

CONTACT Australasia

CIOB Elects New President

For the first time in its 175-year history the Chartered Institute of Building (CIOB) has selected its first female and first non-British president, Professor Li Shirong FCIOB FICE FRICS CEnv.

Professor Li Shirong is the Deputy Director General of China's Chongqing Foreign Trade and Economic Relations where she is responsible for the promotion of foreign trade and investment.

Her career started in academia where, after gaining a PhD from the University of Reading (UK) in 1998, she took the position as Professor of Construction Management at Chongqing University (a role she now holds part-time). Her academic work focuses on China's construction industry in transition, sustainable urbanisation, the role of government in construction, construction project management, the international construction market and higher education in construction.

To date she has published more than 170 papers and 27 books, both in China and overseas.

In 2003 Professor Li took up a position in local government, where she served as vice-mayor of the Shapingba District. Her role here included responsibility for urban planning and development, as well as leading a team to develop the Shapingba 'University Town', an urban area that contains 10 Universities and is home to 80,000 students.

Since joining the Chongqing Foreign Trade and Economic Regulations Commission in 2007, Professor Li has pioneered the 'sustainable cities' project. The project is a Memorandum of Understanding between



the Chongqing and UK governments, to develop sustainable urban and rural areas that provide a destination for UK companies to promote innovative green products and services.

She is also a key player in the development of the China UK Centre for Professional Excellence, an outcome of her work with the CIOB and the Chongqing government. The Centre's role is to provide a link between UK training platforms and Chinese technology, increasing the level of high-level qualified professionals.

Prof. Li has also been instrumental in establishing the CIOB's presence in China, where it now has more than 1,500 members.

Professor Li's appointment as CIOB president is a significant step for the Institute to broaden its international influence. It is also a defining indicator of change at the CIOB as we strive to deliver an industry that is modern, progressive and visionary.

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President's Column

I am excited to be the newly elected Regional President of CIOB in Australasia and welcome the support of our Regional Council; Vice Presidents, Treasurer, Publications Editor, all the Centre Chairs and CIOB representatives and members in Australia, New Zealand and the Pacific Islands.

My sincere gratitude is also directed to the past presidents and dedicated volunteers who have worked hard to bring CIOB to its present level in Australasia. My role as Regional President will be to continue and improve the level of CIOB recognition and relevance within the construction industry through educational training programs.

To date we have achieved our goals with the support of CIOB's Head Office. However it is time that we take on a greater role and manage CIOB in Australasia, becoming more independent under the continued support and guidance of CIOB's Head Office.

All my efforts will be concentrated in promoting CIOB Australasia membership; the difference from the past being education and training for new members. By providing CIOB training programs individuals can make the most of opportunities to benefit and advance their careers during this current international economic climate and in turn benefit the construction industry at large.

In my opinion it is easy for any president to give his or her wishful thoughts in these lines but normally they go no further; my



aim is to promise little and achieve the optimum of that small promise.

To date CIOB Australasia offers services to regional members and the industry as is done in other countries globally. CIOB members must derive benefit from his or hers membership and more importantly the industry and corporate world must benefit from all those employees who are accredited members of the CIOB.

We have to acknowledge that CIOB cannot be the sole institute to provide the above benefits. We have several other institutes and associations who are already contributing, and CIOB adds an international dimension to the industry's workforce. CIOB member's commitment to continual professional development reinforces the belief that the more we learn the more we become successful in life.

My aim during my term as Regional President will be concentrated in the future

and not the past, and therefore we need to all work together to benefit and pass our gained benefits to the industry at large. CIOB Australasia must promote excellence in the construction industry by:

- promoting education in academic institutions,
- delivering CIOB educational training programs,
- raising awareness of the work of the CIOB,
- liaising with other associations and institutes and where possible have Memorandum of Understanding and other Alliance or Co-operative agreements,
- being involved in accrediting university and other educational institute courses,
- encouraging students to participate in awards and scholarship applications, and
- encouraging and acknowledging the great contribution of women in the construction industry and their role in the management and executive positions in the corporate world.

I look forward to working with all other Associations, Institutes, Universities and Technical Colleges and in particular with all our Centre Chairs, their committees and members, as we confront the challenges of the present world economy.

Varoujan Bedrossian M DesSc, FCIQB, FAIB, MAIPM, MIAMA, AAIQS, JP

6th Annual Project Management Australia Conference

CIOB Australasia supporting the 6th Annual Project Management Australia (PMOZ) Conference, being held at the National Convention Centre Canberra from 10 – 12 August 2009. The conference will focus on Projects Sustaining the Future from environmental sustainability to the durability and growth of organisations and the profession in a rapidly changing world through the use of effective project, program and portfolio management.

Program highlights include a keynote presentation from Professor Li Shirong,



CIOB President and Deputy Director of the Chongqing Foreign Trade & Economic Relations Commission who will discuss "Government actions in sustainable city development – Chongqing practice".

Chris Blythe, Chief Executive of CIOB will present a ninety minute workshop on "Sustainability and ethics, two sides of the same coin?" - International ethical

implication of the climate change agenda.

Special rates for CIOB members have been negotiated and these are available from the conference website. CIOB will be present at the event and we encourage you to visit us.

For further information on the program or to register, please visit: www.pmoz.com.au



Chris Blythe

Notice

Facts and opinions expressed in this publication are those of the authors of the articles. They may not be the official position of CIOB on any given matter.

CIOBA supporting a sustainable built environment

CIOBA Vice President Philip Sanders and Immediate Past President Chris Chainey are our representatives on the ASBEC Council. Here, Philip Sanders describes briefly CIOBA's involvement with this increasingly influential body.

