
JOHNSON
WINTER &
SLATTERY



Review 2019

A summary of recent developments,
insights and assignments

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Welcome

With significant regulatory change coming into effect the spotlight is staying firmly on culture, ethics and regulatory compliance. An organisation's social licence to operate remains a priority for Australian businesses.

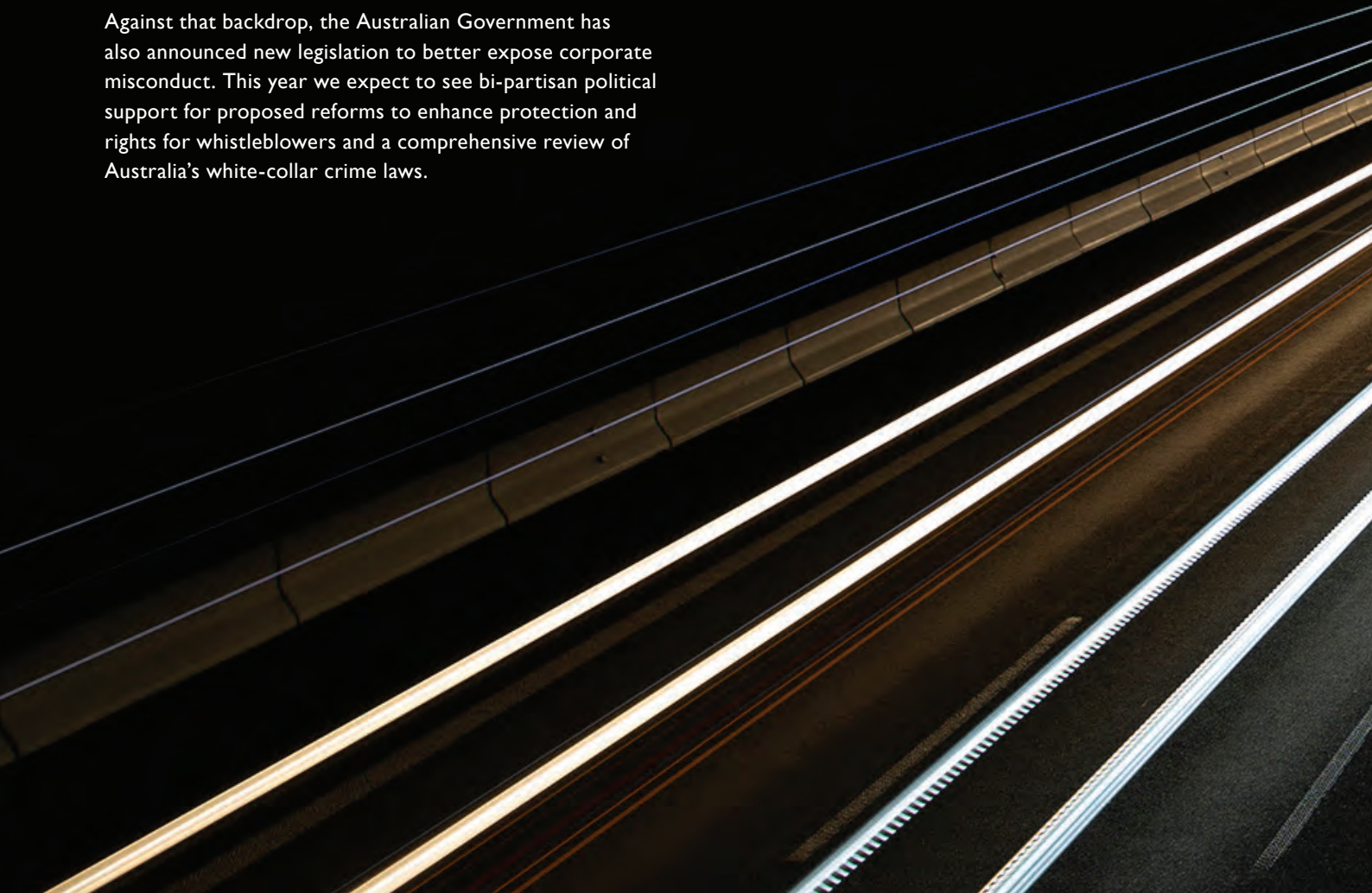
Throughout Australia we are seeing a sharper focus on sustainable and socially acceptable business conduct, with unethical behaviour being publically pursued and punished.

The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry revealed sweeping shortcomings among many in the industry sparking political and regulatory action to restore trust in the finance sector. Regulators, particularly the Australian Securities and Investments Commission (ASIC), will be resourced to increase investigative activity, which we expect will result in an increase in prosecutions and civil penalty proceedings. The publicity surrounding these activities will in turn ensure that corporate behaviour, culture and compliance will remain in focus for Boards and senior management across all sectors.

Against that backdrop, the Australian Government has also announced new legislation to better expose corporate misconduct. This year we expect to see bi-partisan political support for proposed reforms to enhance protection and rights for whistleblowers and a comprehensive review of Australia's white-collar crime laws.

In advising clients on their activities in transaction, dispute and compliance settings we are ever mindful of these changes in the commercial landscape, which of course will shape our approach and service offering.

The wonderful support we receive from our clients has seen us again recognised by many international directories as well as through industry awards, including our Dispute Resolution team being listed as a Band 1 Practice in the Asia Pacific Legal 500. This Review highlights a selection of our engagements to provide a sense of the firm's strengths and the organisations we are privileged to represent.





Banking and finance

KEY MATTERS

Abacus Property Group

Advising on all debt matters both as lender and as borrower, including structuring and managing complex mezzanine and joint venture structures to facilitate significant debt and equity investments.

AP Eagers Limited

Advising on all financing matters including in relation to its off-market bid for Automotive Holdings Group.

Archer Capital

Advising on its acquisition financing requirements and its portfolio companies' debt financing requirements.

Battery Ventures

Advising in relation to its note purchase facilities for its acquisition of PageUp People.

Crescent Capital Group

Acting as Australian counsel to the client as second lien lender supporting KKR's A\$2 billion bid to acquire the publicly listed MYOB.

Flinders Ports

Advising on its common terms for bank debt and all other financing requirements including recent refinancings and issuance of USPP.

GFG Alliance

Advising on its debt and derivative transactions including the addition of A\$650 million in credit lines for working capital management and planned growth opportunities, a new project financing facility and proposed IPO-related senior debt.

Kestrel Coal

Advising senior and mezzanine lenders financing EMR and Adaro consortium's US\$2.25 billion acquisition of the Kestrel Coal Mine from Rio.

Panthera Finance

Advising on its senior bank syndicated facilities and subordinated loan note facilities.

Royal Wolf

Advising on its core debt requirements, including the refinancing by Deutsche Bank of senior facilities previously put in place in connection with its takeover by General Finance Corporation.



Competition/Antitrust

As Australia's most vigorous regulator and recently crowned Global Competition Agency of the Year, the Australian Competition and Consumer Commission (ACCC) continues to actively investigate and enforce competition and consumer laws, successfully lobby Parliament for strong penalties and significant legal reforms, and conduct detailed and ground-breaking market studies. Chairman Rod Sims has been appointed for a record third term and with increased resources and a higher budget, we expect to see a lot of activity in 2019.

TRENDS FROM 2018

1. Almost 10 years after the law was first introduced, the ACCC successfully commenced and prosecuted its first criminal cartel case. It has also prosecuted its first individual which could lead to jail terms.
2. The ACCC recently signed an inter-agency cooperation agreement with the FBI which will no doubt significantly enhance the ACCC's investigation 'tool kit'.
3. The new "effects" test for misuse of market power and the new prohibition against concerted practices have become law and the ACCC is seeking to test these new laws.
4. Penalties for breaches of competition law by large companies where there is significant consumer harm will be substantial and will no longer be seen as a cost of doing business. The ACCC, legislators, the judiciary and the Organisation for Economic Cooperation and Development (OECD) have all suggested penalties in Australia are too small.
5. The ACCC has continued its focus on investigating and enforcing the Australian Consumer Law, especially compliance with the consumer guarantees regime and unfair terms.
6. The ACCC continues its deep dive into a number of industries through its market studies. These studies have resulted in new laws, new codes of conduct and new investigations.



