

24th Annual Public Sector Contracts and Procurement Management Summit

12&13 October, Cliftons Centre, Canberra

LEGAL FRAMEWORK and RISK MANAGEMENT FOR
**MANAGING CONTRACTS AND
PROCUREMENT IN THE PUBLIC
SECTOR**

Addressing risk management strategies and the underlying principles of contract law that impact the management of contracts and procurement in the public sector

AGENDA OF THE SUMMIT AT A GLANCE

Key Issues to be addressed include:

- How to identify the right contracting model for a procurement
- Tender risk management and key considerations to run a tender process
- What impact has Judicial Review made on the procurement process and new risks and challenges
- Profiling contractual and procurement risks and strategies to identify red flags in a contract
- Key considerations and risk management before digitizing your procurement function
- How to set up agency specific deed of standing offer and managing variations to a deed
- Tender conditions and procedures designed to avoid disputes with tenderer
- Key practical and operational considerations in managing Government Panel arrangements
- Managing insurance arrangements and indemnities in commercial contracts
- Contractual tools to improve flexibility, including examples of contracts and procurements in the public sector
- The building blocks of flexibility and their impact on contract delivery
- How does a multi stage procurement assist the Commonwealth to achieve value for money?
- Key risks to manage through the procurement lifecycle in a multi stage environment
- Key legal considerations and risks in contract termination
- Ensure that specifications or scope of works provide certainty as to what is to be delivered and the contract price
- How to recognize and use confidential information in a contract and what are the potential risks
- How to incorporate privacy considerations in a contract
- The technical and practical exploration of the scope and meaning of consequential loss under contract law.
- Contingent liabilities and risk management and the impact of the PGPA Act (2013) on contingent liabilities

TO REGISTER CALL NOW!

TEL: (02) 95807327

Email: info@learningnetworks.com.au

OVERVIEW OF THE SUMMIT

After the success of its past national conferences and summits, *Learning Network Solutions* is proud to present its *24th Annual Contracts and Procurement Summit* for the public sector.

It is a comprehensive summit with new sessions and backed up by an highly regarded speaking panel. It will address the current legal framework and legislation along with key policy guidelines pertaining to procurement and contracts management in the public sector. The summit will explore the risk management aspect in detail and spell out strategies to better manage risks in the contracts and procurement management process. It will also address how the success of key contracts and procurement processes is contingent on the strength of underlying principles of contract law.

If this summit is relevant to your ongoing professional development, you may claim one unit for each hour of attendance as per the requirements set out by the legal practice board in your jurisdiction. Refreshment breaks are not included in this hour.

I take this opportunity to thank you for your support and interest all these years to make this contract and procurement management series as one of the most prolific events that I have produced.

If you have any questions, please do not hesitate to contact me.

Mohammed Khatri, Manager: Programs & Knowledge
Tel: 02-95852304 | Email: mohd@learningnetworks.com.au

PROGRAM AGENDA

Day1 Thursday, 12th October

8.30 - 9.00: REGISTRATION AND TEA ON ARRIVAL

9.00 -9.15: OPENING REMARKS FROM THE CHAIR

Vince Sharma, Partner, MILLS OAKLEY

9.15 -10.15: SESSION 1

JUDICIAL REVIEW AND PROCUREMENT CHALLENGES: WHAT IMPACT HAS IT MADE ON THE PROCUREMENT PROCESS AND NEW RISKS AND CHALLENGES

In this session Ashley will provide a comprehensive analysis about the application of the Judicial Review Act and how it is currently working and the operational and legal challenges that arise with it.

