 January 2013.

NSW

Regulations

Work Health and Safety Amendment (Savings) Regulation 2012 (SR 9/2012)

Amends Work Health and Safety Regulation 2011 - Provides that section 155 (Powers of regulator to obtain information) of the Work Health and Safety Act 2011 extends to the exercise of powers in connection with the Occupational Health and Safety Act 2000 or a regulation under that Act in relation to offences committed against the Act. Commencement 13/01/2012

[Work Health and Safety Amendment \(Savings\) Regulation 2012](#) (2012-9) — published LW 13 January 2012

Queensland

No 4 [Proclamation commencing certain provisions](#) of the Civil Proceedings Act 2011 - 27 January 2012

No 9 [Local Government \(Operations\) Amendment Regulation \(No. 1\) 2012](#) - 27 January 2012

Local Government Act 2009

No 12 [Mineral Resources Amendment Regulation \(No. 1\) 2012](#) - 27 January 2012

Mineral Resources Act 1989

Current reprints

Building Fire Safety Regulation 2008 No.2C

Coal Mining Safety and Health Regulation 2001 No.3H

Mineral Resources Regulation 2003 No.7G

Mining and Quarrying Safety and Health Act 1999 No.4A

Petroleum and Gas (Production and Safety) Act 2004 No.5B

Petroleum and Gas (Production and Safety) Regulation 2004 No.5C

Petroleum (Submerged Lands) Act 1982 No.3E

Queensland Building Services Authority Regulation 2003 No.4B

Queensland Civil and Administrative Tribunal Rules 2009 No.1C

State Penalties Enforcement Regulation 2000 No.11H

Transport Infrastructure Act 1994 No.13D

Victoria

Statutory Rules

No. 1: Victorian Civil and Administrative Tribunal (Major Cases List Amendment)

Rules 2012

Date of Making: 23/01/2012 Commencement: 25/01/2012: rule 3

Not yet in operation: N/A Sunset Date: 23/01/2022

No. 2: Magistrates' Court General Civil Procedure (Amendment No. 3) Rules 2012

Date of Making: 23/01/2012 Commencement: 01/02/2012: Rule 3

Not yet in operation: N/A Sunset Date: 23/01/2022

Law Today

Subordinate Legislation (Survey Coordination (Surveys) Regulations 1992 - Extension of Operation) Regulations 2002 No 3 Version 002 22/01/2012

Victorian Civil and Administrative Tribunal Rules 2008 No 65 Version 007 25/01/2012

Victorian legislation online: <http://www.ocpc.vic.gov.au/CA2572B3001B894B/pages/publications-victorian-legislation-update>

Cases

Castel Electronics Pty Ltd v TCL Air Conditioner (Zhongshan) Co Ltd [2012] FCA21

ARBITRATION – International Arbitration - Jurisdiction of Federal Court to enforce non-foreign Model Law awards under the International Arbitration Act 1974 (Cth) – Effect of s 39B(1A)(c) of the Judiciary Act 1903 (Cth) – Meaning of “matter” and “arising under”
STATUTORY INTERPRETATION – Principles on retrospectivity [More...](#)

Rail Corporation of NSW v Nebax Constructions [2012] NSWSC 6

ADMINISTRATIVE LAW - Building and Construction Industry Security of Payment Act 1999 (NSW) - questions of administrative law - where adjudicator materially denied parties natural justice by determining his jurisdiction in a way for which neither party had contended and without giving them the opportunity to be heard - whether adjudicator's determination void.

BUILDING AND CONSTRUCTION - Building and Construction Industry Security of Payment Act 1999 (NSW) - whether s 7(1) authorizes more than one adjudication application to be made at the one time for the one payment claim.

Building and Construction Industry Security of Payment Act 1999 (NSW); Civil Procedure Act 2005 (NSW) [More...](#)

Delfakis v Kassem (Home Building) [2011] NSWCTTT 561

Principal relief - In application HB 10/31557, Shadi Kassem is to pay Bill Delfakis and Angela Delfakis \$138,273.03 immediately.

The application alleged that building work had not been completed in a satisfactory manner and that there was incomplete and defective building work, which was unsafe [More...](#)

Cordner v A Murray & Sons Pty Ltd (Home Building) [2011] NSWCTTT 598

For compensation in respect of allegedly defective work arising from a contract for residential building work and for damages for distress and inconvenience.