KEY MATTERS

Airlines for Australia and New Zealand

Advising on current Australian "access" regimes and their application to Australian airports.

David Jones

Acting in seeking reauthorisation of promotional conduct with retail brand management businesses.

Jetstar Airways

Advising in relation to the ACCC's Airlines Terms and Conditions Project.

PepsiCo

Obtaining ACCC clearance for PepsiCo's US\$3.2 billion global acquisition of SodaStream.

Qantas

Advising in relation to the ACCC's investigation into its 19.9% acquisition of Alliance Airlines.

Ramsay Health Care

Defending an ACCC prosecution for misuse of market power and exclusive dealing.

Ruralco

Obtaining informal clearance from the ACCC in relation to its \$450 million proposed acquisition by Nutrien.

The A2 Milk Company

Advising A2 Milk Company on the proposed mandatory dairy code.

Travelex

Advising in relation to the ACCC's inquiry into foreign currency conversion services.

Unilever

Acted in the long running ACCC prosecution against Colgate Palmolive, PZ Cussons and leading supermarket retailer Woolworths for engaging in alleged price fixing, information sharing and boycott behaviour.

Walt Disney (Australia)

Advising in relation to an ACCC collective bargaining application by an organisation representing independent exhibitors.

FORECAST FOR 2019

1. The ACCC will continue its rigorous enforcement of cartels. We expect **more criminal cartel investigations and prosecutions** in 2019 (including individuals being imprisoned).
2. As competition law moves to a "substantial lessening of competition" assessment for most types of conduct, we expect the **ACCC to pursue investigations particularly in concentrated sectors** where there appears to be foreclosure, high prices and lack of choice.
3. The ACCC has indicated that there has been a "bias to excessive consolidation" in many sectors whereas competition is best promoted by a sufficient number of competitors. We accordingly expect **merger clearances in concentrated sectors to be more difficult** to obtain.
4. The maximum penalties for breaches of the Australian Consumer Law have recently been increased (almost tenfold) to equal the maximum penalties for breaches of competition law. This means the ACCC will seek **significant penalties** against large companies for such breaches.
5. The ACCC's Digital Platforms Inquiry and the introduction of the Consumer Data Right demonstrates that the ACCC will continue to examine **online platforms** and markets.

Corporate

Despite the big four Australian banks tightening credit on the back of the Royal Commission, we expect M&A activity to continue strongly in 2019.

KEY TRENDS TO WATCH

- Australian superannuation funds continuing to invest alongside private equity in public M&A deals.
- Bidders agreeing to allow target boards to “go shop”, namely seeking superior proposals, like we saw in KKR’s bid for MYOB.
- Private equity working hard to deploy the large amounts of capital raised over the last few years.
- Corporates looking for large acquisitions to deliver growth.
- A lull in M&A activity surrounding the Federal Election.
- Capital markets continuing to be volatile.
- The low Australian dollar making Australian investment attractive to foreign investors, particularly from the US.
- Key target sectors being aged care, education, technology, financial services and property.

KEY MATTERS – CORPORATE M&A AND PRIVATE EQUITY

Accel-KKR

Advised on the Australian aspects of the acquisition by Accel-KKR of approximately 35% of the issued share capital in Human Force.

Archer Capital

Advising on the sale of the Aerocare business to Swissport, owned by Chinese conglomerate HNA.

Ausdrill

Advising on its A\$697 million acquisition of Barminco, creating Australia’s second largest mining services company by revenue.

Battery Ventures

Advising on the acquisition of PageUp from its founders, Accel-KKR Growth Capital Partners and Accel-KKR Members Fund.

Bauer Media

Advising on the acquisition of News Corporation publications – Inside Out, Country Style and HomeLife.com.au.

Blackmores

Advising on its acquisition of 100% of the shares in Catalent Australia Holding Pty Ltd, moving Blackmores into the manufacturing space.

China Resources Capital Management

Advising on the restructure of GenesisCare and its sell down of shares in GenesisCare to KKR.

Coast2Coast

Advising on its partial sale of Marlin Brands to funds managed by Oaktree Capital Management and Alceon.

Dalian Wanda

Acted on the A\$1.13 billion divestment of its Australian real estate/hotel projects to AWH Investment Group, part of the Yuhu Group.

Gazal Corporation

Advised on its scheme of arrangement with PVH Corp. worth A\$306 million.

L Catterton Asia

Acted on all aspects of its acquisition of 60% of the 2XU group, having previously advised on L Catterton’s initial investment in 2XU.

OneVentures

Advised on all legal aspects of its investment in Phocas Limited.

Potentia Capital

Advised on its acquisition of Micromine, an exploration and mine design solution.

Quanta Services

Acted on its initial acquisition of a 30% interest in Mitchell Water and taking of a call option to acquire the remaining 70% interest.

Total S.A.

Advised on all aspects of its US\$1.6 billion divestment of its interest in Project Ichthys to INPEX

KEY MATTERS – EQUITY CAPITAL MARKETS

AirXpanders, Inc

Advising on its rights offering and private placement to raise approximately A\$20 million.

Ausdrill Limited

Acting on its A\$250 million accelerated non-renounceable entitlement offer (fully underwritten by Deutsche Bank and UBS) in connection with its A\$697 million acquisition of Barminco from private equity interests. The block trades by Ronald Sayers and Peter Bartlett of their shareholdings in Ausdrill for approximately A\$150 million.

Bionomics Limited

Advised on its recapitalisation, via share placement, led by a major US-based biotechnology investor and Bionomic's largest shareholder, BVF Partners.

Clarksons Platou Securities

Advising the co-lead manager to the initial public offering of Coronado Global Resources Inc.

Institutional Venture Management and OpenView Advisors

Advising on their Series B investment in Deputy Group by way of an acquisition of ordinary shares from existing shareholders and the issue of Series B preferred shares, creating the largest Series B investment in Australia to date.

Liquefied Natural Gas Limited

Advising on its A\$28 million capital raising via share placement.

Matrix Capital Partners

Advised on their entry into a strategic partnership and PIPE transaction with Afterpay Touch Group.

Northern Minerals Limited

Advising on various capital raisings to raise up to approximately A\$68 million.

Osprey Medical, Inc

Advised on its private placement of CDIs to raise A\$10 million and its non-renounceable entitlement offer to raise an additional A\$4.3 million.

Various noteholders

Advising investors including D. E. Shaw Group, Senrigan Capital and commodities trader Noble Resources on restructures of A\$132 million of convertible notes in Sundance Resources.

Visioneering Technologies, Inc

Advising on its private placement and security purchase plan of CDIs to raise approximately A\$12 million.



Dispute Resolution

KEY DEVELOPMENTS

Banking Royal Commission

The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry was conducted over 68 hearing days, through seven rounds of hearings across three states and one territory. 134 witnesses were called and more than 10,000 submissions were received, revealing multiple instances of inefficiency and injustice in the sector.

The final report released by the Royal Commissioner, Kenneth Hayne, on 1 February 2019, made 76 recommendations regarding banking, superannuation, insurance, financial advice, governance and regulation designed to restore trust in Australia's financial system. During the course of 2019 and beyond, we expect numerous investigations, prosecutions and civil penalty proceedings by ASIC and the Australian Prudential Regulation Authority (APRA) of some of Australia's leading financial institutions, their directors and senior management regarding the conduct scrutinised in the hearings. The Australian regulators will be armed with more funding and broader powers to prosecute these matters.

We also anticipate a significant renewed interest, and investment, in matters of corporate governance and compliance. ASIC has established a Corporate Governance Taskforce to specifically investigate, and work with Australia's leading financial institutions to ensure that their regulatory processes, practices and procedures are compliant.

Class actions

The class actions landscape in Australia continues to evolve and re-shape the country's access to justice. It is common for multiple proceedings to be issued regarding the same subject matter, resulting in preliminary applications to determine which action should proceed before the allegations in any of the actions can be adjudicated. Noteworthy actions in 2018 were GetSwift Ltd, AMP Ltd and BHP Billiton Ltd.