CIOBA has recently joined ASBEC, the Australian Sustainable Building Environment Council, Australia's peak consultative forum on built environment sustainability as a member organisation. ASBEC is well a well-resourced organisation with 28 member organisations representing a wide range of industry and government groups involved in building design, construction and planning, contributing to sustainability in the built environment through capacity building & development.

Many readers may know of ASBEC indirectly through recent media reports quoting the Prime Minister's reference to the "Second Plank". The "Second Plank report" by ASBEC reviewed evidence of the built environment's potential to reduce the economy-wide cost of meeting a national abatement target. It determined that the economy-wide cost of the CPRS could be



Philip Sanders BSc MBA CPEng CMC

reduced by providing incentives to encourage additional energy efficiency investments by the building sector and it is this that has been picked up by the Government as part of its commitment to carbon reduction targets.

Numerous international reports including the IPCC, McKinsey & Company, the Stern Review and the Garnaut review, have all identified the built environment as offering the lowest cost abatement potential in the economy. Additionally, all noted the presence of market and non-market

barriers that prevent the building sector from investing in opportunities to capitalise on that abatement potential.

Here in Australia, a national sustainability framework has been developed and sustainability in the built environment is a mainstream issue and central on international, local & government agendas and consequently, consideration of sustainability is now an integral part of the building process. Therefore, easy access by building professionals to the latest and best information on sustainable design and construction options and education on its development and application is essential if targets are to be met.

CIOBA is well-placed to provide this information through leveraging CIOB International's worldwide resources, experience and knowledge. Through representation on ASBEC's Council and commitment to its goals, CIOBA is positioned to provide a strong and valued contribution to the development of a sustainable built environment and Australia's increasingly innovative performance in sustainable construction.

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Profile Jeremie Witt

My career in the building industry began in 1993 when I worked as a trades assistant for a few months before I was meant to begin university. However, it didn't take long for me to realise that I didn't want to become an accountant, so I left university and returned to the building industry, becoming a fibrous plasterer.

I spent the next several years working in trade and supervisory level roles, while undertaking further study through industry bodies such as the MBA. Eventually, I decided to return to university and pursue a career as a lawyer. While at university, I continued to work full time as a subcontractor and as a supervisor for various builders and trade contractors.

When I graduated, I began employment with Clayton Utz in Melbourne, where I had the opportunity to work with, and learn from, some of the best construction lawyers in the country.

I presently work as a lawyer in the Construction and Major Projects Group of Clayton Utz in Brisbane. The group provides the full spectrum of construction legal services ranging from pre-contractual advice, right through to representing clients in contentious matters, such as security of payment disputes, expert determinations, arbitrations and litigation before various courts.

Although CU Brisbane's construction group



Jeremie Witt LLB(Hons) ICIOB ACIArb

frequently represents principals, it also represents a number of contractors. Clients range from those typically associated with being at the big end of town through to relatively small companies, giving a varied and interesting workload.

As a result, there is no such thing as a typical day at work. On any given day I may be involved with drafting a bespoke services agreement, advising a client on their rights and responsibilities under an existing contract, or drafting submissions or pleadings for use in a dispute. Although I do both contentious and non-contentious work, the majority of my time lately has been spent acting for clients in security of payment matters and Supreme Court proceedings.

In addition to the CIOB, I am involved with professional associations specifically aimed at those who practice construction law or are involved with arbitration and other

forms of dispute resolution. So why join the CIOB?

I had been aware of the CIOB for some time before applying for membership through the non-cognate route. My interest in joining the CIOB was motivated by my desire to become involved with a respected industry body that would allow me to further develop my skills and knowledge, and network with other professionals.

It is relatively common for building and construction lawyers to have had a technical career prior to becoming a lawyer, or to have undertaken technical studies in addition to their legal training; I know a number of construction lawyers who used to be engineers, builders or quantity surveyors. For me, given my background on site, one of the most compelling reasons for joining the CIOB was to provide a means for me to remain in close contact with the building industry and the broader developments that affect it, both in Australia and internationally, not just legal developments.

The process of joining the CIOB, through the non-cognate route, involved having my industry experience and my degree assessed by providing a detailed CV and academic records. The whole process took a few weeks and was quite painless and simple; the staff at the CIOB made themselves available to discuss with me the various options for joining and the steps involved.

In my spare time, I enjoy socialising with family and friends, and occasionally trying to delude myself that I'm not the worst golfer ever; a delusion not helped by the fact a golf course tends to resemble a moonscape by the time I finish "excavating" it.

In addition to working, I'm currently studying towards a Master of Laws qualification at the University of Melbourne, which is one of a select few universities which offers a wide range of postgraduate construction law courses, including a standalone Master of Construction Law which brings together students from a broad range of backgrounds in the industry, not just lawyers.

I hope that my association with the CIOB will afford me the opportunity to network with a number of other professionals working in the industry and, by assisting me to keep up to date with current developments, help me to deepen my understanding of my clients' businesses.

President and CEO visit Australia in August

CIOB Australasia is fortunate to have Professor Li and our CEO, Chris Blythe visiting our region in August. A busy week will see them travel to Sydney, Canberra and Brisbane to meet with industry, government, universities, local professional bodies, Regional Council officers and CIOB members, as well as deliver a presentation for delegates attending the PMOz Project Management Conference in Canberra. Chris Blythe will also conduct a workshop at this event and we hope to see many project management members at the conference. CIOB will also have a trade stand at the conference so make sure to drop by and say hello if you are attending (see our events section for further details).