The respondent is to pay the applicant the sum of \$6,708.00 [More...](#)

Mare v Your Suburban Sanctuary Landscaping & Maintenance (Home Building) [2011] NSWCTTT 596

For compensation for the cost of rectification of home building work allegedly carried out by the respondent [More...](#)

Peet v Bryce Kernahan Steel Fabrications (Home Building) [2011] NSWCTTT 595

Whether the respondent has failed to complete the contract for home building work.

Whether the respondent has carried out the relevant work in accordance with the Home Building Act 1989 - extent to which the work contracted has either not been done or is defective, and accordingly the liability of the respondent for the claimed compensation or requirement to repair and rectify [More...](#)

Richens Constructions v Rozyn (Home Building) [2011] NSWCTTT 593

Application for moneys due under contract with cross claim for compensation for defective building works - Home Building Act 1989; Consumer Claims Act 1998 [More...](#)

Field v CJD Builders (Home Building) [2011] NSWCTTT 591

Application for damages, cost of rectification and completion of works and for reimbursement of monies already paid together with costs.

Orders for costs and/or indemnity costs [More...](#)

Olson v Rob Tate Family Homes Pty Ltd (Home building) [2011] NSWCTTT 587

Alleged breaches of building contract. Residential building work not in accordance with contract. Residential building work not performed in a proper and workmanlike manner.

Home Building Act 1989 (the “HB Act”) section 18B [More...](#)

Hains v Ron Oneill Building Services (Home Building) [2011] NSWCTTT 581

Claim for damages arising out of alleged defective work; Costs.

The respondent is to pay the applicant \$116,507.00 - cost price building contract [More...](#)

Marsh v Walker Pearse Pty Ltd & Ors (Home Building) [2011] NSWCTTT 580

Dwelling, residential building work, mistake -payment of compensation arising from the alleged breach of a contact for the supply of a manufactured home

[More...](#)

Owners Corporation SP 71987 v Charara Building Company Pty Ltd & Ors (Home Building) [2011] NSWCTTT 572

Jurisdiction – whether developers served and, if so, when – whether late service constitutes late commencement of proceedings [More...](#)

Bell v Boral Resources Pty Ltd & Ors (Home Building) [2011] NSWCTTT 570

Statutory warranties, compensation, defective work.

The application is dismissed because having considered the material placed before it the Tribunal is not satisfied (at the civil standard of proof) that the grounds required to make the orders sought have been established. [More...](#)

Scott v Dimov (Home Building) [2011] NSWCTTT 565

Application by homeowner for order for compensation allegedly owed for breach of statutory warranty in respect of residential building works.

Cross claim by builder for payment for variations and balance of contract price [More...](#)

G & J Ruddell Pty Ltd v Meloni [2011] QCAT 694

Building dispute – defective work of subcontractor [More...](#)

Queensland Building Services Authority v Sandy Straits Plumbing Pty Ltd [2011] QCAT 686

EXCEEDING ANNUAL ALLOWABLE TURNOVER – where Allowable Annual Turnover significantly exceeded – where respondent failed to notify the Building Services Authority Queensland Building Services Authority v Built (Qld) Pty Ltd [2005] CCT LO18-05 Queensland Building Services Authority v Peninsula Construction Group (Qld) Pty Ltd [2009] QCAT 26 Queensland Building Services Authority v C-view Windows Pty Ltd [2011] QCAT 211 Queensland Building Services Authority v Classic Brick & Block Pty Ltd [2007] QCAT 130 [More...](#)

Burton and Anor v Payne [2011] QCAT 680

BUILDING – JURISDICTION – where parties entered domestic building contract for commercial building project – where major commercial building dispute – whether contract constituted consent to jurisdiction – whether consent contained acknowledgement that consent can not be withdrawn Peter & Nicole Atcheson v Gregory Robert Scacheri and Geoff Skehan and Geoff Skehan Constructions Pty Ltd [2006] CCT B215-04 [More...](#)

Combined Building Services Pty Ltd v Springall and Anor [2011] QCAT 674

Whether works had reached practical completion – breach of contract – calculation of money owing under the contract Bellgrove v Eldridge (1954) 90 CLR 613 cited Wheeler & Anor v Ecroplot Pty Ltd [2010] NSWCA 61 cited [More...](#)

