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THE CONTRACT ADMINISTRATION PLAYBOOK.

A bespoke guide to securing your entitlements and protecting your margin.

**For construction contractors,
by construction lawyers.**

Service Guide

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STATE OF PLAY

The Australian construction sector is facing some difficult challenges which have impacted the ability of industry players to make a profit on their projects. These issues highlight the need for contractors to diligently pursue and secure contractual entitlements to time and cost.

- According to Infrastructure Australia, skills shortages, supply challenges and stagnating productivity are inhibiting the ability of the construction sector to deliver projects on budget and within time.¹
- The average profit margin across Australian building and construction businesses tends to fluctuate around 5 per cent.² Escalation in material and labour costs within a market which is heavily reliant on fixed-price contracts can rapidly erode project margin.
- According to a recent industry survey, 71% of Australian contractors agree that current contracts do not adequately and fairly allocate risk between contracting parties.³ Risk is very often shifted to contractors by constraining entitlements to additional time and cost for variations and delay with time bars and strict notice regimes.

¹ Infrastructure Australia, '2023 Infrastructure Market Capacity report' <https://www.infrastructureaustralia.gov.au/publications/2023-infrastructure-market-capacity-report>

² Master Builders Australia, 'Building and Construction Industry Forecasts – Australia September 2023' https://masterbuilders.com.au/wp-content/uploads/2023/09/230908_Forecasts_September-2023_NationalReport.pdf

³ Australian Contractors Association and Arcadis, '2024 Construction Market Sentiment Survey' <https://media.arcadis.com/-/media/project/arcadiscom/com/news/global/2024/6/rising-wages-and-stagnating-productivity-costing-construction/market-sentiment-survey-results-2024.pdf?rev=174462d538cf4c5c97c4b5d793a90ce7&hash=236616ADD6954E79A3900005380A5B87>





Contractors are under **increasing pressure** to achieve more with less resources and minimal flexibility on price. In a volatile environment with systemic challenges, it is critical for contractors to equip their personnel to confidently pursue contractual entitlements and achieve profit on their projects.



YOUR BEST DEFENCE

Good contract administration is the most powerful tool available to protect your agreed (and often hard-fought) entitlements to time and cost. Failure to comply with contractual notice requirements will often result in the rejection of claims and can lead to major disputes.

A 2022 report by Arcadis found that “poorly drafted or incomplete and unsubstantiated claims” was the top overall cause of construction disputes globally.⁴ These disputes can be immensely costly to run and can impact efficiencies across an entire business. In many cases, construction disputes can be avoided through strict compliance with contractual notice regimes.

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⁴ Arcadis, ‘2022 Global Construction Disputes Report’
<https://www.arcadis.com/en-au/knowledge-hub/perspectives/global/global-construction-disputes-report>

In a competitive industry like construction, it is critical for players to develop and maintain quality relationships. Contractors therefore commonly seek to negotiate commercial outcomes with their clients to overcome project difficulties (such as increased costs or delays) to preserve the relationship and the prospect of future work. However, where a contractor has submitted compliant notices during a project, that contractor can negotiate from a position of far greater strength rather than approaching their client “cap in hand”.

Client rejection of claims can devastate profit margins which are already under downward pressure due to fierce industry competition. Strict contractual compliance is therefore essential to secure margin and gain negotiation leverage. Project teams need to be appropriately equipped to properly administer their contracts, as a failure to do so can seriously impact your business.

“Client rejection of claims can devastate profit margins which are already under downward pressure”



“The Contract Administration Playbook (CAP) is an essential tool for delivery and commercial teams to quickly understand their contractual obligations and take decisive action to pursue entitlements.”

THE PLAYBOOK

As clients will often shift contractual risk downwards with onerous notice requirements, it is crucial that contractors have the proper skills, understanding, documentation and guidance to ensure that each project achieves margin. To pursue entitlements across multiple projects, contractors need an expert-level understanding of their notice obligations.

The Contract Administration Playbook (CAP) is an essential tool for delivery and commercial teams to quickly understand their contractual obligations and take decisive action to pursue entitlements.

The CAP is an easy-to-read handbook designed by construction lawyers for your specific head contract. It will remove the guesswork, help you to focus on achieving project success and reduce valuable time and risk in navigating difficult contractual notice regimes.

Your team should have a cutting edge.
See below for more information.

VALUE CAP

Inclusions:

- Flowchart of notices required to claim time relief under the contract
- Flowchart of notices required to claim cost relief under the contract
- Guide to your contractual entitlements to time and/or cost for:
 - Force majeure
 - Variations
 - Delay damages
 - Qualifying causes of delay
- Summary of key contractual risks in relation to:
 - Early termination;
 - Indemnities;
 - Limitations of Liability
 - Liquidated damages
- Summary of unusual or onerous contractual obligations.



FULL CAP

Inclusions:

- Flowchart of notices required to claim time relief under the contract
- Flowchart of notices required to claim cost relief under the contract
- Guide to your contractual entitlements to time and/or cost for:
 - Force majeure
 - Variations
 - Delay damages
 - Qualifying causes of delay
- Summary of key contractual risks in relation to:
 - Early termination;
 - Indemnities;
 - Limitations of Liability
 - Liquidated damages
- Summary of unusual or onerous contractual obligations;
- Summary of extra provisions which need to be passed down to subcontracts;
- Notice templates and guidance on notice content including:
 - Template notice of change in codes or standards
 - Template notice of delay
 - Template notice claiming an extension of time
 - Template notice claiming a variation in scope
 - Template notice of force majeure
 - Template notice of claim
 - Template notice of dispute
 - Template referral to expert determination
 - Template progress report required under contract.



NEW CONTRACT?

START STRONG.

EQUIP YOUR TEAM.

CHASE YOUR ENTITLEMENTS.

PROTECT YOUR MARGIN.

ENQUIRE NOW



THINK. SOLUTIONS
CREATE. INNOVATION
BUILD. OPPORTUNITY

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