CIOB Members have the opportunity to meet the President and CEO whilst they are in Sydney. They will be meeting members and outlining CIOB's vision for the future as well as listen to feedback from members on regional activities aims and objectives. We hope that as many members as possible will be able to come along and meet Professor Li and Chris Blythe personally.

Our Regional Council will be hosting a breakfast in the Sydney CBD at 7:30am Monday 10 August.

Registration is free and this event is for CIOB members only. Please register to attend at events@ciob.org.au or contact our Sydney office.

The Strategic Assessment of Building Adaptive Reuse Opportunities

Bond University is leading an Australian Research Council (ARC) Linkage Project into the Strategic Assessment of Building Adaptive Reuse Opportunities. The industry partners are Williams Boag Architects and The Uniting Church in Australia, with collaborating researchers from Deakin University. The research comprises \$210,000 of funding from the ARC and about \$90,000 of funding from the industry partners (plus in-kind support) over three years, concluding in 2010. The chief investigator of the project is Dr Craig Langston, Professor of Construction and Facilities Management in the Mirvac School of Sustainable Development at Bond University.

The aim of the research is to develop and test a model for the early identification of properties that have a high potential for adaptive reuse so that timely decisions can be taken concerning how best to maximise the remaining value of our aging building stock. The research is also expected to provide insight into how buildings can be better designed for adaptive reuse in the first instance and so help to improve the sustainability performance of our urban environment in the long run. This research has particular relevance to the current climate change adaptation agenda, particularly given our built environment impacts significantly on both resource demand and waste generation.

Adaptive reuse essentially refers to a change in building function or purpose from that of its current usage. Buildings, like other assets, can become obsolete over time. Buildings in fact both deteriorate and become obsolete as they age. A building's physical life, which may be interpreted as its structural adequacy, is effectively reduced by obsolescence, resulting in a useful life somewhat less than its expected physical life. While recycling, perhaps through deconstruction, is one strategy for salvaging value from obsolete buildings, keeping the materials largely in-place and finding an alternative use for the facility can provide even more value-add. Not only can the embodied energy and cost of new work be minimised, but cultural and heritage values can also be preserved for future generations. Many of our older buildings are often better suited to our climate than newer designs and can provide very pleasant spaces in which to work, live and play.

Obsolescence is a phenomenon that is widely discussed in the literature, although rarely in relation to buildings. Parallels are drawn

in this research between obsolescence, depreciation and discounting in order to develop a new method for predicting building obsolescence based on measurable context factors. These factors have physical, economic, functional, technological, social, legal and political characteristics. Useful life is described as discounted physical life, where the rate of discount is determined from predicted future obsolescence. Buildings with substantial embedded physical life after their useful life has been reached have good potential for adaptive reuse. This transformation to some extent resets their age, and the cycle of predicting further obsolescence continues.

The conceptual framework of an approach to identify and rank adaptive reuse potential (ARP) for existing buildings has now been achieved and reported internationally. The model requires an estimate of the expected physical life of the building and the current age of the building, both reported in years. It also requires an assessment of physical, economic, functional, technological, social, legal and political obsolescence. Obsolescence is advanced as a suitable method to reduce expected physical life in order to calculate objectively the useful life of the building. An algorithm converts this information and produces an index of reuse potential expressed as a percentage. Existing buildings in an organisation's portfolio, or existing buildings across a city or territory, can therefore be ranked according to the potential they offer for adaptive reuse. Where the current building age is close to and less than the useful life, the model identifies that planning should commence.

The research to date has also developed a 'physical life calculator'. Similar in concept to the Living to 100 Life Expectancy Calculator for humans, our calculator begins with an idealistic prediction of building service life and modifies it positively and negatively for its lifestyle context (akin to 'healthy living'). In the case of buildings, environmental context, occupational profile and structural integrity are the main areas of focus. Each has ten measurable factors that are weighted and computed into a prediction of physical life. It is from this starting point that useful life is able to be forecast.

Obsolescence is shown to be measurable. Through the application of surrogates that can suitably reflect the impact of physical, economic, functional, technological, social, legal and political obsolescence, physical life can be "discounted" to determine a

building's useful life. Such an approach offers advantage in being able to better predict possible adaptive reuse potential, or indeed just to make informed decisions about the timing of building decommission. The individual hypotheses for measuring obsolescence need to be further tested in the field. This work is underway. The results of this research will likely lead to fine-tuning of the model parameters so that forecasts of useful life can become more reliable.

The research has progressed to the detailed analysis of a number of case studies provided by the industry partners. Each will be subjected to the evaluation of adaptive reuse designs in consultation with community stakeholders. The best options will be identified by application of a multiple-criteria evaluation tool that addresses aspects of financial, social and environmental performance. The success of the initial ARP model in ranking properties in order of merit can then be validated in the hindsight of this detailed evaluation. The researchers are working closely with other experts from around the world, particularly Professor LY Shen from HKPU, to ensure that their findings are applicable to other countries and contexts.

Building adaptive reuse is an important global topic. In the context of sustainable development and the effects of climate change caused by previous disregard for our environment, adaptive reuse has significant implications. This research will help to examine how the construction industry can reposition itself to increase focus on the revitalisation of existing buildings as an alternative to demolition and replacement, and looks at the social advantage from making better use of what we already have. In the future adaptive reuse will need to be planned at the outset, and if this is done wisely and routinely, it will provide a means of realising sustainability objectives without reducing investment levels or economic viability for the industry. In fact, adaptive reuse is the future of the construction industry.

Bond University is privileged to be leading this research. New knowledge from this and other ARC projects is being integrated back into the curriculum for undergraduate and postgraduate study. Through this process it is hoped that Bond University graduates are able to take their place in the construction, facilities management, property and urban development industries to help achieve better and more sustainable outcomes for our world.

