

# THE 6<sup>TH</sup> ANNUAL AGRIBUSINESS LAW CONFERENCE

Directors in the Frame: Red Line Issues for Agribusiness Boards

Why ESG Targets and Reporting Matter for Agribusiness

Environmental Litigation Risks in Agribusiness

Biosecurity, Activism and other Threats to Agriculture

Foreign Investment: A Year in Review

Riding and Surviving the International Trade Rollercoaster

Be Alert Not Alarmed: Engagement with the Regulator

Minimising Supply Risks in Agribusiness Contracts

Developments in Employment Law for Agribusinesses

Competition Law Issues in Practice in Agribusiness

A Drop in the Bucket: Water Developments in Review

Food Labelling Compliance in Agribusiness

A Two-day Conference  
**Monday 23 & Tuesday 24 May 2022**

Sheraton Hotel,  
Melbourne



A TWO-DAY CONFERENCE ORGANISED BY  
**TELEVISION EDUCATION NETWORK PTY LTD**  
IN ASSOCIATION WITH THE  
CONFERENCE MAJOR SPONSOR  
**AUSTRALIAN AGRICULTURAL  
COMPANY LIMITED**



Leaders in online CPD for Lawyers & Accountants

# DAY 1 - MONDAY 23 MAY 2022

**MORNING CHAIR: BRUCE BENNETT, COMPANY SECRETARY & GENERAL COUNSEL, AUSTRALIAN AGRICULTURAL COMPANY LIMITED**

**MORNING THEME: GOVERNANCE, RISK AND LITIGATION**

**9.00 - 9.05am**

**Introduction and welcome**

**9.05 - 9:25am**

Opening Address:

*Speaker: Donald McGauchie AO, Chairman, Australian Agricultural Company Limited*

**9.25 - 10.10am**

**Session 1: Directors in the Frame: Red Line Issues for Agribusiness Boards**

More than ever directors need to be on top of a range of issues affecting their organisations. A focus on workplace environment as well as corporate social responsibility has added a number of issues to the agenda. This session will examine some of the most important matters that directors and senior management need to be on top of and how to effectively respond, including:

- State industrial manslaughter laws and director liability
- Diversity and discrimination - how does your organisation rate?
- Sexual harassment claims management involving members of the Board or executives reporting to the Board
- Bribery and corruption risks in setting targets and KPIs for executive management
- Managing shareholder and investor activism, expectations and business impacts

*Speaker: Shae McCartney, Partner, Clayton Utz, Brisbane*

**10.10 - 10.20am Panel Comments and Questions**

**10.20 - 11.05am**

**Session 2: Report or Repent: Why Environmental, Social and Governance (ESG) Targets and Reporting Matter for Agribusiness**

Changes to governance requirements and mandatory disclosures have resulted in companies having to increasingly report on ESG strategies and impacts within their organisation. This session will look at how the demand for ESG strategies and reporting has grown and what companies need to do to comply, including:

- What does ESG reporting involve?
- What needs to be reported and why?
- Guidance for embedding ESG commitments into corporate strategy and planning
- What companies are required to report on their ESG?
- What are the benefits and disadvantages of ESG reporting?
- How does ESG reporting impact on investment?
- Linking ESG targets to officer remuneration and other KPIs
- How to achieve accuracy and integrity in reporting
- Tips for meeting shareholder and stakeholder expectations
- Case study: ESG targets and spotlight on decarbonisation

*Speaker: Michael Linehan, Partner, Clayton Utz, Melbourne*

**10.05 - 11.15am Panel Comments and Questions**

**11.15 - 11.35am Networking Break and Afternoon Tea**

# DAY 1 - MONDAY 23 MAY 2022

11.35 am - 12.20pm

## Session 3: See You in Court: Environmental Litigation Risks in Agribusiness Planning and Operations

Environmental harm is becoming an increasing source of litigation. This session will examine cases and potential areas of litigation to highlight the consequences of failure to undertake effective and thorough due diligence on environmental risks, including:

- What is environmental harm and how are agricultural organisations involved?
- The impact of litigation funders on class actions
- Who can I sue? Liability of directors, governments and corporations for decisions, inaction and lack of transparency
- Anticipating and pre-empting claims from:
  - Affected communities
  - Neighbouring land owners
  - Investors
- Climate change challenges to approvals for planning and projects: lessons from Gloucester Resources Limited v Minister for Planning [2019] NSWLEC 7
- A status report on Victorian class actions against Monsanto
- Risk assessments and due diligence - will they mitigate challenges? Sanda v PTTEP Australasia (Ashmore Cartier) Pty Ltd (No 7) [2021] FCA 237
- What should agribusiness companies be doing in project planning to minimise litigation risks?
- A guide to undertaking effective environmental due diligence.

