

The Streetwise Subbie – Providing the Tools for Success

Subcontractors remain both under-skilled and under-valued in today's construction market and regularly fall foul of main contractors relying on your lack of commercial training and knowledge of Statutory Instruments such as the Construction Contracts Act 2002. CMC are therefore providing Subcontractors across all Trades with training to upskill you and provide you with the tools to hold your own, get paid on time and understand your rights and obligations. Many of you are working with no contract at all and some of you are carrying out work on the basis of a phone call! We have split the training into six half day training sessions to fit in with busy schedules. Each session will be approximately 6 hours long with breaks and refreshments provided. Join Andy, Steve and Raine on the following dates to upskill yourself and make 2021 a year of success.

COURSE PROGRAMME - AUCKLAND

Module 1 – Getting Paid – Wednesday 10th February 2021

This session provides you with the tools for getting paid and on time. It covers the following:

- Understanding your obligations under the Construction Contracts Act 2002
- What is needed in a payment claim
- What is needed in a payment schedule
- How to deal with variations, contra charges and other set-offs
- What to do when you have not been paid or provided with a payment schedule
- The right to be paid and remedies such as Statutory Demands and Adjudication

Learning Outcomes – Understand the Payment Process, what to do in case of non-payment and the remedies for non-payment

Module 2 – Understanding the Contract – Wednesday 17th February 2021

This session provides you with training on the basic law of contract, formation of contract and rights and obligations. It covers the following:

- Formation of Contracts and Contract Law
- Drafting simple subcontract
- How the subcontract fits in with the Main Contract
- Rights and obligations between subcontracts and head contracts
- Current Law, Remedies
- Clause by clause review of rights and obligations under NZS3910:2013 and Subcontracts such as SA-2017

Learning Outcomes – Understand the Principles of Contract Law, why contracts are necessary, how to interpret contract clauses and rights and obligations of each party

Module 3 – Tendering and Quoting for Work – Wednesday 24th February 2021

This session provides you with training and understanding of what exactly you are pricing. Tender documents often lack certain essential information such as Special Conditions, all drawings and specifications. Often Subcontractors are provided with these documents with the contract to sign, hence not including them in the price. This module covers:

- Understanding obligations on pricing what you have been given, clarifying and requesting further information
- How to deal with unwarranted information provided at tender
- What is deemed to be included in your price
- Offers, Counter-Offers and Final Agreement
- Acceptance of tender, rights and obligations and risks
- Setting dates for acceptance of tender and performance of the works
- Staying updated with programme
- What happens when you are instructed to start works after date anticipated

Learning Outcomes – An understanding of the tendering process, avoid pitfalls of not pricing certain elements and clarifying interpretation of information.

Module 4 – The Contract Programme – Wednesday 3rd March 2021

This module deals with rights and obligations around programme. It will cover:

- The Tender programme
- The Contract programme
- Obligations to update the contract programme
- The significance of the tender and contract programme, float, time risk allowances, dependencies and critical tasks
- Getting the programme right at the outset, what is a work bank structure and more
- Who owns the float
- Critical and Non-Critical Delay, concurrent delay
- Retrospective Delay Analysis, Time Impact Analysis, Heat Maps and other methods

Learning Outcomes – An understanding of the importance of the contract programme, preparing, updates, critical path, links, float and RISK.

Module 5 – Time – Wednesday 10th March 2021

This module deals with rights and obligations regarding time for the works to be performed. It will cover:

- Clauses of the contract/subcontract which deal with time
- Obligations when there is no contract or programme
- Liquidated damages and general damages
- Extension of Time and Notice provisions
- What is needed for a successful EOT claim
- Time Bars and Condition Precedent Clauses
- Time “at large”, the Prevention Principle
- Current NZ and International Case law

Learning Outcomes – Understanding obligations regarding performance and time, preparation of Notices of Delay and Claims for Extensions of Time and the risks associated with delay - liquidated and general damages

Module 6 – Variations – Getting them paid – Wednesday 17th March 2021

This module deals with rights and obligations in relation to variations and includes:

- What is a variation?
- Variations may not have cost impact
- What are the rules of valuation, evidence of cost
- The risks of accepting variations paid “on account”
- Timely and contractual notification of variations
- How to get variations paid in a timely manner
- Variations and the Final Account

Learning Outcomes – an understanding of the variation process, what is required to justify price and how to agree variations expeditiously

PRESENTERS

Raine Selles MSc. Construction Law & Arb., LLB(Hons), FQSi, MCI Arb., FFAVE, MNZIOB, MNZACE

Raine heads the NZ office of CMC Asia Pacific and as 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 member of the Construction Strategy Group, works with the accord and sits on the NZS3910:2013 review panel. Her experience includes the production of contract documents, procurement strategy, 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.

She has produced, delivered and trained commercial staff in commercial procedures on major projects. 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, civils and commercial 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 and 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 5 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 (AFAVE), 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.

Andy Alagappan BE(Hons) Mech Eng., MDes., Expert

Andy has circa 11 years of experience as a planner in diverse industries such as Construction, Oil & Gas, Iron / Steel Mfg & Baggage Handling Systems. Andy is data and process driven, a strategic thinker with strong leadership skills and good Commercial Acumen.

Andy's current position with Fletcher construction, involves being the lead planner for complex mega projects (>\$400M) , such as Auckland International Airport Phase 3, Commercial Bay, Auckland Central (>\$700M) and New Zealand International Convention Center (>\$1b)

Andy's specialized skill set is planning and delay analysis using various planning techniques such as CPM – Critical path methodology and Linear Scheduling method, utilizing software's such as Primavera P6 and Microsoft Projects.

He is an "Expert Witness" on the panel of the Construction Dispute Resolution Board in New Zealand.(<http://constructiondrb.com/the-board/>)

Some recent and past achievements include:

Rewriting the entire project plan to completion for the Commercial Bay project, Auckland to ensure the client had confidence in the plan, along with establishing a suite a of well-structured reports to track variances, highlight risks, and enable PM's to come up with mitigation plans, providing Fletcher HQ and the client confidence in the programme.

Establishing a completion plan for the rebuild of Auckland international airport as part of which I set up systems and processes in place to deal with circa 200 variations a month (Time and Cost).

Lead planner for the deployment of the Ultrafast Broadband network in Auckland.

Lead planner for design and installation of baggage handling system in countries all around the world such as Vancouver Airport, Toronto Airport, Boise Airport, Cochin airport, Kelowna airport, Bermuda airport, Queenstown airport, Auckland airport, Wellington airport, Sydney airport and Lima airport

Registration Form

Providing the Tools for Success

3 easy ways to register:	EMAIL	raine.selles@cmcasiapacific.com
	POST	Complete this form and post to CMC Asia Pacific, L27 PWC Tower,188 Quay Street Auckland
	PHONE	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 \$795.00 plus GST – Early Bird \$695.00 Plus GST before 25th January 2021

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

Sorry No Credit Card facilities

Please register me for the following Seminar on:

Module 1 - Getting Paid 10th Feb 2021

Module 2 – Understanding the Contract 17th Feb 2021

Module 3 – Tendering and Quoting Work – 24th Feb 2021

Module 4 – Contract Programme – 3rd March 2021

Module 5 – Time 10th March 2021

Module 6 – Variations 17th March 2021

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

www.cmcasiapacific.com