VIC Built Environment Bushfire Support

The 3rd Built Environment Bushfire Support Roundtable was held in Melbourne on the 13th May attended by roundtable members and industry leaders.

Justin Madden MLC, Minister for Planning, praised the commitment of the various organisations in the building industry involved in the recovery process and offered his, and the Government's, thanks for their meaningful contributions. He said all the work done had reflected the community spirit and characterised the generosity of Victorians, Australians and those well-wishers from overseas. The response gave a great sense of hope for the future and human spirit. In the future \$1bn would be put aside to help prevent bushfire through investment in new equipment, vehicles, etc.

The Minister for Planning noted that government recognised there was a lot of paperwork and that in the future they would like to utilise technology to aid this process. They had streamlined the rebuilding process by removing the need for planning permits in many circumstances. He added that there was an issue with some smaller councils struggling with limited resources and they would look at supplying staff if it was necessary.

Bushfire Homes Design Service

Geoffrey London, Victorian Government Architect, outlined the background to the Design Service, stating that they had initially received 70+ offers of assistance from architects. The Office of the Victorian Government Architect and the AIA established the service based on a post war housing scheme. The aim is to provide low cost, good quality homes for affected communities. Geoffrey acknowledged AIQS for their assistance in costing the designs.

The first step was to invite volunteer architects to submit sustainable designs, which were then peer reviewed. The service is ready for launch and further information will be available on the VBBRA website. Residents will be able to consult individual architects for further specific information and advice on their specific designs.

Karl Fender, Victorian Chapter President

of the Australian Institute of Architects acknowledged that bushfire victims were keen to rebuild as soon as possible, but for some it raised the question whether they wanted to build an exact replacement, or take the opportunity to build a new type of property.

He noted that the AIA's plan provided a good stepping stone, and likened the AIA's service to that of a mentor, who could provide guidance around building a sustainable home. They feel it will be beneficial for the client and architect to talk through ideas and discuss the options open to them, depending on their individual circumstances.

BDAV Design Service

Brian Morison, Executive Officer BDAV, noted that initially BDAV had 100 members offering pro bono services; either in whole or part, and to date BDAV have been able to accommodate the number of enquiries they have received from affected residents.

BDAV has been speaking to Shire Councils to ensure they use a structured approach, and has made a conscious effort to ensure their process is not overly bureaucratic.

Additionally, the BDAV has been providing advice regarding the regulations and advising people about what their design expectations may be as they may or may not be able to be accommodated. They have also been looking at possible designs, site locations and producing various "what if" scenarios.

The Plumbing Industry's Bushfire Response

Initially local plumbers in Kinglake were overwhelmed with requests, and asked for assistance. Kevin Fitzgerald, CEPU noted that this assistance was provided by a team of 30 volunteer plumbers. In addition, the Melbourne construction unions asked for volunteers, both from individuals and companies. Some of the volunteers were involved in the setup of temporary villages, with others involved in committees and the organising of temporary accommodation and shower and toilet blocks. The unions have since developed a database to help coordinate their volunteers.

Victorian Bushfire Reconstruction Authority – VBBRA

It has been 12 weeks since Grocon was given the cleanup task on 27th February 2009, but many difficult challenges still remain. Tim Bamford, Site Clean Up Program, noted that Grocon initially set up a website and a telephone hotline for consumers to be able to register their details. To date they have had 3000 registrants and are still receiving more. The majority of these are requests to deal with homes and outbuildings.

During the cleanup process Grocon had to deal with a variety of hazardous materials. Due to this a new category of waste was created, "Bushfire Waste", which indicates there is a possible risk of asbestos. This new categorisation made the process somewhat complicated because of the labour intensive work involved, but also meant they could speed up the overall process as they could avoid having to carry out individual assessments. They also had to take into consideration the transport of waste. They felt they needed to maintain local participation in the cleanup and as a result, 70% of contracts had been given to local companies.

Once a resident registers with Grocon a staff member meets them at the site of their property. This is to establish any particular requirements, such as preserving certain elements which may be salvageable or have sentimental value. Once the site has been cleaned, an environmental hygienist carries out a final check and addresses any issues, followed by the issuing of a certificate of completion. During this process Grocon has to negotiate with the needs of each registrant individually and not as a whole, which is time consuming taking many hours. By 12th May 2009 the resources in place included:

- 10 Regional offices
- 140 Clean up areas
- 200 Machines in place
- 670 Personnel
- 400 Trucks

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Roundtable Reports Progress

By 10 May 2009, Grocon had completed 1000 cleanups, but found some larger sites such as hotels, schools, etc could slow down their progress a little. The completion date is scheduled for the end of September 2009, which is in line with the Minister's initial 6 month target.

Len Miller – Construction Program outlined the possible options around reconstruction planning. Options for housing include:

- Using an architect
- Using a home design agency
- Using a package builder
- Using a local builder
- Becoming an owner builder - many residents are choosing this option
- Using a kit home - either as an owner builder or using a builder
- Using a transportable home

Community build - when a group of residents come together to build a home or series of homes. This method was being encouraged as it promoted the community, increased confidence and provided a good learning process.

VBBRA Activity

VBBRA is developing display centres in:

- Marysville
- Kinglake
- A mobile centre

These centres will display architectural designs, provide information, have interview rooms for discussions with residents and can provide assistance with information on:

- Planning approvals
- BAL assessments
- Financial advice
- Insurance advice
- Advice regarding utilities

VBBRA's intention is to have a number of building advisory officers. These officers would guide residents through the building process and offer support. VBBRA also intend to take a co-ordination role for community buildings such as schools, community halls, etc and help co-ordinate across multiple agencies if necessary. However, their first priority will be to focus on the 2000 houses (out of the 3000 buildings) destroyed.