The presence of litigation funders and their funding models continue to be a significant factor in the court's assessment of which class action will achieve the best return to the group members. International funders are now frequently involved in the Australian market and are offering competitive and creative funding models.

There have also been changes in the approach to the 'book build' process and an increasing prevalence of early common fund orders which consider funding terms for the class including proposed commission structures for funders. The coming months will further direct the way in which representative proceedings are run, in view of a High Court of Australia challenge in *Lenthal v Westpac Banking Corporation Ltd*.





Corporate claims

There is an increasing appetite for corporates to seek funding or financial structures to assist in their plaintiff claims. This is an innovative approach which also allows corporates to de-risk their plaintiff claims, whilst still controlling the case and obtaining an attractive payout on a success settlement or verdict.

Foreign bribery

In the commercial crime arena, the Australian Federal Police (AFP) secured its first foreign bribery convictions in September 2017, with three company officers imprisoned for four years with fines, each of A\$250,000. In addition, the long-running RBA banknote printing corruption saga surfaced once non-publication orders were lifted. While a number of defendants pleaded guilty and received convictions and fines, no one was imprisoned. In addition, the High Court of Australia permanently stayed the case against four defendants, due to egregious illegal conduct by investigative agencies which caused irreparable damage to the defendants' rights to a fair trial.

There are pending legislative reforms on the horizon. The Australian Government has proposed a deferred prosecution agreement scheme ready for enactment together with major statutory reforms to Australia's foreign bribery laws. The most important of which is the creation of a strict liability corporate offence for failing to prevent foreign bribery (anywhere in the world), by a company (or its "associate", broadly defined). This is likely to create absolute liability for a parent entity throughout its entire supply chain, unless the parent company can establish that it had "adequate procedures" in place to prevent the conduct from occurring. The Commonwealth Director of Public Prosecutions has published guidelines to assist companies considering self-reporting potential criminal conduct to the authorities.

Money laundering laws have returned to the top of the agenda. The Australian Transaction Reports and Analysis Centre (AUSTRAC), as well as the Australian Anti-Money Laundering (AML) regulator, secured an agreed A\$49 million fine against Tabcorp Holdings and an agreed A\$700 million fine against the Commonwealth Bank of Australia where it was alleged to have not reported in excess of 53,000 suspicious transactions, with some involving allegations of funding for offshore organised crime and/or terrorism, arising from its introduction of modern "smart" ATM machines. Clearly, anti-money laundering enforcement is on the rise as are questions of whether "intermediaries" (such as lawyers, accountants and real estate agents) should be covered by the AML reporting regime.

Whistleblower protections

Whistleblower protections were carefully considered during 2018 to encourage greater disclosure of corporate misconduct. The Australian Government published a draft amended Bill in late 2018 proposing substantial reforms to enhance protection and compensation rights for

whistleblowers, with greater penalties for those who retaliate against whistleblowers or who disclose their identity. These reforms highlight a focus on corporate ethics and corporate culture where sustainable ethical business conduct is promoted and unethical corporate conduct is not only frowned upon, but actively discouraged.

However, the position will become clear over the coming weeks with the commencement of the new parliament. Public and large proprietary companies will have to have in place a whistleblower policy that complies with the new law. If they do not do so, they will be committing an offence. Companies are increasingly being held to public account by whistleblowers and the media, so a proactive approach to internal misconduct is essential to maintain a company's value and reputation which can be so hard to secure and therefore easy to lose.

KEY MATTERS – BANKING ROYAL COMMISSION

Australian Securities and Investments Commission (ASIC)

Acted for ASIC in the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

KEY MATTERS – CLASS ACTIONS

BHP Billiton

Acting for the Los Angeles County Employees Retirement Association in one of three securities class actions against BHP concerning the collapse of a tailings dam in Brazil.

Dick Smith

Acting in a securities class action for institutional investors, allegedly defrauded by third party financial advisors.

Gunns Ltd (in liquidation)

Acting for the liquidators of Gunns and its group of companies in multiple voidable preference claims and in the defence of a class action by growers in the Gunns Woodlot schemes for alleged breaches regarding investments.

Pitcher Partners

Acting for the applicant, Babsco Pty Ltd, in a shareholder class action against Pitcher Partners, the auditors of Slater and Gordon (S&G) regarding the audit and review reports for S&G.

Quintis

Acting for the defendants in three separate securities class actions arising out of the collapse of the Quintis group and the loss of funds in its Indian Sandalwood Plantation across Northern Australia.

RCR Tomlinson

Administrators appointed - Acting for a number of executive personnel of RCR Tomlinson Limited (administrators appointed) in relation to enquiries and litigation commenced in the lead up to and following the collapse of the company in November 2018.

In liquidation - Defending the former CEO of RCR Tomlinson Limited in a shareholder class action, following the collapse of the company in November 2018.

Standard & Poor's

Acted for the applicants (Lifeplan Australia Friendly Society & Ors) in a class action against Standard & Poor's (S&P) for losses arising from investments in SCDOs in reliance on ratings assigned by S&P.

SurfStitch

Acting for Nakali Pty Ltd, as representative applicant, in a class action against SurfStitch in respect of a claim that SurfStitch breached its continuous disclosure obligations and caused losses to shareholders.

KEY MATTERS – FOREIGN BRIBERY

Sinclair Knight Merz

Acting for former director and officer of Sinclair Knight Merz, who has been charged, together with the company and other individuals, with conspiracy to bribe a foreign public official in contravention of the Commonwealth Criminal Code, in connection with aid-funded infrastructure projects in Vietnam.

KEY MATTERS – REGULATORY

Advising a range of Australian and international companies on: internal and external company and regulatory investigations by the Australian Federal Police, the Australian Securities and Investments Commission and offshore agencies; due diligence issues for corporate acquisitions; investment issues for offshore projects; review of internal compliance, ABAC and whistleblower protection policies; advice on application of Australian and US and other sanctions; advice on fraud and asset recovery matters; and reviewing money laundering policies and reporting issues.

Employment



The employment landscape in 2019 will include the continuation of trends and developments from 2018, along with the potential legislative changes arising from the recent election. Employers should remain informed, and be ready to adapt in what is shaping up to be a dynamic year for workplaces.

TRENDS FROM 2018

1. **Casual employment** – Businesses with a high number of casuals considered their engagement of casuals as a result of the decision in *WorkPac Pty Ltd v Skene* [2018] FCAFC 131. To further mitigate against “double dipping” by casuals (i.e. paid leave entitlements on top of casual loadings), the Fair Work Regulations were amended in late 2018 to clarify offsetting of NES leave entitlements using casual loadings.
2. **Scrutiny of gig economy workers** – As disruptive businesses grew in 2018, so did the scrutiny on the engagement of their workers. The case involving a Foodora delivery rider in *Klooger v Foodora Australia Pty Ltd* [2018] FWC 6836 was the first finding by an Australian court or tribunal that found a digital platform worker to be an employee. Consequently, businesses closely analysed their business models and engagement of workers.
3. **#metoo** – The global campaign saw numerous high profile complaints of inappropriate sexual conduct. Australian businesses were not left unscathed. Businesses reviewed their complaint mechanisms and conducted refresher training, with some conducting internal audits, surveys or implementing workplace relationship policies. Complaints will continue to play out in the public forum and courts in 2019, including in defamation proceedings. Businesses should expect this attention to be reinvigorated later in 2019 with the release of the Australian Human Rights Commission’s National Inquiry into Sexual Harassment in the Workplace.
4. **New modern slavery laws** – The Modern Slavery Act 2018 (Cth) commenced on 1 January 2019 and the NSW equivalent laws are expected to fully commence on 1 July 2019. The reporting obligations under the Federal Act require businesses to respond to the risk of modern slavery in their operations and supply chains. Reporting corporations have begun reviewing their supply chains and collecting data for the first reporting year.
5. **Modern Award changes** – Various model clauses were included in Modern Awards. The casual conversion clause was the most significant as it enables “regular casuals” to request to be converted to ongoing employment. Employers are required to provide a copy of the clause to casuals covered by certain Modern Awards within 12 months of the casuals’ first engagement, or by 1 January 2019 for casuals already employed as at 1 October 2018.