*Speaker: Samantha Daly, Partner, and Frances Dreyer, Partner, Johnson Winter & Slattery, Sydney*

12.20 - 12.30pm Panel Comments and Questions

12.30 - 1.15pm

## Session 4: Protecting Fortress Australia: Biosecurity, Activism and other Threats to Agriculture

Threats to agricultural activity can come in many forms and from varied sources. Increasingly, legislation and regulation are being employed to protect the industry from disease, activism and terrorism. This session will examine the threats, the framework of regulation and available strategies and legal action, including:

- What are the biggest threats to biosecurity?
- Analysing the dangers to livestock, crops, cyber systems and property and their source
- The legislative framework for biosecurity and anti-terrorism - does it provide adequate protection and sanctions?
- An analysis of government funding and reforms to protect agriculture
- Managing trespassers and other activists - what is permissible? A study of the Aussie Farms case and legislation, including the "right to farm" laws
- Proactive protection and security strategies for agribusinesses, including:
  - Surveillance and CCTV
  - Signage
  - Health declarations, trading rules and compliance obligations
  - Strategies for countering attacks on social media
  - Prosecution and claims
- Farm biosecurity plans and other risk managements tools

*Speaker: Andrew Gill, Partner, Minter Ellison, Canberra*

1.15 - 1.25pm Panel Comments and Questions

1.25 - 2.20pm Luncheon

# DAY 1 - MONDAY 23 MAY 2022

## AFTERNOON THEME: REGULATION, POLICY AND GOVERNMENT

2.20 - 3.05pm

### Session 5: Foreign Investment: A Year in Review

In this session, we get up to speed on recent developments in the last year and what might lie ahead for foreign investment, with a focus on impact on agribusiness, including:

- Changes to screening and approval requirements for foreign investors
- What do the new national security tests involve?
- When can an “unwind” order be issued?
- What are the penalties for non-compliance?
- Impact of the Port of Darwin lease review on agricultural businesses

Speaker: *Brian Healey, Partner, K&L Gates, Brisbane*

3.05 - 3.15pm Panel Comments and Questions

3.15 - 4.00pm

### Session 6: Riding and Surviving the International Trade Rollercoaster

Unprecedented challenges in the last 18 months have seen Australian trade significantly impacted. This session will provide an analysis of how agricultural trade has been affected by everything from pandemic to politics, Government responses to these challenges and what the trade future looks like going forward, including:

- Outcome of the WTO ruling on the trade dispute between Australia and China
- Responses to the trade wars, including exposure reduction, regional trade arrangements and emerging markets
- An update on new and upcoming Australian Free Trade Agreements, including the Post-Brexit Trade Deal
- Decarbonisation targets, FTA negotiations and trading partners
- The Agribusiness Expansion Initiative and budget support for agriculture

Speaker: *Daniel Moulis, Partner Director, Moulis Legal, Canberra*

4.00 - 4.10pm Panel Comments and Questions

4.10 - 4.30pm Networking Break and Afternoon Tea

4.30 - 5.15pm

### Session 7: Be Alert Not Alarmed: Engagement with the Regulator

An unexpected communication from the regulator, such as ASIC or the ACCC, generally results in a wave of panic in even the most compliant of organisations. At a time when regulators are receiving more funding than ever to investigate industry behaviour, organisations need to be on the front foot to receive the regulator politely at the door. This session will look at preparation for and responding to a visit from the regulator, including:

- Allocating responsibility for regulator communications within the organisation
- Regulator powers of enquiry - how wide and what do you need to provide?
- Tips for maintaining a culture of openness and why self-disclosure can put you on the front foot
- The benefits of good record-keeping
- Best practice processes for responding to communications and investigations
- Using privilege as a defence to disclosure and other legal options
- When is transparency a better option?
- Board communications and involvement in process and outcomes
- What to tell staff and stakeholders
- Tips for recovering from an investigation and restoring confidence
- Dress rehearsals: how to prepare your organisation for a visit from the regulator