Roundtable Volunteer Projects

In the aftermath of the bushfires the *Victorian Farmers Federation* found themselves confronted with a large scale task. *Wal Lawson, State Fencing Coordinator*, noted that destroyed fences had led to numerous problems for the community and compromised animal safety. They quickly realised they were unprepared for the scale of the situation, and beginning the recovery process took them longer than they had anticipated.

The VFF used a number of coordinators to setup a team of volunteers who organised any equipment that was required. The number of volunteers received initially grew very quickly, however there remains a need for far more volunteers with the appropriate fencing skills.

To date, VFF have fixed 5087Km of boundary fencing, plus approximately 10,000Km of internal fencing. They now have a team of 13 coordinators across the state, with a total volunteer base of around 5000. Temporary accommodation has been organised for volunteers, though they have found there is a shortage of such accommodation because of the large number of workers in the area.

Problems faced by the VFF included many damaged trees which had to be removed and initial problems with funding. Funding was required to cover administration and machinery hire costs, which to date have cost \$200,000. They have also had to deal with the recent change in weather with the approach of winter and are finding the rain is causing debris to wash down hills and damage recently repaired fences. Although the VFF had so far successfully dealt with 798 properties, the remaining task is still an unknown quantity.

Eddie Cichocki from the *Office of the Surveyor General* noted that a meeting to coordinate volunteers was held, which consisted of members of Government bodies and professional organisations. They were also aided with aerial photographs of the area, supplied by VBBRA. Volunteer fieldwork began on 3rd April 2009 and concentrated their efforts on referencing:

- Permanent Survey Marks – Metal plaques located on the ground
- Reference Marks – Pipes, etc or marks forming the corner of a property

- Pegs – Wooden pegs were located into Title corners

The surveyors recorded their findings and made available a public document, which provided a link to the boundary. Their next step will be to setup a register.

Whilst dealing with the victims of the fire they ensured their volunteers were clearly identifiable by providing them with ID and a resident information sheet, which included OH&S issues. They found obtaining insurance for volunteers was difficult to organise, but volunteers are now covered via DSE.

Future developments include:

- Surveying the Marysville area
- Using private surveyors to survey the Bendigo area, at either pro bono or at reduced rates
- The creation of a phone line at the ACSV for surveying professionals
- Determining the boundaries along the road alignment

There is still a need for more volunteers to meet the demand for work. To help aid this they have created a website which will also provide news, advice, etc. (www.dse.vic.gov.au/vbst).

Kerry Thompson

VBBRA, Community Projects

Kerry Thompson, Chief Executive of Maribyrnong Council was on secondment to *VBBRA Community Projects* and is coordinating 14 councils in the affected areas. Her tasks include troubleshooting any planning and building issues, looking at community facilities such as schools and focussing the planning of major donations towards facilities such as sporting venues.

They had found many of the smaller local councils did not have the resources to cope with the scale of the bushfire disaster; however they wanted to use the opportunity to create real improvement for local communities, using the "betterment principle". To aid this they have been consulting the community to produce a needs/wants list, which will be fed into a master plan.

Originally, the Building Commission assumed the first BAL assessment would be carried out as part of the design process.

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Manage risk using a collaborative multimedia approach

The current economic crisis and regulatory changes are requiring a more consultative and collaborative approach to risk management. In the future, the implicit question facing any organization will be not just whether it is managing its risks effectively but also whether it is communicating this effectively to its stakeholders.

Unfortunately, there is little guidance on how to effectively and efficiently consult with stakeholders when managing risk. UNSW have designed a workshop to help companies address this challenge in a simple and practical way using cutting-edge multimedia technology.

Key learning outcomes:

In the workshop Professor Martin Loosemore, an internationally recognized expert in risk management, will demonstrate an innovative approach to risk and opportunity management which uses cutting-edge multimedia technology to engage stakeholders in the process and reach collective solutions.

Multimedia offers many advantages over traditional computer and paper-based risk management systems. Research indicates that people retain and understand up to 91%



Professor Martin Loosemore

more when using multimedia compared to computer and paper-based management systems. Multimedia also offers a powerful way to engage, enthuse and stimulate those involved in the risk management process. Multimedia therefore enables organisations to build a positive risk management culture by effectively capturing and harnessing the talents and knowledge of its employees and other stakeholders enabling them to learn from their collective experience.

The approach used in the workshop has been used successfully across a wide range of industries and is called ROMS version 2.5 (www.risk-opportunity.com). ROMS 2.5 is currently being used by Australian and

New Zealand Health authorities to develop a national climate change adaptation strategy for hospitals. It was also the basis of the risk management system used to manage the 2008 Beijing Olympic Games facilities and has been used by a wide range of major public and private sector organizations in the insurance, finance, resources, engineering and construction sectors to successfully manage a diverse range of strategic, tactical and operational risks involved in major PPP tenders, resolving IR disputes and safety problems, resolving security threats etc.

Following a short introduction, Professor Loosemore will then spend the rest of the workshop helping individuals or teams work through a solution to a real-life decision, problem or task which they currently face in their business.

Before the workshop teams or individuals are required to think about a real-life decision, problem or task which they currently face in their business.

At the end of the workshop, each attendee will be given a free three month trial of ROMS version 2.5.

Specifically, the workshop will help delegates:

- Identify common stakeholder objectives in solving your problem, decision or task.
- Identify risks and opportunities to those objectives
- Assess and prioritise those risks and opportunities
- Develop actions plans and identify appropriate contingencies to mitigate those risks and maximise those opportunities.
- Develop implementation strategies and information to enable negotiations with business partners or clients about optimum allocations of risk.