Dr Ashley Tsacalos, Partner, CLAYTON UTZ

10.15-10.35: NETWORKING TEA BREAK

10.35-11.35: SESSION2

TENDER RISK MANAGEMENT - PRACTICAL CONSIDERATIONS IN RUNNING A TENDER PROCESS

- Setting up a Tender Process for Success
- Key Procurement Documents - Do's and Don'ts's
- Issues in Tender Assessment
- Most common pitfalls and how to avoid them

Scott Alden, Partner, HWL EBSWORTH

11.35 -1.00: SESSION3 - PART A

HOW TO ACHIEVE FLEXIBILITY IN THE CONTRACTS MANAGEMENT PROCESS

- What does it mean to be flexible in the contract management process?
- How does flexibility improve contract management and create win-win outcomes?
- The building blocks of flexibility and their impact on contract delivery
- Identification and mitigation of risks arising out of increased flexibility
- Contractual tools to improve flexibility, including examples of contracts and procurements in the public sector

Derek Smith, Senior Associate, **ALDERMANE**

SESSION3 – PART B

MANAGING MULTI STAGE PROCUREMENTS AND COMMON MISTAKES

- What is a ‘multi-stage procurement’: key features and misconceptions
- Is a multi-stage procurement process appropriate for your project?
- How does a multi stage procurement assist the Commonwealth to achieve value for money?
- Key risks to manage through the procurement lifecycle in a multi stage environment

Rory Alexander, Director & Principal, **ALDERMANE**

1.00-2.00: NETWORKING LUNCH

2.00-3.00: SESSION 4

HOW TO IDENTIFY THE RIGHT CONTRACTING MODEL FOR A PROCUREMENT

- An overview of the spectrum of contracting models
- The contractor and customer behaviour that each model drives;
- Selecting the right model; and
- Some learning's from the private sector for government procurements

Mark Love, Legal Director, **BRADLEY ALLEN LOVE LAWYERS**

3.00-4.00: SESSION 5

MANAGING PRIVACY AND CONFIDENTIAL INFORMATION IN A CONTRACT

- The current state and impact of the Privacy Act and how it applies to contracts
- How to incorporate privacy considerations in a contract
- How to recognize and use confidential information in a contract
- What is the potential risk and what constitutes breach of confidential information

Andrew Hynd, Partner, **HOLDING REDLICH**

4.00- 4.20: AFTERNOON TEA

4.20-5.15: SESSION 6

EXCLUDING CONSEQUENTIAL LOSS - WHAT ARE YOU EXCLUDING?

In this session, Amanda and Carolina will address the technical and practical exploration of the scope and meaning of consequential loss under contract law.

The session will unpack case law on the meaning of consequential loss, with practical tips for contract negotiations and examples.

Amanda Story, Partner, **MINTER ELLISON**

Carolina Dorman, Special Counsel, **MINTER ELLISON**

5.10-5.20: SUMMING UP AND CLOSE OF DAY 1

8.30 - 9.00: REGISTRATION AND TEA ON ARRIVAL**9.00 - 9.15: OPENING REMARKS FROM THE CHAIR****Brian Ambler, Partner, HWL EBSWORTH****9.15 - 10.15: SESSION7****HOW TO SET UP AGENCY SPECIFIC DEED OF STANDING OFFER**

- Uses for a Deed of Standing Offer
- Why a Deed?
- Ensuring the ongoing offer
- Statement of Requirements
- Entering into a contract or work order
- Once executed satisfies procurement rules
- Variations to the Deed and changes over time
- Performance Requirements
- Risks, disputes and termination events

Brian Ambler, Partner, HWL EBSWORTH**10.15 -10.45: NETWORKING TEA BREAK****10.45 -11.45: SESSION8****CONTRACT RISK MANAGEMENT: MANAGING THE RISKS OF RED FLAGS IN A CONTRACT MANAGEMENT PROCESS**

Successful delivery of a contract is determined just as much by contract formation, as contract management. This session focuses on the pre-contract red flags, such as scope ambiguity, as well as the red flags that arise during delivery. The ability to identify potential risks from the outset, and establish a robust risk management process, is a critical skill for both providers and customers under a contract. The session shall address:

- Tender conditions and procedures designed to avoid disputes in the tender process
- Specific risk management issues in the tender process
- Ensure that specifications or scope of works provide certainty as to what is to be delivered and the contract price
- Questions for inclusion in the Tender Form to require tenderers to provide responses on specific issues that enable an objective assessment of tenders
- Specific risk management issues in assessment of tenders

Michael Chin, Consultant Lawyer.**11.45-12.45: SESSION 9****DIGITISING YOUR PROCUREMENT FUNCTION - IS IT WORTH IT?**