FORECAST FOR 2019

1. **Class actions** – With various class actions already before the courts, and a flurry of major employment law decisions impacting various categories of workers, employment related class actions will remain a feature of the employment law landscape in 2019. Businesses with a high number of contractors, labour hire workers and casuals should be prepared for regulator led investigations and/or class actions.
2. **Whistleblower laws** – The recently enacted whistleblower protection laws introduce new protections for qualifying disclosures and penalties for breaches of the laws. Employers are preparing policies to comply with the proposed laws and have taken some limited comfort in the carve-out of “personal work related grievances” from the qualifying disclosures.
3. **Demise of enterprise bargaining** – The attractiveness of enterprise agreements may continue to decline in 2019. This decline will be due to the high standards being applied by the Fair Work Commission on pre-approval requirements and the better off overall test. Consequently, rather than negotiating enterprise agreements, employers may opt for individual contracts in accordance with the terms of applicable Modern Awards.
4. **Regulator scrutiny** – The Fair Work Ombudsman and industry regulators (such as SafeWork Australia, Australian Prudential Regulatory Authority and the Australian Taxation Office) will feature heavily in 2019. Focus will continue on gig economy workers, franchise models, labour hire, vulnerable workers and worker conduct.



KEY MATTERS

APN Outdoor Group

Successful representation in relation to claims of alleged discrimination and unfair dismissal.

Advising on employment issues arising from the merger of APN Outdoor with JCDecaux.

Employment class actions

Advising a number of clients in relation to proposed employment class action proceedings regarding alleged sham contracting and underpayments of employees.

Jemena

Assisting with major corporate restructuring including advising in respect of introduction of change and dispute processes in various enterprise agreements, managing union claims in respect of employee entitlements and advising in respect of transfer of business issues.

Michelle Guthrie v Australian Broadcasting Corporation

Acted in the proceedings commenced by Michelle Guthrie in the Federal Court against the Australian Broadcasting Corporation regarding the termination of her employment and in relation to various Parliamentary Inquiries regarding the matter. The matter was successfully resolved.

Qantas

Representing the Qantas Group in successful Full Court appeal proceedings and in other claims before the Supreme Court of Victoria.

Advising on executive separations and claims, including representation in proceedings.

Advising on a suite of employment agreements applicable across various classifications.

Retail client

Advising a major retailer on a payroll audit across its operations which included advising on award and enterprise agreement interpretation issues, internal and external communications plans and managing regulator enquiries.

Seven v Squillace

Acted in the proceedings commenced by the Seven Network in the New South Wales Supreme Court and the Federal Court, against a senior sales executive to enforce her post-employment non-compete obligations, delaying her commencing a sales role at Network Ten. The matter was successfully resolved.

South32

Advising on operations in respect of various supervisors, operators, and trade enterprise bargaining processes. This included advising and appearing in the FWC in respect of the protected action ballots, providing strategic advice in respect of the bargaining process and relevant FWC applications and managing industrial action, such as lock outs.

TechnologyOne

Acting for one of Australia's largest enterprise software companies, in discrimination, harassment and general protections proceedings initially commenced in the Australian Human Rights Commission.

Yahoo!7

Advised on a large scale restructure following Verizon's acquisition of Yahoo!7's operating business globally, merging Yahoo!7 with AOL and the creation of Oath. The matter involved advising on the redundancies of a significant proportion of its workforce in Australia, including within its senior executive leadership team.



Law Firm of the Year Energy Law

BEST LAWYERS 2020 EDITION



Energy and Resources

2018 SECTOR OVERVIEW

Ichthys and Prelude join Australian Liquefied Natural Gas (LNG) producers

In the upstream oil and gas sector, Australia is continuing to consolidate its position as a leading global exporter of LNG with Wheatstone LNG, Ichthys LNG and Prelude Floating Liquefied Natural Gas (FLNG) entering the market. The Ichthys project, in particular, has been in the spotlight for a number of years with reports of cost blowouts, delays and contractual disputes. It remains to be seen whether the project can finally leave controversy behind as it seeks to achieve full production in 2019. The industry is also watching with interest as Shell's FLNG technology is put to the test in 2019 with Shell announcing that the Prelude FLNG facility has entered start-up and ramp-up of its facility at the end of December 2018.

Mining

Despite volatile global commodity markets, the Australian mining sector has seen increased activity with iron ore majors committing to further expansion projects and with corporate activity in the sector generally lifting in 2018. Interest in "new economy" commodities including lithium, graphite and rare earths have continued with some new projects being developed.

Commodity prices have presented challenges to some of the players in these areas and capital and debt markets have remained tight for miners, especially at the smaller end of the market. Despite this, 2018 saw an increase in

new listings on the ASX for the sector, a sign of increased confidence. Gold has performed well, sustaining ongoing interest in the commodity.

Domestic energy sector under pressure

The national electricity market continues to face challenges in managing power security, reliability and pricing. Weather volatility, the retirement of ageing coal fired generation plants and high east coast gas prices are resulting in competition for gas as LNG feedstock and domestic gas. Increased renewable generation and a lack of direction and certainty around a national energy policy and carbon pricing are resulting in a reluctance by power providers to invest in fossil fueled base load power generation.

The Commonwealth government has sought to tackle some of these concerns through various policy and legislative measures such as the Australian Domestic Gas Security Mechanism; the National Energy Guarantee; reforms to eastern Australia gas markets through the work of the AEMC; and the Gas Markets Reform Group.

The demise of the proposed National Energy Guarantee in September 2018 meant that the tension between conflicting policy objectives – namely, lowering power prices and reducing carbon emissions whilst maintaining security and reliability of supply – remains unresolved.



Energy and Resources cont'd



Whilst this has had a dampening effect on investment in new generation capacity (particularly using conventional coal/gas technology), we are seeing ongoing enthusiasm for development in the renewables sector (wind and solar projects) and in the use of new technologies such as battery storage, solar thermal and hydrogen. This enthusiasm has been encouraged by State based renewable energy targets, but is continuing to create problems for the management of the transmission network (in terms of grid connection and system stability issues). In this regard, we await with interest the outcome of the Commonwealth Government's Underwriting New Generation Investment Program which was announced in late 2018.

Western Australia has been largely immune from the controversy surrounding gas supply into the eastern Australian domestic market with relatively flat gas and power demand together with new sources of domestic gas supply entering the market on the back of LNG projects such as Gorgon, Wheatstone and Pluto projects. The WA government's domestic gas reservation policy has provided some relief for gas buyers in the short to medium term.

Critical infrastructure and national security issues

The Commonwealth government has enacted the Security of Critical Infrastructure Act 2018 and established the Critical Infrastructure Centre (CIC) to separately assess and manage national security risks to critical infrastructure such as major gas pipelines, power stations, ports and telecommunications. The CIC will have input into FIRB's assessment of national security issues affecting key infrastructure in Australia.

It appears that foreign investment into energy, resources and infrastructure, in particular outbound investment from China, will continue to receive close scrutiny from the Foreign Investment Review Board (FIRB) as demonstrated by the Treasurer's rejection of Hong Kong based CKI's bid for APA, the owner of major gas pipelines in Australia, in late 2018.

KEY MATTERS

Alinta Energy

Assisting Alinta Energy in relation to the drafting and negotiation of a number of gas transportation agreements.

Ausdrill

Advised on its acquisition of leading Australian underground hard rock contractor Barmarco.

Australia Pacific LNG

Advised in relation to the negotiation and drafting of an agreement with QGC Pty Ltd and the participants in the QCLNG Project for the long term supply of natural gas.

Base Resources

Advised in relation to the project structuring for the construction and procurement contracting on the Toliara project (Madagascar).

Enerven

Advised on the negotiation of an umbrella construction contract for installation of photovoltaic generating systems and battery systems at up to 73 SA Water sites.

Gas Market Reform Group

Advised on the information access and arbitration arrangements for non-scheme pipelines, now implemented as Part 23 of the National Gas Rules.

