

LAWS50084 Construction Law

Credit Points:	12.50																					
Level:	5 (Graduate/Postgraduate)																					
Dates & Locations:	2012, Parkville This subject commences in the following study period/s: November, Parkville - Taught on campus. 30 hours of seminar classes offered intensively over 6 days, or 12 weekly 2.5 hour seminars over a semester.																					
Time Commitment:	Contact Hours: 30 hours. Total Time Commitment: 144 hours.																					
Prerequisites:	<table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS50023 Legal Method and Reasoning</td> <td>February</td> <td>12.50</td> </tr> <tr> <td>LAWS50024 Principles of Public Law</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50025 Torts</td> <td>Semester 2</td> <td>12.50</td> </tr> <tr> <td>LAWS50026 Obligations</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50027 Dispute Resolution</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50029 Contracts</td> <td>Semester 2</td> <td>12.50</td> </tr> </tbody> </table>	Subject	Study Period Commencement:	Credit Points:	LAWS50023 Legal Method and Reasoning	February	12.50	LAWS50024 Principles of Public Law	Semester 1	12.50	LAWS50025 Torts	Semester 2	12.50	LAWS50026 Obligations	Semester 1	12.50	LAWS50027 Dispute Resolution	Semester 1	12.50	LAWS50029 Contracts	Semester 2	12.50
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LAWS50029 Contracts	Semester 2	12.50																				
Corequisites:	None.																					
Recommended Background Knowledge:	None.																					
Non Allowed Subjects:	Students may not undertake this subject if they have previously undertaken BLAW40001 Construction Law, LAWS70314 Principles of Construction Law, LAWS70128 Advanced Construction Law or LAWS70176 Construction Law. However, subject to the JD Course Rules, students who have undertaken this subject may then undertake LAWS70128 Advanced Construction Law or any other subject accredited to the Master of Construction Law (195), other than LAWS70314 Principles of Construction Law or LAWS70176 Construction Law.																					
Core Participation Requirements:	The Melbourne Law School welcomes applications from students with disabilities. It is University and Law School policy to take all reasonable steps to enable the participation of students with disabilities, and reasonable adjustments will be made to enhance a student's participation in the School's programs. The inherent academic requirements for the study in the Melbourne Law School are: The ability to attend classes and actively engage in the analysis of complex materials and debate; The ability to read, analyse and comprehend complex written legal materials and complex interdisciplinary materials; The ability to clearly and independently communicate in writing a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to clearly and independently communicate orally a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to work independently and as a part of a group; The ability to present orally and in writing legal analysis to a professional standard. Students must possess behavioural and social attributes that enable them to participate in a complex learning environment. Students are required to take responsibility for their own participation and learning. They also contribute to the learning of other students in collaborative learning environments, demonstrating interpersonal skills and an understanding of the needs of other students. Assessment may include the outcomes of tasks completed in collaboration with other students. Students who feel their disability will prevent them from participating in tasks involving these inherent academic requirements are encouraged to contact the Disability Liaison Unit: http://www.services.unimelb.edu.au/disability/ .																					
Coordinator:	Mr Matthew Bell																					

Contact:	Melbourne Law School Student Centre Email: law-studentcentre@unimelb.edu.au (mailto:law-studentcentre@unimelb.edu.au) Tel: +61 3 8344 4475
Subject Overview:	This subject introduces students to the specialised field of construction law. Whilst the focus is primarily upon the domestic law, many of the key themes and legal principles are encountered internationally; thus, an understanding of construction law in its comparative context will also be engendered. The subject develops and integrates legal knowledge from across many sub-disciplinary fields (e.g. contract law and torts law), augmenting this through study of specific case law and legislation, and relevant multidisciplinary knowledge, to build an understanding of the complex interactions that define construction law. Topics addressed will range from the common law and statutory landscape applying to construction law, through project procurement strategies and the specific legal issues which typically occur on projects (including unforeseen site conditions, work scope variation, time delays and payment claims), to means by which disputes can be avoided, managed, or resolved.
Objectives:	<p>On completion of this subject, students should have:</p> <ul style="list-style-type: none"> # Integrated understanding of the following specialised subject-matter: <ul style="list-style-type: none"> - Key elements of the legal framework governing construction law (both common law and statutory); - Choice of contracting methodology for project delivery; - Legal issues arising in contract administration, including tendering and contract preparation; - Professional liability, including that of superintendents; - Sub-contract drafting and risk allocation; - Claims arising from variations to the work; - The particular legal requirements and liabilities arising in relation to quality and defects, latent conditions and time; - The importance of payment within the industry, including contractual and statutory regimes for enforcing payment and securing obligations under contracts; and - Appropriate means of avoiding and resolving disputes; # A capacity to critically compare and analyse the legal framework applicable to construction law across Australian and overseas jurisdictions, as relevant, and to consider recommendations for reform of aspects of the Australian approaches in light of those comparisons; # A sophisticated appreciation of, and ability to engage in, the complex theoretical, policy and practical debates taking place internationally in relation to construction law, including: <ul style="list-style-type: none"> - The balance to be struck between the protection of the vulnerable (including consumers) and freedom to contract; - Moving beyond adversarialism in contracting without abandoning commercial certainty; - The extent to which construction contracting should be regulated by statute; and - Whether – and, if so, how – an appropriate balance can be struck between expedition and natural justice in the management and resolution of construction disputes; # Through the assessment involving a research paper, developed specialised skills in self-directed legal research and in the autonomous and creative production of a substantial piece of legal writing that is thoroughly researched and develops arguments in a highly structured, supported and referenced way, with a high degree of original content; and # Through the assessment involving class participation, developed specialised skills in oral communication and, in particular, in the articulation at a sophisticated level of arguments and views concerning the subject material.
Assessment:	Class participation (10%) based on specific responsibility, as a member of a group, for leading discussion in relation to a pre-assigned topic and for facilitating discussion with one of the guest lecturers, as well as contribution generally to the seminar discussion across the teaching period; An independent research paper (90%) on a topic set or approved by the Subject Coordinator, with a word limit of 6,000 words.
Prescribed Texts:	I Bailey and M Bell, Construction Law in Australia (3rd ed, Thomson Reuters, 2011); Specialist printed materials will be made available from Melbourne Law School.
Breadth Options:	This subject is not available as a breadth subject.
Fees Information:	Subject EFTSL, Level, Discipline & Census Date, http://enrolment.unimelb.edu.au/fees

Generic Skills:

On completion of the subject, students should have developed their skills in the following areas:

- # Specialist understanding, interpretation, critical reflection, synthesis and comparison of texts relating to construction law from the various Australian jurisdictions and overseas;
- # Analysing, comparing and reflecting critically on policy documents relating to construction law from the various Australian jurisdictions and overseas;
- # Generating and evaluating proposals for reform of Australian construction law having regard to interstate and international experience;
- # Developing a research question relevant to this complex field, creatively carrying out research involving diverse domestic (and, where appropriate, international) sources, and preparing a substantial piece of writing displaying sophisticated investigation, analysis, synthesis and application of theoretical understanding; and
- # Formulating and articulating views on difficult technical issues relating to construction law in oral discussion, in a manner displaying the development of professional judgment.