Vandenhoven v Queensland Building Services Authority [2011] QCAT 673

BUILDING DISPUTE – BSA Statutory Insurance Scheme – considerable delay in complaint to the BSA – waiver by BSA of time limits under insurance scheme – prejudice – appropriate scope to the works – judicial notice [More...](#)

Greg Black Constructions Pty Ltd v Brodie and Anor [2011] QCAT 671

PROCEDURE – SECURITY FOR COSTS – where applicant is a company with paid up capital of \$1 – where parties have not yet attended compulsory conference – where a number of early applications – whether security for costs should be ordered Lyons v Dreamstarters Pty Ltd [2011] QCATA 142 F.K. Gardner & Sons Pty Ltd v Grant [2010] QCAT 585 [More...](#)

Zurich Australian Insurance Ltd v Insurserv Australia Pty Limited and Anor [2011] QCAT 663

PROPERTY AGENT AND MOTOR DEALER ACT – claim against fund – whether a commercial agent – meaning of ‘debts’ – whether liquidated sums only – natural and ordinary meaning preferred – failing to account in relation to monies recovered – whether relevant person – receiver appointed [More...](#)

David Hambleton as joint and several Liquidator of Sky 5 Pty Ltd and Anor v Tuxford [2011] QCAT 659

PROPERTY AGENTS AND MOTOR DEALERS – Claim against the fund by liquidator – whether an event which caused financial loss – whether neglect or default of claimant reduces amount payable – joinder of purchaser who suffered loss – extension of time [More...](#)

Nielsen v Runaway Bay Village Pty Ltd [2011] QCAT 658

RETIREMENT VILLAGES – where scheme offered two types of accommodation, independent living units and serviced apartments – whether serviced apartments were charged an extra fee – where a resident not using the services sought not to pay the extra charge – definitions of general service charges and personal service charges considered – where a third category of charges found Nolan v Kawana Island Retirement Village Pty Ltd [2009] QCCTRV 6 Minister for Aboriginal Affairs v Peko-Wallsend Ltd (1985) 162 CLR 24 [More...](#)

Elders Insurance Limited v Insurserv Australia Pty Limited and Anor [2011] QCAT 656

PROPERTY AGENT AND MOTOR DEALER ACT – claim against fund – whether a commercial agent – meaning of ‘debts’ – whether liquidated sums only – natural and ordinary meaning preferred – failing to account in relation to monies recovered – whether relevant person – receiver appointed [More...](#)

Khadka v Chai and Anor [2011] QCAT 654

RETAIL SHOP LEASE – JURISDICTION – COSTS – whether retail shop lease ended – whether proceedings were misconceived – application for costs – interests of justice CPT Custodian Pty Ltd v Ironbark Hills Pty Ltd and Others [2011] QDC 4 M & J Gray Investments Pty Ltd v AMP Pacific Fair Pty Ltd & Ors [2010] QCAT 454 Ralacom Pty Ltd v Body Corporate for Paradise Island Apartments (No 2) [2010] QCAT 412 [More...](#)

Luke Sweeney t/as Luke Sweeney Constructions v Sarah Magnay [2011] QCAT 648

Domestic Building Contract – minor works contract – renovation – incorrect level of slab – scope of works – defects – variation Notley, BI v QBSA and Harvey [2005] QCCTB 100 Gary Norwood Homes Pty Ltd v QBSA (unreported, Bne DC, 20/6/97) Collyer v QBSA [1998] QBT 71 Ross v Rangel [2004] QCCTB 98 (28 May 2004) Rukat v Rukat [1975] 1 All ER 343 O'Brien (FG) UD v Elliott [1965] NSW 1437 LIDA Build Pty Ltd v Miller (No 2) [2010] QCAT 431 Black, G. D Toowoomba Resort Pty Ltd [2007] QCCTB 122 (3 September 2007) [More...](#)

Tibor Pollack Construction Co Pty Ltd v Oakleigh Development Pty Ltd (Domestic Building) [2012] VCAT 71

Domestic Building Contract – proposed termination by owner – application by builder to restrain termination – relevant considerations – no real question to be tried – balance of convenience – damages adequate remedy [More...](#)

Brown Bros Cabinetworks Pty Ltd v Graham (Civil Claims) [2012] VCAT 70

Cooling off provisions under Domestic Building Contracts Act 1995 (Vic) (s 34), application of s 34 to contract for plans and specifications and kitchen cabinets, signed notice by email under Electronic Transactions (Victoria) Act 2000 (Vic), misleading and deceptive conduct, restitution and quantum meruit [More...](#)