GB Energy

Advised in the negotiation and drafting of a gas sale and storage agreement with Origin Energy.

OZ Minerals

Advising in relation to a range of issues relating to the future supply of power to OZ Minerals' Prominent Hill and Carrapateena mines in South Australia.

Senex Energy

Assisting with the negotiation and drafting of a Gas Supply Agreement, and a Raw Gas Supply and Water Transfer Agreement, both with the participants in the Gladstone LNG Project.

Silver Lake Resources

Advised on the power purchase agreement with Zenith Energy for 18.3 MW Gas Fired Power Station at Daisy Milano Gold Mine and associated LNG supply agreement.

South East Australia Gas

Advising on the negotiation of haulage agreements for the use of Port Campbell to Adelaide Pipeline.

Total S.A

Advised on its divestment of its interest in the Ichthys Project to operating partner INPEX.

FORECAST FOR 2019

Liquefied Natural Gas

Major investment in offshore LNG projects is forecast to continue with the Browse, Scarborough and Barossa LNG projects announcing their intention to undertake Front End Engineering and Design work in 2019. The development of these gas fields will seek to take advantage of existing onshore processing capacity that is expected to become available in North West Shelf, Pluto and Darwin and may see new LNG processing hubs emerging in Australia.

Mining

The outlook for investment in the "big end" of the mining sector is looking stronger with a number of major projects in the pipeline. The iron ore majors, Rio, BHP and FMG have all announced expansion projects. There appears to be a general increase of confidence in the mining sector generally which may lead to further increases in activity both at the corporate level and in development of new projects in 2019.

The capital and debt markets are likely to remain tight for small and mid-cap miners. Commodity prices will be the key for any improvement in these conditions.

Completion of a number of "new economy" projects in 2019 may bolster confidence and hopefully encourage more investment. There are a number of smaller players with undeveloped lithium, graphite and rare earths projects and time will tell how many of them are ultimately successful. Interest in gold is likely to continue and some sources are predicting a better year for base metal prices.

Energy

Power and gas companies remain apprehensive about the risk of Government intervention. Power price regulation (the Commonwealth Government's "big stick"), the threat of compulsory disaggregation of vertically integrated electricity companies are the main concerns. In the gas sector, moratoria against exploration and fracking in Victoria and New South Wales and various schemes involving reserving or securing gas for supply to the domestic market are raising concern.

The related prospect of ongoing information gathering activities on the part of the ACCC looms as a burden for energy companies. Meanwhile, the AEMC is pressing on with its market reform agenda, in particular with the objective of facilitating a more dynamic and functional market for natural gas in eastern Australia.

Looking forward, we are encouraged by the prospect of exploration and development in new frontiers such as the Galilee and Beetaloo Basins, the ongoing work to assess the feasibility of a number of LNG import terminals in south-east Australia, and the emergence of a range of new participants in the energy sector, including private equity houses, industrial users, mining magnates and Chinese investors.



Environment and Planning

2018 was a year in which environmental agencies at both Federal and State/Territory level strengthened and expanded their investigations teams putting a focus on environmental compliance. In some jurisdictions this led to the greatest number of fines ever issued, enforceable undertakings entered into and prosecutions commenced. Now, more than ever, fairly minor instances of non-compliance are detected and a range of environmental agencies have shown that they are not afraid to take action against such non-compliance. Even small breaches of environmental legislation can end up being extremely costly, not just in penalties but in clean up actions and environmental projects required under enforceable undertakings.

TRENDS FROM 2018

1. **More regulators and large compliance teams** – 2018 saw the NSW Natural Resources Access Regulator fully established and the NSW Resources Regulator more active than ever. The various Environment Protection Authorities in each state/territory have publicly announced that they are focussing on investigations and compliance and the relevant Departments of Planning have also bolstered their internal compliance teams and have increased unannounced inspections.
2. **Increasing use of technology** – drones are now commonly used to monitor compliance as well as to obtain evidence of non-compliance. The use of drones and other forms of technology are likely to continue.
3. **Greater community involvement** – 2018 saw more community involvement in the development assessment process than ever before. Not only is there a greater focus on community consultation, community groups are becoming better organised and funded – using open standing provisions to challenge controversial projects. This increased public scrutiny is also driving greater focus on compliance by regulators to meet community expectations.
4. **Higher penalties** – Penalties and fines handed down by courts have steadily increased over the last five years. In NSW penalties for most offences have more than doubled.
5. **Greater exposure for directors and managers** – An increasing number of prosecutions were against individuals.

Environment and Planning cont'd

KEY MATTERS

Glencore

Advising on a range of environment and planning matters regarding the proposed Glendell Continued Operations Project and a significant extension of mining at Glendell Mine.

Grafil Pty Ltd and MacKenzie

Defending an appeal by the Environmental Planning Authority to the Court of Criminal Appeal regarding a waste charge.

Korda Mentha

Advising on planning and environment aspects of the sale of Marda Gold Project to Ramelius Resources.

Large Australian company

Providing advice on an investigation by the Environment Protection Authority into potential breaches of the client's environmental protection licence and representing the client in subsequent prosecution proceedings.

Mining client

Acting for a mining client in an appeal relating to the categorisation of land by Council for rating purposes.

NSW Minerals Council

Acting as the primary advisor in relation to environment, planning and mining related government policies and proposed new legislation that have the potential to impact on the NSW mining industry.

Private Sydney schools

Providing planning advice to a number of leading Sydney private schools on future development plans for improvement and expansion of existing schools.

St Lucy's School

Providing planning advice regarding proposed additions to the existing school.

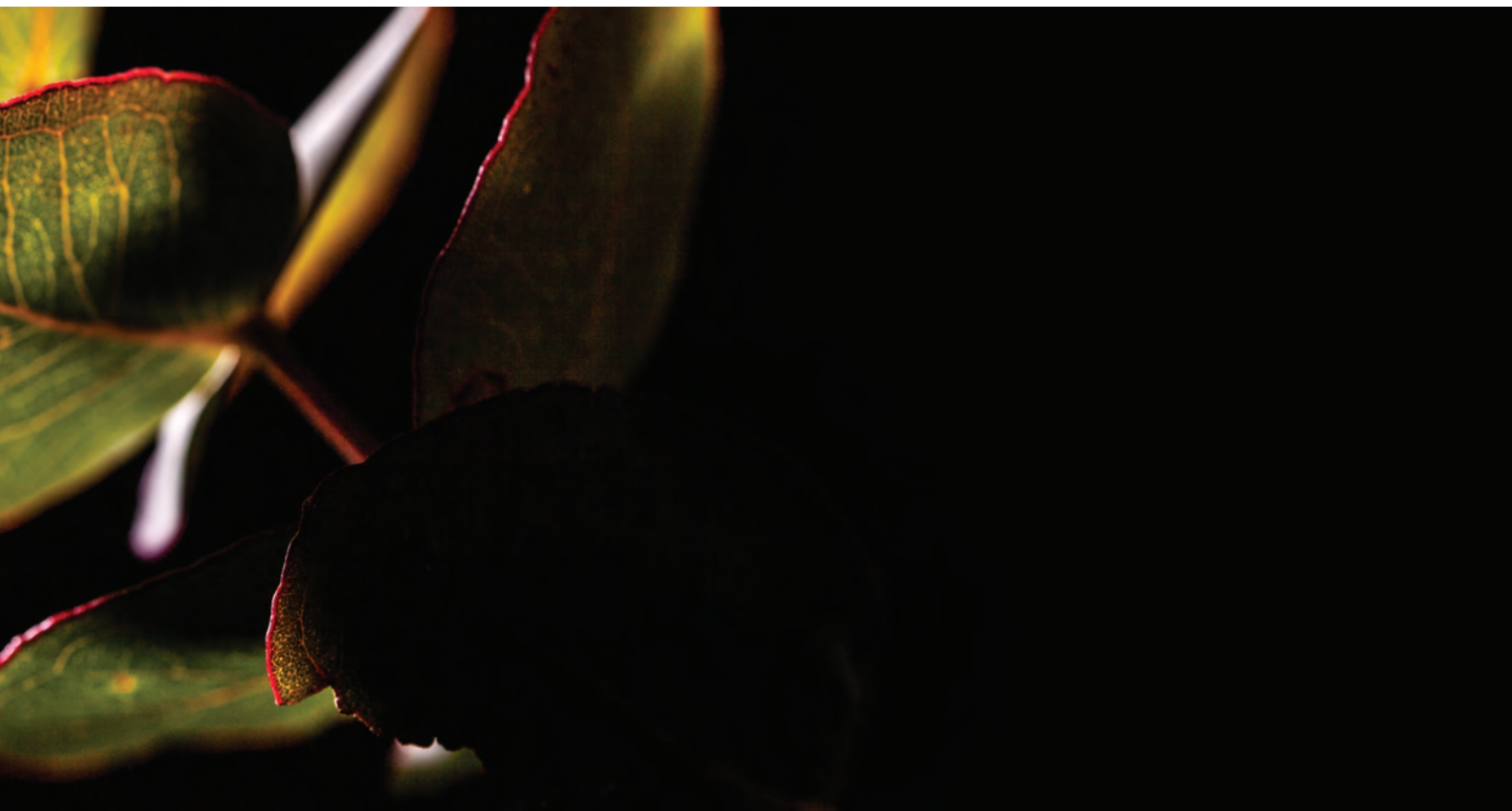
Tahmoor Coal Pty Ltd (SIMEC Mining)