VIC Built Environment Bushfire Support Roundtable Reports Progress *continued from page 7*

However, feedback from residents is that they want to know their BAL level before the design stage. Sarah McCann-Bartlett, Deputy Building and Plumbing Industry Commissioner, Bushfire Attack Level (BAL) Project advised that in response to this feedback a project was established to provide volunteers to carry out an initial BAL assessment, free of charge for residents. This would be followed by a second assessment during the design stage and a final confirmation by the Building Surveyor before the building permit is issued.

The Building Commission's recent Bushfire Volunteer E-Bulletin had promoted the projects and called for volunteers. Volunteers could be anybody qualified to work within the building industry. The projects would require a minimum 1-2 days

of their time (more if they wished). So far there remains a shortage of volunteers, with an estimated requirement for around 150 volunteers. Roundtable members are called upon to promote the project to their members to participate. Whilst volunteers do not need certification, the Building Commission requires they first attend one of the Commission's free industry seminars to familiarise themselves with the new standard and the process of BAL assessments. Alternatively, volunteers can demonstrate equivalent training.

Pat Weaver, FCIOB, is representing CIOB Australasia at these ongoing roundtable discussions. CIOB encourages members to support and assist where possible with volunteer projects as rebuilding commences.

Risk & Opportunities Management Workshop

FBE Campus, UNSW, Kensington

September 09 Date tbc.

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An Overview of the Building and Construction Industry Security of Payment Act

Although the Building and Construction Industry Security of Payment Act (“the Act”) commenced on 26 March 2000, it was the subsequent amendments to that Act which came into effect on 3 March 2003 which has had an enormous impact on the building and construction industry as it has had the effect of changing the ‘balance of power’ between the parties. Whereas a builder previously struggled to be paid for the work that it had done, the builder is now being paid on an interim basis for that work and it is the owner rather than the builder who generally has to engage the dispute processes. It should be noted that the same situation under the Act also applies to a contract between a subcontractor and a builder.

The effect of the Act was that it created a dual system whereby a claimant had a statutory right which operated in addition to, and not in derogation of, any contractual right to be paid for the work that a claimant had undertaken. Any provision of a contract which purports to exclude, modify or restrict the operation of the Act is void.

The Act lays down an adjudication procedure which provides a relatively quick means for determining on an interim basis the amounts owed to a claimant for the work that it has undertaken.

Section 3 provides a description of the object of the Act and makes it clear that the Act applies to *“any person who undertakes to carry out construction work (or who undertakes to supply related goods and services) under a construction contract...”*

Section 4 of the Act provides a number of definitions including relevantly, a definition that a “construction contract” means *“a contract or other arrangement under which one party undertakes to carry out construction work ...”* (emphasis added). It should be noted that the term “arrangement” in the definition is a wide one, and encompasses transactions or relationships which are not legally enforceable agreements.

Section 7 of the Act provides that the Act applies to any construction contract whether written or oral. Notably, the Act does not apply to a construction contract for the carrying out of residential building work within the meaning of the Home Building Act 1989 on such part of any

premises as the party for whom the work is carried out resides in or proposes to reside in. However, if a party proposes to reside in part of a complex of residential units, then such a construction contract is not excluded from the operation of the Act by this provision either in whole or in part.

Section 13 of the Act, in particular, s13 (2) sets out the minimum requirements for a payment claim to be served under the Act. In particular, the Act requires that a payment claim:

- Must identify the construction work to which the progress payment relates;
- Must indicate the amount of the progress payment that the claimant claims to be due; and
- Must state that it is made under the Act.

A payment claim may be served for a period of 12 months after the construction work to which the claim relates was last carried out. In order to pass this test only some of the work claimed must have been carried out in the twelve month period.

Section 14 of the Act gives a person who receives a payment claim (“the respondent”), the opportunity to reply to the payment claim by serving a payment schedule on the person who served the payment claim (“the claimant”). A payment schedule which simply states that a claim is rejected is not a valid payment schedule as it does not disclose the reasons for arriving at that result. A payment schedule served after the time prescribed under section 14(4) of the Act is also not a valid payment schedule.

If a respondent fails to respond to the payment claim by serving a payment schedule either within 10 business days or within the time required by the construction contract then the respondent becomes liable to pay the claimed amount.

In that event, the claimant may either seek to recover the unpaid portion of the claimed amount from the respondent as a debt due to the claimant in any court of competent jurisdiction or, it may make an adjudication application under s.17(1)(b) of the Act. If the claimant commences proceedings to recover the claimed amount as a debt, the respondent is not entitled to bring any cross-claim against the claimant nor is it entitled to raise any defence in relation



Steven Goldstein

to matters arising under the construction contract (s.15(4)).

If the respondent provides a payment schedule or the claimant elects to make an adjudication application notwithstanding the absence of a payment schedule, any such application must be made to an authorised nominating authority in writing within the times prescribed in section 17(3)(c)-(e) of the Act. The Institute of Arbitrators & Mediators Australia is an authorised nominating authority.

The authorised nominating authority must then refer the adjudication application to an adjudicator who, on accepting the adjudication application is taken to have been appointed to determine the application.

Once a copy of the adjudication application is received by the respondent it has the opportunity of lodging an adjudication response providing this is lodged with the adjudicator either within 5 business days after receiving a copy of the adjudication application, or 2 business days after receiving notice of an adjudicator’s acceptance of the application, whichever is the later. However, the respondent may only lodge an adjudication response if the respondent has provided a valid payment schedule and cannot include in the adjudication response any reasons for withholding payment unless those reasons have already been included in the payment schedule to the claimant. Determining whether or not the adjudication response contains reasons which are not included in the payment schedule is ultimately a matter for the adjudicator alone to determine.

