

# LAWS70245 Avoid and Manage Construction Disputes

<b>Credit Points:</b>	12.5						
<b>Level:</b>	7 (Graduate/Postgraduate)						
<b>Dates &amp; Locations:</b>	2016, Parkville This subject commences in the following study period/s: October, Parkville - Taught on campus. This subject has a quota of 30 students. Please refer to the Melbourne Law Masters website for further information about the management of subject quotas and waitlists.						
<b>Time Commitment:</b>	Contact Hours: 24-26 hours Total Time Commitment: 136-150 hours The pre-teaching period commences four weeks before the subject commencement date. From this time, students are expected to access and review the Reading Guide that will be available from the LMS subject page and the subject materials provided by the subject coordinator, which will be available from Melbourne Law School. Refer to the Reading Guide for confirmation of which resources need to be read and what other preparation is required before the teaching period commences.						
<b>Prerequisites:</b>	<p><b>Melbourne Law Masters Students:</b> None</p> <p><b>JD Students:</b> Successful completion of the below subject:</p> <table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS50027 Dispute Resolution</td> <td>Semester 1</td> <td>12.5</td> </tr> </tbody> </table>	Subject	Study Period Commencement:	Credit Points:	LAWS50027 Dispute Resolution	Semester 1	12.5
Subject	Study Period Commencement:	Credit Points:					
LAWS50027 Dispute Resolution	Semester 1	12.5					
<b>Corequisites:</b>	None						
<b>Recommended Background Knowledge:</b>	Applicants without legal qualifications should note that subjects are offered in the discipline of law at an advanced graduate level. While every effort will be made to meet the needs of students trained in other fields, concessions will not be made in the general level of instruction or assessment. Most subjects assume the knowledge usually acquired in a degree in law (LLB, JD or equivalent). Applicants should note that admission to some subjects in the Melbourne Law Masters will be dependent upon the individual applicant's educational background and professional experience.						
<b>Non Allowed Subjects:</b>	None						
<b>Core Participation Requirements:</b>	The Melbourne Law Masters welcomes applications from students with disabilities. The inherent academic requirements for study in the Melbourne Law Masters are: The ability to attend a minimum of 75% of classes and actively engage in the analysis and critique 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 to 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 who feel their disability will inhibit them from meeting these inherent academic requirements are encouraged to contact Student Equity and Disability Support.						
<b>Coordinator:</b>	Mr David Opperman						
<b>Contact:</b>	<p><b>Lecturers</b></p> <p><b>Mr David Opperman</b> (<a href="http://www.law.unimelb.edu.au/staff/David%20Opperman">http://www.law.unimelb.edu.au/staff/David%20Opperman</a>) (Coordinator)</p> <p>Email: <a href="mailto:law-masters@unimelb.edu.au">law-masters@unimelb.edu.au</a> (<a href="mailto:law-masters@unimelb.edu.au">mailto:law-masters@unimelb.edu.au</a>) Phone: +61 3 8344 6190 Website: <a href="http://www.law.unimelb.edu.au/masters">www.law.unimelb.edu.au/masters</a> (<a href="http://www.law.unimelb.edu.au/masters">http://www.law.unimelb.edu.au/masters</a>)</p>						

<b>Subject Overview:</b>	<p>The complexities of the commercial and technical environment in which construction projects are undertaken make disputes virtually inevitable. Participants in the industry—whether lawyers or industry professionals—therefore need to be aware of, and able to apply, a range of dispute avoidance and management techniques when putting together contractual documentation or administering projects. These options are constantly evolving, with recent examples including the increasing use of Disputes Boards and court-initiated procedures such as those being implemented by the Technology Engineering and Construction List of the Victorian Supreme Court.</p> <p>The subject lecturer, David Opperman, leads the Herbert Smith Freehills Project Dispute Resolution group. He is able to bring to the classroom extensive experience in the active resolution of disputes in construction projects by mediation and other alternative dispute resolution processes, as well as through international and domestic arbitration and litigation processes. He also involves guest lecturers who have specialist, cutting-edge experience in dispute avoidance and alternative dispute resolution techniques.</p> <p>Principal topics will include:</p> <ul style="list-style-type: none"> <li># Construction contract provisions relating to disputes: Objectives, approaches and enforceability</li> <li># Conflict: Conflict patterns and management</li> <li># Communication and negotiation skills</li> <li># Dispute Avoidance Procedures (DAPs), Dispute Review Boards (DRBs), Dispute Adjudication Boards (DABs) and dispute resolution advisers (DRAs)</li> <li># Alternative Dispute Resolution (ADR): Mediation (including mock mediation), senior executive appraisal/ mini trials, non-binding and binding expert determination, domestic and international arbitration and hybrid and multi-tiered processes</li> <li># Selecting the most appropriate form of DAP and/or ADR processes</li> <li># Process dynamics, options and strategic issues, including paths to ADR.</li> </ul>
<b>Learning Outcomes:</b>	<p>A student who has successfully completed this subject will:</p> <ul style="list-style-type: none"> <li># Have an advanced and integrated understanding of the legal, commercial and technical aspects which lead to disputes in construction projects</li> <li># Have enhanced their expert and specialised cognitive and technical skills required to practise as interdisciplinary professionals in the construction industry</li> <li># Be familiar with, be able to critically reflect on, and be confident in applying, means of avoiding and managing construction disputes</li> <li># Be able to demonstrate the analytical and communication skills required to independently investigate, examine and synthesise existing and emerging legal issues relating to dispute avoidance and management in construction projects.</li> </ul>
<b>Assessment:</b>	Take-home examination (5,000-6,000 words as specified in the subject reading guide) (100%) (18 - 21 November) A minimum of 75% attendance is a hurdle requirement.
<b>Prescribed Texts:</b>	Specialist printed materials will be made available free of charge from the Melbourne Law School prior to the pre-teaching period.
<b>Breadth Options:</b>	This subject is not available as a breadth subject.
<b>Fees Information:</b>	Subject EFTSL, Level, Discipline & Census Date, <a href="http://enrolment.unimelb.edu.au/fees">http://enrolment.unimelb.edu.au/fees</a>
<b>Links to further information:</b>	<a href="http://www.law.unimelb.edu.au/subject/LAWS70245/2016">www.law.unimelb.edu.au/subject/LAWS70245/2016</a>
<b>Related Course(s):</b>	<p>Graduate Diploma in Construction Law  Graduate Diploma in Dispute Resolution  Graduate Diploma in Legal Studies  Juris Doctor  Master of Commercial Law  Master of Construction Law  Master of Laws  Master of Public and International Law</p>