Preparing landholder agreements relating to potential future subsidence impacts from underground mining.



FORECAST FOR 2019

1. **Rise of the regulators** – We anticipate that other states and territories will follow New South Wales' lead and establish independent regulators similar to the NSW Natural Resources Access Regulator or the Resources Regulator. There is also the possibility of a Federal Environment Protection Authority being established which would operate alongside the existing State agencies.
2. **More prosecutions** – Prosecutions for breaches of environmental laws are likely to reach an all-time high in 2019, with the various environment protection authorities, state departments and local councils showing a growing willingness to prosecute.
3. **Moves to recoup financial gain made by non-compliance** – New forms of penalties are also being used to ensure that offenders do not profit from non-compliance. Last year the NSW Environment Protection Authority announced that it would be seeking monetary benefit orders, which require an offender to pay back any financial gain from non-compliance, in prosecutions. It seems likely that other jurisdictions will follow suit.
4. **Penalties for minor non-compliance** – Minor instances of non-compliance such as late submission of reports are likely to lead to penalties in 2019. What were once considered minor offences or instances of non-compliance may now lead to action by the relevant agency/regulator/department.
5. **Public shaming** – Companies face greater reputational risk from non-compliance as the Environment Protection Authority and regulators increasingly publicise their enforcement activities. The Environment Protection Authority has begun Tweeting when it commences significant prosecutions.



Financial Services Regulation and Investment Funds

KEY MATTERS

AllianceBernstein

Advised on a range of matters, including the establishment of registered schemes.

Indigenous Business Australia

Acted on the establishment of a Performance Bond Fund and related financing issues.

Macquarie

Advised entities in Macquarie Asset Management on a range of matters, including AMIT amendments to be made to the constitutions of their registered schemes.

PIMCO

Advised the Australian licenced PIMCO entities on a number of financial services regulatory matters and contractual negotiations.

US and UK foreign fund managers

Advised several US and UK regulated fund managers on registering with ASIC to obtain an exemption from holding an Australian financial services licence.

Various confidential clients

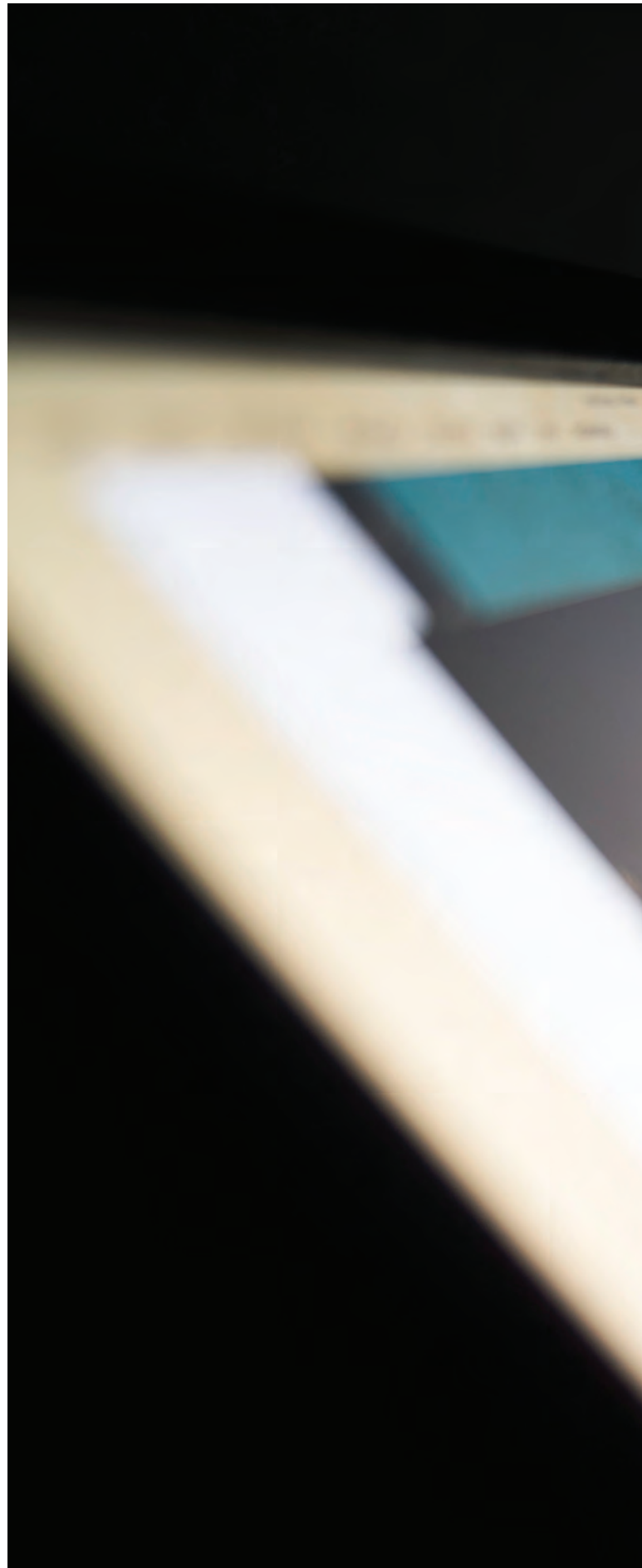
Advised multiple clients on Australian financial services licence and variation applications.

Advised on breach reporting obligations to ASIC.

Advised clients on contentious matters emanating from the Banking Royal Commission.

Advised on the continued evolution of the fee disclosure requirements pursuant to ASIC RG 97.

Advised on ASIC RG 240 hedge fund disclosure requirements.







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Intellectual Property and IT

KEY MATTERS – INTELLECTUAL PROPERTY

Arafura Limited

Provided advice in relation to its international trade mark portfolio.

Australian Chamber Orchestra

Drafted agreements for adapting a children's book into a dramatic performance and negotiated licence agreement with the NSW Department of Education.

Australian News Channel

Provided advice in relation to its Australian trade mark portfolio.

Beiersdorf

Providing IP advice in relation to marketing campaigns.

Fitness & Lifestyle Group

Providing IP advice and commencing trade mark opposition proceedings against Lorna Jane in relation to a trade mark application filed, regarding clothing and other goods; and providing general advice in relation to assignment of trade marks and trade mark licensing agreement.

Gensolve

Advising on the chain of title investigation into the owned and licensed components of its proprietary Gensolve Practice Manager Software, as part of a restructure prior preparing Gensolve for its next stage.

GoDaddy, Inc

Responding to allegations of IP infringement connected with websites hosted on GoDaddy registered domains.

IXUP

Advising on the preparation of its template licence and channel agreements for the commercialisation of its proprietary secure data analytics software, including negotiations with major corporate customers.