Arapoglou tas Tech-Line Homes v Shkolyar (Domestic Building) [2012] VCAT 46

Section 112 of the Victorian Civil and Administrative Tribunal Act 1998 offer – outcome more favourable than offer made - how costs should be assessed – whether indemnity costs should be ordered. [More...](#)

Rogerson v Giorgio trading as Quality Quick (Civil Claims) [2012] VCAT 69

Painting works, breach of contract, defective and incomplete works, measure of damages [More...](#)

Redline Contracting Pty Ltd v MCC Mining (Western Australia) Pty Ltd (No 2) [2012] FCA 1

CONTRACT - construction contract - unconditional undertaking procured by the contractor in favour of the principal - each party purported to terminate the construction contract - the principal claimed damages from the contractor - the contractor claimed an interlocutory injunction to preclude the principal from resorting to the unconditional undertaking - whether contractor demonstrated a prima facie case that the principal is precluded from resorting to the security. Trade Practices Act 1974 (Cth) s 51AA; Australian Consumer Law s 20 [More...](#)

Australian Building and Construction Commissioner v Construction, Forestry, Mining and Energy Union (No 2) [2011] FCA 1518

INDUSTRIAL LAW - penalty hearing - where contravention of Building and Construction Industry Improvement Act 2005 (Cth) admitted by the respondents - where penalty agreed between the parties - appropriateness of agreed penalty. Building and Construction Industry Improvement Act 2005 (Cth) s 36, s 38, s 44, s 48, s 69 [More...](#)

Fair Work Ombudsman v Maclean Bay Pty Ltd [2012] FCA 10

INDUSTRIAL LAW – sham contracting – compensation – breach of s 902(1) of the Workplace Relations Act 1996 (Cth) by a company – accessorial liability of a company director – liability of company for acts of an employee under s 826(1) of the Workplace Relations Act 1996 (Cth) – dismissal of an employee for a prohibited reason under s 792 – dismissal of casuals employed on a regular and systematic basis – meaning of “representation” in s 900(1) of the Workplace Relations Act 1996 (Cth) – breach of a requirement in a NAPSA to pay unused annual leave entitlements – breach of a requirement in a NAPSA to pay superannuation [More...](#)

AW Ellis Engineering Pty Ltd v Malago Pty Ltd [2011] NSWSC 1623

PRACTICE AND PROCEDURE - defendants' application for security of costs - where there are individuals who are joined as plaintiffs - undertaking given by the individual plaintiffs that should the plaintiffs be unsuccessful in the proceedings, they will not take any point that they are not liable with the corporate plaintiffs for any costs orders made against the plaintiffs - where the corporate plaintiffs are trustees with a right of indemnity out of trust assets to meet a costs order - no order for security should be made [More...](#)

Owners Strata Plan 61172 v Stratabuild Pty Ltd (No 2) [2011] NSWSC 1568

COSTS - application for indemnity certificate pursuant to s 6 of the Sutors' Fund Act 1951 - appeal from adjudicator's determination under Building and Construction Industry Security of Payment Act 1999 - whether determination by adjudicator a decision of a "court" - held not a "court" for the purpose of s 6 - bankruptcy of applicant would also affect grant of certificate [More...](#)

Turjman v Stonewall Hotel Pty LtdButler v Stonewall Hotel Pty LtdMcKenzie v Stonewall Hotel Pty LtdTati v Stonewall Hotel Pty Ltd [2011] NSWCA 392

NEGLIGENCE - ceiling collapse in hotel - plaintiffs injured - ceiling not properly installed in 1993 - licence as place of public entertainment renewed in 2002 - structural engineer's certificate that premises structurally sound and capable of withstanding loadings arising from its use - owner of hotel failed to inform structural engineer of activities (dancing) at hotel - owner of hotel breached duty of care requiring that it take reasonable care to avoid foreseeable risk of injury to plaintiffs - but found at trial that factual causation not established between breach and injury to plaintiffs - whether leave to argue on appeal for breach of implied warranty that premises as safe for their purpose as reasonable care and skill could make them - facts not fully found - otherwise not in interests of justice - leave refused - whether finding as to factual causation erroneous - what structural engineer would have done if informed of the dancing - analysis of experts' evidence - (by majority) finding not erroneous. [More...](#)

