

# Construction Contract Issues

## Liquidated Damages and Extensions of Time

**Auckland: 2 April 2019**  
**Christchurch 9 April 2019**  
**Brisbane, 7 May 2019**

*The Industry is overstretched. Consultants and the Building Consent Authorities are over-loaded and disputes are on the increase. Some of the Industry's biggest players have lost the solvency battle and yet the Industry continues to make the same costly mistakes. Delay, disruption, variations, contractual and legal issues remain the biggest cause of costly disputes in construction. At the heart of these are poor commercial procedures and the lack of contractual knowledge of the project Team. Raine Selles and Steven Evans will take you through the necessary steps to be taken when confronted with delay and disruption on a construction project in order that costly disputes and liquidated damages can be avoided.*

### PROGRAMME

#### Morning Session

**Liquidated Damages and Extensions of Time.** This briefing looks at the rights and remedies of the parties in relation to the causes of delay and disruption including a review of the contractual rights of the parties and the linking (and uncoupling) of the different rights and obligations including :

- Extension of Time clauses under NZS3910, NZS3915 and NZIA Forms of Contract
- Condition Precedent Clauses in Construction Contracts
- Challenging Liquidated Damages
- Critical and Non-Critical Delay
- The law on concurrent delay
- Challenging the Engineer's Decision
- The requirement for Notices
- The Importance of Records

#### Afternoon Session

**Delay and Disruption.** This briefing will guide you through the steps of making a claim, the importance of having an up-to-date programme, and a number of fundamental issues which need to be addressed including:

- Concurrent Delay – what happens to time and money
- Time Impact Analysis v Retrospective Delay Analysis
- Working Day Rate v Actual Cost
- How to measure disruption – the various theories including “measured mile”, loss of productivity values etc
- What is prelim thickening? How to present the claim
- Types of claim, how to present and delay and disruption claim
- The Society of Construction Law Delay and Disruption Protocol

## **PRESENTERS**

### ***Raine Selles MSc. Construction Law & Arb., LLB(Hons), FQSi, MCI Arb., FFAVE, ARICS, AMINZ***

Raine heads the NZ office of CMC Asia Pacific and has more than 30 years' experience within the construction industry in both project/commercial management and dispute resolution. She has lectured nationally and internationally on most Forms of Contract including NEC and FIDIC, and NZS3910 extensively throughout NZ. She is a seasoned adjudicator, mediator and Expert Witness and is a member of New Zealand's only Construction Disputes Review Board. Her experience includes the management and delivery of Major Construction Projects, as well as the production, negotiation and settlement of contractual claims. She has achieved an enviable success rate in settling large complex claims as well as smaller claims on behalf of various contractors and subcontractors.

Raine has produced, delivered and trained commercial staff in commercial procedures on major projects worldwide. Being dual qualified in law and quantity surveying she understands the complexities of construction within the legal minefield. She spent many years site based on large commercial, infrastructure and civils projects and was regularly engaged on complex issues related to delay and quantum. She has acted as Expert Witness on several arbitration and TCC cases and provides Expert Determinations on Engineers Decisions throughout NZ. Raine has also prepared Expert Witness Reports including Critical Delay Analysis, Quantum, Defects and the Price to be paid for Variations is experienced with High Court/TCC Litigation. She has written several papers on concurrent delay, constructive acceleration, time at large and other specialist subjects.

Raine specialises in troubleshooting projects in difficulty and providing constructive solutions to bring projects back on time and budget. Being involved in a dispute early, she is able to assist the team resolve their issues for the benefit of the project and maintain good relationships for the future. She has a wealth of experience in all forms of dispute resolution starting with the preparation and negotiation of claims for extension of time and loss and expense, through to the preparation of referral and defence documentation in adjudication, litigation and arbitration proceedings. Since setting up CMC Asia Pacific 7 years ago, she has helped settle more than 300 disputes and has achieved settlements of more than \$500m in New Zealand and Australia.

### ***Steven C Evans BSc(Hons) LLB(Hons) FCI Arb FAMINZ(Arb) FFAVE(Master) FRICS FCInstCES FCI OB PRI***

Steven heads the Brisbane office of CMC Asia Pacific and is an accomplished construction professional with almost 30 years' experience in the industry gained initially as a quantity surveyor for a major multinational contractor, and thereafter in senior quantity surveying and commercial management positions.

Since 2003, he has specialised in contract law and now combines his extensive practical experience with legal qualifications to provide high quality, realistic and cost effective dispute resolution, commercial management and training services to a variety of clients internationally.

That practical experience encompasses a wide range of market sectors, construction types and methods, covering disciplines such as quantity surveying, commercial management, project management, claim preparation and defence, adjudication, arbitration, mediation, contract drafting and vetting and training. Steven is an Adjudicator and Arbitrator on the AMINZ panel and works with Raine on disputes in both New Zealand, UK and Australia.

Steven is a Fellow of the Chartered Institute of Arbitrators, a Fellow (Arb) of the Arbitrators' and Mediators' Institute of New Zealand, a Fellow (Master) of the Association of Forensic and Advanced Valuation Executives (FAVE), a Fellow of the Royal Institution of Chartered Surveyors, a Fellow of the Chartered Institution of Civil Engineering Surveyors (and country representative for Australia) and a Fellow of the Chartered Institute of Building. Steven is also a member of the Society of Construction Law and a Professional Member of the Resolution Institute in Australia.

## Registration Form

# Construction Contract Issues: Liquidated Damages and Extensions of Time

<b>3 easy ways to register:</b>	<b>EMAIL</b>	<a href="mailto:raine.selles@cmcasiapacific.com">raine.selles@cmcasiapacific.com</a>
	<b>POST</b>	Complete this form and post to CMC Asia Pacific, L26 PWC Tower,188 Quay Street Auckland
	<b>PHONE</b>	Call us on 09 363 3749

Registration 8.30am for prompt start at 9am, completing at 5pm. Registration fee includes refreshments, lunch and material to take away.

**Registration \$895.00 plus GST Early Bird \$795.00 plus GST before 15 March 2019**

Payment please to CMC Asia Pacific Account No. **ASB 12 3075 0264207 50**

**Sorry No Credit Card facilities**

Please register me for the Seminar in:

- Auckland 2 April
- Christchurch 9 April
- Brisbane 7 May

**Name:** .....

**Tel:** ..... **Fax:** ..... **Mobile:** .....

**Email:** .....

**Postal Address:** .....

..... **Postcode** .....

- **Minimum and maximum numbers** apply. Registrations are accepted strictly on a first come / first served basis.
- **Further information**, please phone **09 363 3749** or email [nz@cmcasiapacific.com](mailto:nz@cmcasiapacific.com)

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