Osborne Clarke Germany

Providing advice on a confidential basis to one of their clients on copyright infringement and other risks associated with creating an interoperable software product to allow maintenance on the products of a third party manufacturer based in Australia.

Sky International AG

Advice in relation to its Australian trade mark portfolio.

Straxcorp

IP licensing and commercialisation arrangements in connection with a global collaboration for the creation of a cloud based software solution to be offered with a medical device to health practitioners and researchers.

KEY MATTERS – INFORMATION TECHNOLOGY

Australian Energy Markets Commission

Advising on whole of business IT infrastructure managed service arrangements with Dimension Data and contracts with Quark and GPSL for a business critical structured publishing solution for the management and publication of the National Electricity Rules and other AEMC regulations.

Bauer Media

Advising on enhanced privacy obligations under GDPR and its implications on Australian operations.

illion Australia

Advising on the agreements governing data flow, data syndication, IP licensing and commercialisation of data-based products.

Global systems integrator

Advising on the systems integration aspects of a Commonwealth Government project and a managed services and support contract with a health care insurance provider for the update of its digital claims platform.

Intellectual Property and IT cont'd

KEY MATTERS – INFORMATION TECHNOLOGY CONT'D

GrainCorp

Advised on the implementation and terms governing its CropConnect online grain marketplace.

Hudson

Advising on its joint venture with PredictiveHire relating to the development and commercialisation of models to predict recruitment success.

Microsoft

Advising on the US Clarifying Lawful Overseas Use of Data Act and its interaction with Australian telecommunications, surveillance, interception and law enforcement legislation.

Providing telecommunications regulatory advice relating to the establishment of its proposed Azure Transport service in Australia.

Advising on privacy, data sovereignty, prudential regulation and procurement compliance aspects of the storage and use of data located in data centres in Australia and overseas.

Negotiating and advising on the whole of government volume licensing and IT services arrangements for every Australian State Government and Federal Government.

MultiNet

Advising on its contracts with Enzen for the design, integration, implementation, transformation and transition to a new whole of retail business IT system, in a hybrid implementation across Australian and Indian data centres.

Okta Inc

Advising on its entry into the Australian market, localisation of its standard contracts and negotiations with major Australian customers including HCF, CBUS Super, and Transurban.

Open Colleges

Negotiating SaaS agreement with platform supplier and commercialisation arrangements with partner firms in connection with the development of a cloud training solution offering.

Origin Energy

Advising on its multi-sourced implementation and integration of a new LPG CRM and Billing system provided by Zuora and System Partners.

Prozone

Negotiating a collaboration and cross-licensing agreement for sports statistics with a competitor in the context of anticipated litigation over copyright infringement and breach of confidentiality.

ResMed

Advising on the Australian law aspects of its sleep apnoea and advanced data analytics joint venture with Verily.



Media

FORECAST FOR 2019

1. Continuing tension between increasing use of legal mechanisms designed to protect the administration of criminal justice (including sub-judice rules and suppression orders) and the practical challenges in keeping the cat in the bag in the age of Twitter.
2. An increase in the number of defamation plaintiffs commencing proceedings in the Federal Court, thereby avoiding a jury trial.
3. Increasingly difficult circumstances for defamation defendants including via statutory interpretation which has eroded the statutory cap protections.
4. Renewed focus on defamation law with the Council of Attorneys-General committing to a timetable for review of uniform defamation laws in each state and territory.
5. The introduction of new whistleblower legislation and the decision in *Rush v Nationwide News* will pose challenges for employers in implementing a regime for disclosures of sexual harassment, bullying and discrimination whilst navigating the threat of a defamation claim.

KEY MATTERS

Bauer Media

Our client was sued in the Supreme Court of Victoria by high profile Australian entertainer, Rebel Wilson over defamatory material published in eight separate articles across a number of Bauer titles. At trial, Ms Wilson received a record damages award including sums for loss of income and aggravated damages. Bauer was overwhelmingly successful on appeal, reducing the damages award by circa 90%. The Court of Appeal proceedings were of concern to the wider media industry who applied for leave to appear as “interveners”.

Microsoft

Responding to proceedings in the Supreme Court of Queensland over alleged publication of search results on its “Bing” search engine. The case is the latest in a line of Bing related actions, including ongoing Victorian Supreme Court proceedings brought by Milorad Trkulja and the South Australian Supreme Court proceedings brought by Dr Janice Duffy.

Seven

Acting in defamation proceedings brought in the Supreme Court of New South Wales by prominent Northern Territory detainee, Dylan Voller, against Seven West Media Limited. Voller’s action was over a Facebook “comment” in relation to a Seven West news report posted by Seven West Media on its Facebook page.

The Plaintiff’s formulation of the claim gave rise to novel questions about responsibility for a third party’s post on a Facebook page operated by an established media company.

Yahoo!7

Our client is the Defendant in the Supreme Court of Australia commenced by Dr Janice Duffy. As with Dr Duffy’s actions against Google LLC (which went to the Court of Appeal in South Australia) and proceedings against Microsoft Corporation (which we also act for in separate proceedings) the material complained comprises search results on the client’s search engine.

Yahoo!7 has had to navigate several permutations and amendments to the Statement of Claim and considerable correspondence, both directly from Dr Duffy (at times she has been self-represented) and her lawyers. Dr Duffy commenced new proceedings over similar subject matter in November 2018.

Projects

ENERGY REFORM

Following extensive work conducted for the South Australian Government on its Energy Reform Project (including the drafting and negotiation of contracts for solar, battery and emergency generator projects), we have continued to work extensively in the renewable energy space.

We have recently been involved in the development of solar and battery projects in a number of jurisdictions, including Queensland, South Australia and Victoria. This work has included the drafting and negotiation of contracts on behalf of owners with domestic and offshore contractors for project delivery, including Energy Procurement Construction (EPC) and Operation & Maintenance (O&M) contracts, as well as associated network connection agreements and Power Purchase Agreements (PPAs).

EPC contract work has included splitting contracts for onshore design and construction matters and offshore procurement, as well as the drafting and negotiation of associated bridging or interface agreements to ensure the same outcome as a single EPC contract structure.





Real Estate

FROM 2018 TO 2019

Throughout 2018, Australia remained one of the most highly sought after investment destinations in the Asia Pacific. Not surprisingly, fundamentals remain strong, with prime office rents, particularly in Sydney and Melbourne, showing growth of 12.5% and 10.7% respectively. Yields continue to compress and the level of incentives is falling. Australia still continues to tick the boxes as a magnet for foreign investors, with foreign buyers accounting for around 40% of all prime asset transactions.

Investment activity by Chinese buyers declined in 2018 due to tightening of controls over moving capital out of China. So, the first great wave of Chinese investment in Australian real estate has peaked and it will be a while before restrictions on outbound investment are relaxed.

Interest rates are at record lows. Demand for commercial real estate should remain strong from overseas capital. Global pension and property funds and sovereign wealth funds from US, China, Japan, Germany and Canada will be among the largest. In the asset classes, office and industrial will be the shining stars. Employment growth is positive in each Australian state, and the International Monetary Fund (IMF) predicts that Australia's five year population growth rate will double the average of the world's top 30 economies.

Restrictions on the sale to foreign buyers of agricultural land and interests in agribusiness were tightened again in 2018. FIRB announced policy changes in February and September. The announcements require an open and transparent sale process for foreign purchasers of agricultural land. 2018 saw the second year of operation of the Critical Infrastructure Centre which, while not part of FIRB, has a role in managing the national security risks to critical infrastructure – such as water ports, electricity, gas and telecommunications.

Japan is likely to emerge as a significant source of investment capital in 2019. Although controlling some of the largest pools of investment capital worldwide, Japanese investors have been slow to join the offshore exodus we've seen from China. However, this is set to change. September 2018 saw Japan's Government Pension Investment Fund which manages US\$1.4trillion in assets (the world's largest pool of retirement savings) award its first mandate for global real estate investment. This breakthrough development will most likely lead the way for Japan's smaller pension funds to follow. Vietnam is also expected to become a major source of foreign investment in Australian real estate.