Cardinal Project Services Pty Ltd v Hanave Pty Ltd [2011] NSWCA 399 [READ HEADNOTE]

BUILDING AND CONSTRUCTION - Building and Construction Industry Security of Payment Act 1999 - whether for the purposes of s 26 an adjudicator who issues only a purported but void determination fails to determine an adjudication application within the time allowed by s 21(3) - whether the five business day time period under s 26 for lodgement of a new adjudication application commences to run from the expiry of the period for issue of a valid determination or from the date that a purported determination is declared void STATUTORY INTERPRETATION - Building and Construction Industry Security of Payment Act 1999 s 26 - whether for the purposes of s 26 an adjudicator who issues only a void determination fails to determine an adjudication application - effect of an order quashing a decision upon the ground of denial of procedural fairness - Minister for Immigration and Multicultural Affairs v Bhardwaj [2002] HCA 11; 209 CLR 597 referred to [More...](#)

Cavalier Homes Brisbane Pty Ltd v Queensland Building Services Authority [2012] QCAT 006

ADMINISTRATIVE REVIEW MATTERS – Extension of time to file review application – Review of decision of Queensland Building Services Authority – Application for extension of time to file dismissed Hunter Valley Developments Pty Ltd v The Honourable Barry Cohen, Minister for Home Affairs (1984) 3 FCR 344 McClintock v QBSA [2010] QCAT 340 Gallagher v QBSA [2010] QCAT 383 Choice Homes Queensland Pty Ltd v QBSA [2000] QBT 121 [More...](#)

Pole v Hicks [2012] QCAT 005

BUILDING DISPUTE – where building works not completed and done so poorly that must be demolished BUILDING DISPUTE – where claim for restitution – where total failure of consideration BUILDING DISPUTE – costs where party successful in claim made Pavey v Matthews Pty Ltd v Paul (1987) 162 CLR 221 ANZ Banking Group Limited v Westpac Banking Corp (1988) 164 CLR 662 [More...](#)

Queensland Building Services Authority v Battaglia Industries Pty Ltd [2012] QCAT 003

Licensee exceeding allowable annual turnover without authority of Board – protective purpose of statutory limit – appropriate sanction [More...](#)

Queensland Building Services Authority v Smith [2012] QCAT 001

Building contractor – regulated contract – failure to ensure that contract is wholly in writing – disciplinary sanction [More...](#)

Queensland Building Services Authority v Blumel [2011] QCAT 643

BUILDER – DISCIPLINARY PROCEEDINGS – where failure to provide contract in writing – where early admission that grounds for disciplinary action exist – where parties provided joint submissions as to penalty [More...](#)

Amaca Pty Ltd (under NSW Administered Winding Up) v King [2011] VSCA 447

NEGLIGENCE – Occupier's liability – Asbestos cement sheet manufacturing plant – Duty of care – Known risk of asbestos dust causing mesothelioma – Whether magnitude of risk sufficient to require occupier to take reasonable care to protect occasional visitor from risk – Jury directions – Whether judge erred in directions as to existence and scope of relevant duty – Breach – Causation – Distinction between risk and causation – Motion for judgment non obstante veredicto – Whether judge erred in dismissing application – Whether sufficient evidence of causation to support verdict – Damages – Pain and suffering – Whether amount awarded by jury excessive – Awards previously made in like cases – Appeal dismissed. [More...](#)

Fiorelli Properties Pty Ltd v Professional Fencemakers Pty Ltd & Anor [2011] VSC 661

CONTRACT – Contract for construction and installation of fence – Repudiation by purchaser – Whether entitled to repayment of deposit less damages incurred by vendor – Whether relief against forfeiture in equity – Appeal from Magistrates' Court – Whether competent to raise question of law not raised in Magistrates' Court. [More...](#)

Spiteri & Ors v Stonehenge Homes & Associates Pty Ltd (Domestic Building) [2011] VCAT 2383

Costs orders - In both sets of proceedings, Mr Laird points to the fact that Stonehenge Homes & Associates Pty Ltd, the respondent in the primary proceedings, has been entirely unsuccessful in the arguments it has advanced. He argues the proceedings were made unnecessarily complicated by the unsuccessful joinder of Civil Test Pty Ltd [More...](#)

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