Under section 21(2) and (3) of the Act, the adjudicator is not entitled to consider an adjudication response unless it was made within the permitted time and must determine an adjudication application

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within 10 business days after notifying the parties of his or her acceptance of the application unless the parties agree otherwise.

Section 21(4) of the Act entitles an adjudicator to request further written submissions, call a conference or carry out an inspection of the site. It is a matter for the discretion of the adjudicator whether or not to take any of these steps.

Section 22 of the Act deals with the Adjudicator's determination and it is that determination which many a dissatisfied respondent has sought to challenge (usually without success) before the Courts.

It should be noted that as section 22(1) of the Act requires an adjudicator to determine "the amount of the progress payment (if any) to be paid by the respondent to the claimant", the best outcome that can be achieved by a respondent in an adjudication application is a nil payment to a claimant.

Since the decision in *Brodyn Pty Limited (trading as Time Cost and Quality) v Davenport* 61 NSWLR 421, the Courts have consistently spoken of the scheme of the Act to be "pay now, argue later" and have consistently ruled that the procedure in the Act contemplates a minimum of opportunity for court involvement. So long as the adjudication determination satisfied five "basic and essential requirements" that were essential for there to be such a determination then it would not interfere in that determination:

- The existence of a construction contract between the claimant and the respondent to which the Act applies (ss 7 and 8).
- The service by the claimant on the

respondent of a payment claim (s 13).

- The making of an adjudication application by the claimant to an authorised nominating authority (s.17).
- The reference of the application to an eligible adjudicator, who accepts the application (ss 18 and 19).
- The determination by the adjudicator of this application (ss19(2) and 21(5)), by determining the amount of the progress payment, the date on which it becomes due and the rate of interest payable (ss22(1)) and the issue of a determination in writing (ss 22(3)(a)).

The only the other grounds on which the adjudication determination might be challenged is if it can be shown that there was not a bona fide attempt to exercise the power by the Adjudicator or if there was a substantial denial of the measure of natural justice that the Act required to be given.

It should be noted that even if the Adjudicator makes an error of fact or law in the interpretation of the Act or the contract or as to what are the valid and operative terms of the contract this does not prevent a determination from being an adjudicator's determination within the meaning of the Act. So long as the adjudicator does consider the provisions of the Act and the provisions of the contract and bona fide addresses the requirements as to what is to be considered, an error on these matters does not render the determination invalid.

Section 23 of the Act requires the respondent to pay the adjudicated amount within 5 business days after the determination is served on the parties. If the respondent fails to pay the whole or part of the adjudicated amount within that time, the claimant

may request the authorised nominating authority to issue an adjudication certificate (s.24). Once issued, that certificate may be filed as a judgment for a debt in any court of competent jurisdiction and is enforceable accordingly.

Section 24 of the Act provides that if the respondent commences proceedings to have the judgment set aside, the respondent is not entitled to bring any cross-claim against the claimant nor is it entitled to raise any defence in relation to matters arising under the construction contract nor is it entitled to challenge the adjudicator's determination and it is required to pay into the court as security the unpaid portion of the adjudicated amount pending final determination of those proceedings.

One of the significant weaknesses of the Act insofar as a claimant is concerned is the enforcement of that judgment, particularly in circumstances where the claimant is no longer working on site and therefore, its most potent "weapon" of suspending the work pursuant to s.27 of the Act is no longer available to it.

Section 32 of the Act makes it clear that any such payments are interim payments which do not affect any civil proceedings arising under the construction contract. A judgment entered under s.25 of the Act on an adjudication certificate is provisional both in what it grants and in what it refuses. Nevertheless, one of the positive impacts of the Act is that it has encouraged the parties to finally settle their disputes rather than follow the long and often difficult, recovery process.

The enormity of the impact of the Act is demonstrated by the fact that in the six years since the amended Act came into effect in March 2003 there have been some 4,800 Adjudication Applications in New South Wales worth approximately \$2.3 billion of which about \$640 million has been awarded to claimants. The Institute of Arbitrators & Mediators Australia is one of only 8 authorised nominating authorities in New South Wales. For further information in regard to the Act and Adjudication Applications visit the Institute of Arbitrator & Mediators Australia web page at www.adjudicate.org.au or contact Margaret Mackay on (02) 9241 1188.

Steven Goldstein
Edmund Barton Chambers

CIOB Undertakes Professional Bodies Survey

Throughout the world people undertake and value professional qualifications for very different cultural and personal reasons. Why do people become members of professional associations? What do people expect professional institutes to deliver? In Australasia you can be sure the answers to these questions will differ greatly from say China, Europe or Africa. Dr Grace Ding from CIOB Australasia's Regional Council is preparing a survey to find out more. We are keen to hear from not only our members but those construction professionals who are not members of any professional bodies. In the coming months you will receive a research link to undertake the survey. To obtain good research data, we hope to get as many responses as possible and ask that you pass the link to your colleagues in the industry so that we can gain a greater understanding into the reasons why people in our part of the world value and seek out membership of professional associations.

2009 Dates for Your Diary

Events and activities presented by CIOB Australia and our network of associated organisations.

For further information please contact events@ciob.org.au or telephone +61 (2) 9816 4700.