- What digital products are available for procurement (this needs to be a product agnostic presentation)
- What does it take to digitise your function
- Benefits v risks
- Prioritising benefits or value
- How to do it well

Kerrie Young, Partner, Supply Chain & Procurement, SCYNE ADVISORY**Peita Taylor, Digital Procurement & Supply Chain Operations leader, SCYNE ADVISORY**

1.2.50-1.50: NETWORKING LUNCH

1.50 - 2.50: SESSION10

LEGAL CONSIDERATIONS FOR MANAGING CONTINGENT LIABILITIES IN PUBLIC SECTOR CONTRACTS

- Types and nature of contingent liabilities
- Contingent liabilities and risk management
- The impact of the PGPA Act 2013 on contingent liabilities
- Commonwealth financial framework issues

Lucinda Watson, Special Counsel, **MOULIS LEGAL**

2.50 - 3.50: SESSION 11

MANAGING RISKS IN CONTRACT TERMINATION

- When a right of termination exists
- Drafting effective termination clauses
- Choosing how to terminate - default, convenience, or agreement
- How you can lose a right of termination
- Risks of repudiation by wrongful termination

Mathew Baldwin, Partner, **ASHURST**

3.50 - 4.10: NETWORKING TEA BREAK

4.10-5.10: SESSION 12

MANAGING INSURANCE ARRANGEMENTS & INDEMNITIES IN COMMERCIAL CONTRACTS

- The concept "Risk"
- Classification of insurance and overview of common insurance policies in business
- Triggers of cover and indemnity
- Drafting fundamentals
- Subrogation, cross liability, dual insurance and interest notification

Emma Reilly, Partner, **MORAY & AGNEW**

5.10 -5.20: SUMMING UP AND CLOSE OF THE SUMMIT

LEGAL FRAMEWORK and RISK MANAGEMENT FOR
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PUBLIC SECTOR

12 & 13 October, Cliftons Centre, Canberra

****REGISTRATION FORM****

****Register By:**

Tel: (02) 95807327

Email: info@learningnetworks.com.au

INVESTMENT TOTAL: For 2 days:

Registration Options	Investment (\$)
Register by 30 August – Super Early Saver	\$1499 + GST: (\$1648.9)
Register from 31 August to 15 September	\$1599 + GST: (\$1758.9)
Register after 15 September	1699 + GST: (\$1868.9)
Register for any one day at any time	899 + GST: (\$988.9)

First Delegate

Name _____

Position _____

Email _____

Second Delegate

Name _____

Position _____

Email _____

Third Delegate

Name _____

Position _____

Email _____

Organisation: _____

Address: _____

Telephone: _____

Sign: _____

***Invoice shall be sent after receipt of the registration**

*** Please make payment prior to the event**

*** Cheques made payable to *Learning Network Solutions***

Please debit my:

Visa Amex Master card Bankcard

Card Number _____

Expiry Date _____

Cardholder's Name _____

Venue: Cliftons Centre, 10 Moore Street, (Optus Building), Canberra.

Tel: 6122 0999

Continuous Professional Development

This conference will add to your CPD points based on the state you are based in. You may claim up to one unit for each hour of attendance. Refreshment breaks are not included in this hour.

Documentation

Conference documentation provided by the speakers will be provided to delegates at the venue.

Team Discounts: (Only 1 discount applies)

- Register and pay for 4 delegates for 2 days get 2 free additional passes for 5th and 6th delegate
- Register and pay for 3 delegates for 2 days and get a free additional pass for the 4th delegate

Lunch

Lunch and refreshments will be provided at the event. Please advise us if you have any special dietary requirements.

Privacy Statement

We do not have mailing lists and we do not share your contact information with any external agency. Information supplied by you may be only be to provide you with further information about our events

Cancellation Policy

Cancellations made 2 weeks prior to the event will receive complete refund. If cancellations are done within 2 weeks of the program you are liable to make full payment and no refund can be made. We will issue you a credit note that could be used to attend any of our future events of the same amount. If event is not held due to any reason, our liability is limited to the event fee only. In any event our liability is limited to the event fee only.

Program Changes

We reserve the right to make changes in the program, the venue and the panel of speakers.

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