KEY MATTERS

Boral

Advising on commercial real estate transactions around Australia, most recently, the structured sale of a former quarry at Stapylton in the Brisbane/Gold Coast corridor.

Dalian Wanda Group

Advised on the A\$1.13 billion sale of Wanda Australia Commercial Properties Pty Ltd to AWH Investment Group Pty Ltd, a part of the Yuhu Group. We acted on all aspects of the sale, including the negotiation of hotel management rights for the Dalian Wanda Group.

DeLuca Corporation

Advised on its acquisition of two sites from Bunnings located at Kingaroy and Lawnton. The two projects required structured development agreements to be entered into for the delivery of two Bunnings hardware outlets which will be ultimately sold to individual investors.

Urbex

Documenting the agreement for lease with Lion Dairy and Drinks and subsequent advice on the marketing campaign for the sale of the completed project on a fund-through basis. The project is located in Townsville and will deliver a state-of-the-art refrigerated distribution facility for Lion.

US Agricultural Fund

Acted on the acquisition of three farms for an US agricultural fund. One in New South Wales, Western Australia and Victoria, together with water assets for the development of permanent plantings.

Chinese acquisition

Acting for 111 landowners in the Norwell Valley between Brisbane and the Gold Coast. As lawyers for the landowners, we advised them on the offer received from Shanghai-based Songcheng to acquire the 6000 ha site for A\$1 billion. The project is on track pending the Chinese government's tightening of capital export controls.



Regulatory

IMPLEMENTATION OF A BINDING RATE OF RETURN FRAMEWORK

One of the most significant developments in network regulation in 2018 was the implementation of a binding rate of return framework and the release by the Australian Energy Regulator (AER) of its Rate of Return Instrument under that framework. The AER's December 2018 Instrument specifies the way in which the rate of return must be determined, and the value of imputation credits that must be applied in electricity and gas price determinations that follow. The Economic Regulation Authority (ERA) released its equivalent guideline (applicable to the gas distribution and transmission pipelines it regulates) around the same time. The Instruments apply for a period of four years and are binding on the regulator and networks.

Extensive changes were made to the National Electricity Law and National Gas Law to give effect to a COAG Energy Council decision in 2017 to implement the binding rate of return framework. The rate of return and gamma have long been the subject of significant controversy in network regulation. The implementation of the binding framework, together with the earlier removal of merits review rights, mean that controversy will be removed from the price determination process, at least until the next review in four years' time.

KEY MATTERS

ATCO Gas Australia

Advising on the regulatory proposal and the preparation of submissions and evidence for the Economic Regulation Authority's gas price review for 2020–2024.

Acted for the QCA in successfully defending judicial review proceedings commenced by Aurizon Network in the Supreme Court of Queensland in respect of the QCA's draft decision.

Energy Networks

Advising on the AER's 2018 rate of return guideline review, as well as reviews by the AER in respect of productivity and the regulatory tax approach.

Advising the QCA in respect of the Queensland Rail 2020 access undertaking proposal.

Electricity Distribution and Transmission Network

Advising on transition to regulation under the National Electricity Rules and on first regulatory proposal under the NER.

Western Power

Advising on the ERA's review of Western Power's 2017–2022 Access Arrangement.

Port Operator

Advising on obligations under regulatory regime and compliance issues.

Various energy networks

Advising on outcomes of AER remitter process in respect of NSW electricity distribution determinations, application of AER 2018 rate of return guideline and other AER review outcomes.

Queensland Competition Authority

Advising on QCA review of Aurizon Network's access undertaking proposal.

ASIC

Acting for ASIC in the bank bill swap rate litigation against the Big Four banks.





Restructuring and Insolvency

KEY MATTERS

APCHL

Acted for PKF Melbourne in their capacity as liquidators of APCHL in relation to one of the largest retirement village collapses in Australia.

Angas Securities Limited

Continuing to act on the run-off of its A\$220 million debenture fund including numerous contested court hearings in the Federal Court against the trustee, Perpetual, and the structuring and obtaining of approval in April 2019 for a scheme of arrangement.

Black Oak Minerals

Acting for KordaMentha in their capacity as liquidators of Black Oak Minerals on the sale process of the Marda Gold Project to Ramelius Resources Limited through a DOCA and court application, pursuant to section 444GA of the Corporations Act 2001 (Cth).

Flow Systems Group of Companies

Advised Brookfield, in its capacity as shareholder and majority secured creditor on the deed of company arrangement (DOCA) proposal and the acquisition of the business through DOCA (involving the preservation of business).

Gunns Group

Acting for PwC (formerly PPB Advisory) in their capacity as liquidators of the Gunns Group in almost 200 recovery actions.

Halifax Investment Services

Acting for Ferrier Hodgson in their capacity as voluntary administrators of Halifax Investment Services.

LifeSmart

Acting as a representative creditor and investor seeking to assert the rights of a certain class of creditor/investor to maximise their return in the Courtenay House liquidation.

Linc Energy

Acting for PwC (formerly PPB Advisory) in their capacity as liquidators of Linc Energy including the successful defence of the High Court Appeal in respect of environmental liabilities for liquidators.

Northern Energy Corporation and Colton Coal

Acting for Grant Thornton in their capacity as administrators of Northern Energy Corporation and Colton Coal (two subsidiaries of the listed New Hope Group).

PrimeSpace Property Investment

Acting for McGrathNicol in their capacity as voluntary administrators and liquidators of PrimeSpace Property Investment Ltd, the developer of multimillion dollar property developments.

Babcock & Brown Limited

Acting for Deloitte in their capacity as liquidator of Babcock & Brown, a large multinational investment fund that collapsed post the GFC.

Tax

KEY MATTERS

Battery Ventures

Advised on tax issues associated with the acquisition by Battery Ventures of 40% stake in Learnosity.

Blackmores Limited

Advised Blackmores on the tax aspects of its agreement to acquire 100% of the shares in Catalent Australia Holding Pty Ltd.

Energy company

Acted in proceedings in the Administrative Appeals Tribunal regarding the availability of the R&D tax concession.

Advising on the structuring and establishment of the employee share scheme.

Gazal Corporation

Advising on the tax implications of its proposed scheme of arrangement with PVH Corp.

Hogg Robinson

Advised as the Australian tax counsel on the sale by Hogg Robinson plc of its Fraedom fintech business to Visa International.

Institutional Venture Management XVI (IVP) and OpenView

Advised on the tax issues associated with their Series B investment in Deputy, the developer of an online employee management tool.

Korea Resources Corporation

Advised on stamp duty issues connected with the sale of Korea's 4% interest in the Moolarben Coal Mine in New South Wales.

Milbank on behalf of Lending Consortium

Advised in relation to interest withholding tax on Senior and Bridge Facilities for EMR Capital's acquisition of Kestrel coal mine from Rio Tinto.

Quanta Services

Advised on tax issues associated with acquisition of Mitchell Water Australia.

ZX Ventures

Advised on tax, stamp duty and GST issues on the acquisition by ZX Ventures of an innovative alcohol e-commerce platform, BoozeBud.

CASE STUDY: CARLTON & UNITED BREWERIES

For over 20 years, our tax team has worked with Carlton & United Breweries (the owner of iconic brands, including Victoria Bitter and Carlton Draught) on both transactional and dispute matters.

Having assisted the then publicly listed Foster's Group through the demerger of its wine business, take-over by SABMiller, and the subsequent merger with AB InBev (the world's largest brewer), the team is now assisting CUB with its new growth strategy in Australia.

In the last two years, the team has acted as tax counsel in relation to the acquisition of two craft breweries (4Pines in New South Wales and Pirate Life in South Australia) and, most recently, the acquisition by ZX Ventures (the innovation arm of AB InBev) of Boozebud, an innovative alcohol e-commerce platform.

These transactions raised a number of direct and indirect tax issues which needed to be navigated carefully including dealing with the differing perspectives of the founders, investors and W&I insurers, all while bringing to bear our team's understanding of CUB's Australian beer business, to ensure a successful integration from a tax perspective.

JUNE 2019

ADELAIDE

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