Date 2009	Event	Location
7-10 July	34th AUBEA Annual Conference. Visit www.ciob.org.au/events for further details.	South Australia
9 July	IAMA Expert Witness Workshop – SYDNEY. Visit www.ciob.org.au/events for further details.	IAMA DRC Sydney
13-24 July	Tsinghau Summer School for International Construction & Property 2009 — CHINA. Visit www.ciob.org.au/events or www.globalprogram.cn for further details.	Tsinghua University Beijing, China
23 July	IAMA Expert Witness Workshop – SYDNEY. Visit www.ciob.org.au/events for further details.	IAMA DRC Sydney
28 July	RICS 'Future of Project Management' - PERTH Breakfast Seminar: Presented by David Baccarini, Curtin University. Visit www.ciob.org.au/events for further details. To register, email j.carney@rics.org.au	Citigate Perth, 707 Wellington Street, Perth
30 July	IAMA Expert Witness Workshop – SYDNEY. Visit www.ciob.org.au/events for further details.	IAMA DRC Sydney
10 August	CIOB Members Breakfast - SYDNEY: 'Meet the CIOB President and CEO', visiting from the UK. Visit www.ciob.org.au/events for further details.	The Menzies Hotel Sydney
10-12 August	PMOZ 6th Annual Project Management Australia Conference 2009: Visit www.ciob.org.au/events or www.pmoz.com.au for further details.	National Convention Centre Canberra
25 August	Hill International Contract Administration Seminar Series 3 of 4: 'Time for Completion, Liquidated Damages and Extension of Time' SYDNEY. Visit www.ciob.org.au/events for further details. To register, email martinaludvigova@hillint.com	Sydney Cricket Ground Moore Park Sydney
27 August	Hill International Contract Administration Seminar Series 3 of 4: 'Time for Completion, Liquidated Damages and Extension of Time' PERTH. Visit www.ciob.org.au/events for further details. To register, email martinaludvigova@hillint.com	Rydges Perth
28 August	NAWIC VIC / TAS Awards 2009. National Association of Women in Construction awards night congratulates the women in our industry who have shown a commitment to excellence in each of the 10 awards categories. registration via: www.nawic.com.au	Savoy Ballroom, Grand Hyatt Melbourne 123 Collins St, Melbourne
1 September	Hill International Contract Administration Seminar Series 3 of 4: 'Time for Completion, Liquidated Damages and Extension of Time' MELBOURNE. Visit www.ciob.org.au/events for further details. To register, email martinaludvigova@hillint.com	MCG, Melbourne Cricket Ground Melbourne
1 September	UNSW One Day ROMS Workshop – SYDNEY. Prof. Martin Loosemore will demonstrate an innovative approach to risk and opportunity management, which uses cutting-edge multimedia technology to engage stakeholders in the process and reach collective solutions. Visit www.ciob.org.au/events for further details.	UNSW Sydney
3 September	Hill International Contract Administration Seminar Series 3 of 4: 'Time for Completion, Liquidated Damages and Extension of Time' BRISBANE. Visit www.ciob.org.au/events for further details. To register, email martinaludvigova@hillint.com	Conrad Treasury Brisbane
15 September	CIOB & Risktools One Day 'Risk Management' Workshop – BRISBANE. Presented by Gavin Halling, Risktools. Visit www.ciob.org.au/events for further details or email Lisa Koskinen: lisa.koskinen@risktools.com.au	Christies Corporate 320 Adelaide Street Brisbane
17 September	Joint CIOB & ICE in NZ – AUCKLAND. 'Visit to the Newmarket Viaduct Replacement Project'. 5:00pm presentation for 6:00pm Site Visit. Visit www.ciob.org.au/events for further details.	Newmarket Viaduct Auckland
20 October	CIOB & Risktools One Day 'Risk Management' Workshop – AUCKLAND. Presented by Gavin Halling, Risktools. Visit www.ciob.org.au/events for further details or email Lisa Koskinen: lisa.koskinen@risktools.com.au	TBC Auckland
21-23 October	CIB W099 Conference 2009 – MELBOURNE. Working Together: Planning, Designing and Building a Safe and Healthy Construction Industry. Visit www.ciob.org.au/events or www.constructionsafety2009.com.au for further details.	Rydges Hotel Melbourne
End October	CIOB Seminar series 'Outlook for the Australian Property Market 2009-2011' - NATIONAL: Presented by Frank Allen, Director Property Markets, Westpac Property. Visit www.ciob.org.au/events for further details.	Venues TBC Brisbane, Melbourne, Sydney
Early November	CIOB Seminar series 'Outlook for the NZ Property Market 2009-2011' – NEW ZEALAND: Presented by Dominick Stephens, Research Economist, Westpac Institutional Bank. Visit www.ciob.org.au/events for further details.	Venues TBC Wellington, Auckland
2-3 December	ICC 2009: 'Challenges of Global Mega Projects – Maximise Value Minimise Costs for Excellence' MALAYSIA. Visit www.ciob.org.my for further details. To register, email: events@ciob.org.au	Putra World Trade Centre Kuala Lumpur Malaysia

Find contact details and profiles of key Council members in the 'About Us' section of our Website: www.ciob.org.au

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CIOB contact details:

CIOB Australasia
CIOB Australasia
Suite 2, Level 1, 256 – 258 Victoria Road
Gladesville NSW Australia 2111
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Phone: 61 2 9816 4700
Fax: 61 2 9816 4699
Email: info@ciob.org.au
Website: <http://www.ciob.org.au>

CIOB Australasia Staff
Elizabeth Thomas
Regional Manager
Email: ethomas@ciob.org.au

Jodie Richards-McCabe
Event Coordinator
Email: events@ciob.org.au

Robyn Smith
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Email: rsmith@ciob.org.au

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