



Media Release

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Landmark Court Ruling Boosts \$6 billion Construction Industry Dispute Adjudications Over Court Battles – RICS Dispute Resolution Service

A landmark ruling in Queensland's Supreme Court late last week will boost the State's fledgling construction industry dispute adjudication system, according to peak industry body the Royal Institution of Chartered Surveyors Dispute Resolution Service ("RICS Dispute Resolution Service").

In the first case of its type in Queensland, an adjudication decision made under Queensland's *Building and Construction Industry Payments Act 2004 (BCIPA)* was challenged in the courts.

The case, JJ McDonald & Sons Engineering Pty Ltd ("the applicant") vs CEPM Pty Ltd ("the claimant") and Others, related to a \$144,000 construction dispute.

Justice Dutney confirmed that there was no evidence that the adjudicator had breached the principals of natural justice when deciding the adjudication application and dismissed the matter. The applicant was then ordered to pay the claimant's costs.

RICS Dispute Resolution Service general manager, Colin Bond, said the decision confirmed the integrity of the adjudication approach and would boost the \$6 billion Queensland construction industry's move away from litigation as the first resort in settling the payment disputes that bedevil the industry.

"Whilst this matter did go before the Supreme Court, the parties reached a confidential agreement in respect of an interim payment whilst the proceedings progressed. Therefore the claimant still extracted cash flow monies during the process, which simply would not have happened had *BCIPA* not been in place. By then dismissing the matter and ruling that the applicant pay costs, Justice Dutney has sent a strong message to the construction industry,"

"Adjudication in construction payment disputes is absolutely pivotal in preventing costly time consuming court proceedings and you must have a strong case to bring a matter to court," Mr Bond said.

The building and construction industry is infamous for payment disputes. The construction industry in Australia is going through considerable change with the introduction into several States and Territories of new security of payment legislation, enabling parties involved in a construction contract to refer disputes to third party adjudication.

The move to adjudication rather than litigation or arbitration should save millions of dollars in legal fees and court costs, and resolve disputes in a fair but rapid manner. Expert adjudicators can be brought in to quickly resolve payment disputes to help maintain cash flow, the lifeblood of the building and construction industry.



Contractors and sub-contractors have only been able to use the adjudication process in Queensland since *BCIPA* was introduced in October last year.

Since inception, some 68 applications totaling more than \$6 million in claims have been made with 61 per cent being adjudicated in favour of the claimants.

In Queensland, RICS has established the RICS Dispute Resolution Service as an Authorised Nominating Authority (ANA) under *BCIPA*, which means it can appoint adjudicators to deal with payment disputes. RICS Dispute Resolution Service is backed by the experience and expertise of the RICS, which has been operating in dispute resolution services for the past 20 years.

RICS has 110,000 members globally and represents, regulates and promotes the work of property professionals throughout 120 countries. It is an independent, non-profit making organisation committed to acting in the public interest and providing impartial, authoritative advice on major issues affecting business and society.

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RICS – The mark of property professionalism worldwide

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Notes to editor:

The Royal Institution of Chartered Surveyors Dispute Resolution Service is an independent, not-for-profit service and RICS covers all aspects of real estate, property, construction and associated environmental issues. RICS has 110,000 members globally and represents, regulates and promotes the work of property professionals throughout 120 countries.

It is an independent, non-profit making organisation committed to acting in the public interest and providing impartial, authoritative advice on major issues affecting business and society.

RICS is the leading global provider of dispute resolution services. RICS DRS Queensland has been registered as an Authorised Nominating Authority (ANA) under the Building and Construction Industry Payments Act (BCIPA), which came into effect in October 2004. RICS DRS is backed by the experience and expertise of the RICS which is the world's largest provider of alternative dispute resolution services.