Speaker: *Lucinda O'Brien, Senior Associate, Allens, Brisbane*

5.15 - 5.25pm Panel Comments and Questions

6.00 - 8.00 pm

### Conference Cocktail Party

Hosted by AACo



# DAY 2 - TUESDAY 24 MAY 2022

**CHAIR: PETER HASTINGS,  
COMPANY SECRETARY & GENERAL  
COUNSEL, ELDERS LIMITED,  
ADELAIDE**

## MORNING THEME: BUSINESS AND OPERATIONS

**9.00 - 9.05am**

**Introduction and welcome**

**9.05 - 9.50am**

### **Session 8: Chain Reaction: Minimising Supply Risks in Agribusiness Contracts**

Businesses depend on increasingly complex supply chains to produce and deliver goods to the marketplace. When the chain is broken due to natural disasters, financial crisis, pandemics, terrorism or political situations, risk management and legal strategies need to be in place to mitigate or minimise potential economic and reputational harm. This session provides a guide to assessing and managing supply chain risks, including:

- Tools for analysing and evaluating supply chain interruption risks and stress points
- What should be in due diligence checks on supply partners?
- Business strategies for risk management, including market diversification and multi-sourcing of essential components
- Safeguards and protections in contracts, including:
  - Force majeure
  - Termination or re-negotiation rights
  - Payment arrangements and other terms of trade
  - Limitation of liability, damages and claims
  - Dispute resolution mechanisms
- Tips for negotiating contractual protections
- How effective are common law remedies?

*Speaker: Geoff Farnsworth, Partner, Holding Redlich, Sydney*

**9.50 - 10.00am** Panel Comments and Questions

**10.00 - 10.45am**

### **Session 9: Developments in Employment Law for Agribusinesses**

Employment issues are a constant challenge, and coupled with the pandemic, there have been significant decisions and reforms impacting the agribusiness sector. This session will examine recent developments and legislation, and provide a guide to employers in complying with their obligations, including:

- The changing nature of casual employment and the rights of casual employees
- Wage underpayments and the focus of the Fair Work Ombudsman
- Developments in labour-hire arrangements and what that means for the agricultural sector
- Employment options in an environment with seasonal work and labour shortages - program and visa update and strategies for structuring employment arrangements
- Tips for managing award and contract compliance
- Managing Covid fallout - vaccination obligations, working from home risks and remote employee management
- Lessons from recent cases

*Speaker: Jamie Robinson, Partner, K&L Gates, Brisbane*

**10.45 - 10.55am** Panel Comments and Questions

**10.55 - 11.15am** Networking Break and Morning Tea

# DAY 2 - TUESDAY 24 MAY 2022

11.15 - 12.00pm

## Session 10: Making Hay: Competition Law Issues in Practice in Agribusiness

The reach of competition laws is extensive, affecting transactions from the everyday to large mergers and acquisitions. In this session a practitioner will provide a practical guide to what every organisation needs to know and understand about the impact of competition law on their business operations, including:

- Management of relationships with competitors - when does it become problematic from a competition law perspective?
- The perils of information and data sharing with competitors
- Best practice guidance for structuring contractual arrangements with suppliers and consumers to avoid competition law issues
- Drafting tips to avoid unfair contract terms
- Ensuring planned market expansion and acquisitions do not fall foul of the law
- Spotting red flags and how to respond
- When should your organisation be calling the regulator?
- Relevant cases and examples

*Speaker: Michele Laidlaw, Partner, Johnson Winter & Slattery, Sydney*

12.00pm - 12.10pm Panel Comments and Questions

12.10 - 1.10pm Lunch

## AFTERNOON THEME: PROTECTING AND PROMOTING AGRICULTURAL ASSETS

1.10 - 1.55pm

## Session 11: A Drop in the Bucket: Water Developments in Review

The regulation of Australia's most precious commodity has resulted in a complex myriad of national and State schemes, covering everything from the needs of small farms to management of enormous catchment areas. After years of drought, and now floods, it has become clear that the regulatory framework requires considerable change. This session takes a deep dive into the problems that have plagued water access and the potential impact of proposed reforms, including:

- How did we get here? Lessons learnt from the last decade
- What has let the industry down? Examples from users and market players
- State developments including the NSW floodplain licensing scheme and pricing reviews
- Findings and recommendations from the ACCC's National Water Report and Government response
- Productivity Commission review into the National Water Initiative –final report findings
- Managing water right demands from indigenous groups
- Where to from here and consequences for agribusiness

*Speaker: Professor Lee Godden, Director, Centre for Resources, Energy & Environmental Law, Melbourne Law School, Melbourne*

1.55 - 2.05pm Panel Comments and Questions

# DAY 2 - TUESDAY 24 MAY 2022

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**2.05 - 2.50pm**

## **Session 12: In a Pickle? Food Labelling Compliance in Agribusiness**

Claims about the origin or attributes of food are increasingly coming under the spotlight and attracting the ire of the consumer regulator. This session will explore the requirements of food labelling for operators in the agribusiness sector and provide tips for achieving compliance and managing scrutiny, including:

- The impact of consumer demands on food regulations and legal protections
- What are food credence claims and how are they regulated?
- Exploring claims about provenance, manufacturing and quality of food - cases and examples
- What information should be appearing on a food label?
- What does “grown” or “produced” in Australia mean?
- How does overseas processing and re-import affect labelling obligations?
- What action can the ACCC take for breaches?
- More than a legal obligation - corporate social responsibility and food claims
- Lessons from abroad including the rise of class actions

*Speaker: Scott Bouvier, Partner, King & Wood Malesons, Sydney*

**2.50 - 3.00pm** Panel Comments and Questions

**3.00pm** Conference Close

# GENERAL INFORMATION

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## Conference Registration Fee

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The reregistration fee includes attendance at the conference and conference papers. Refreshment breaks and lunch on both conference days and the Conference Cocktail Party on the evening of day 1.

## Conference Papers

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TEN does not provide printed copies of the conference papers or Powerpoints. Access to the papers & Powerpoints will be available online to all delegates in the lead-up to the conference (as they become available).

## CPD

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**Lawyers (except WA):** 11 CPD units (substantive law).

**WA Lawyers:** 6 CPD points (substantive law) - being the maximum allowable per event. TEN is an accredited QA provider.

## CPD Certificate

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All delegates attending the conference will receive a CPD Certificate confirming attendance.

## The Conference Venue

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Sheraton Hotel Melbourne  
27 Little Collins Street Melbourne

## Travelling to the Conference Venue

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Delegates are advised to make their own travel arrangements.

## Conference Dress

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Smart casual attire is suitable (note: the temperature in the conference rooms can vary depending on where you are sitting. Short sleeves are generally OK, but it is advisable that you bring a jacket/long sleeved top just in case you need it).



# TERMS AND CONDITIONS

1. In these terms,
  - a. "TEN" means Television Education Network Pty Ltd
  - b. "you" means the person who has registered to attend or the person or persons who attend[s] the conference (if different from the person registered)
  - c. "Plan" means the COVID-Safe Plan for the conference described below.
  - d. "conference" means the live face to face or live or recorded online educational event or which you have registered (by whatever name called and includes conferences, masterclasses, webinars and webinar series).
  - e. "live conference" means a conference other than a recorded conference.
  - f. "recorded conference" means a recording of a presentation or a series of presentations which you can view at a time of your choosing
  - g. "online" in relation to a conference means a conference you attend by viewing the conference over the Internet
  - h. "face to face" in relation to a conference means a conference held in an external venue where you view the conference in the conference room

## General – all conferences

2. TEN may change the program for a live conference as described in the brochure you have downloaded or in the TEN website without notice to you in any manner and at any time.
3. The information and opinions of presenters at the conference are not necessarily those of TEN and are in the nature of general information and not professional advice and you rely on these at their own risk. TEN is not responsible for the accuracy of the information or the correctness of the opinions offered by presenters at the conference.
4. TEN is not responsible for any financial or other losses incurred by you or for injury or damage to persons or property which occur at or in connection with the conference.

## COVID SAFE PLAN – FACE TO FACE CONFERENCES

### What happens if you are diagnosed with COVID-19 or you are otherwise unwell?

5. If the conference is held face to face, TEN will conduct the conference in accordance with a COVID Safe Plan. You agree to comply with that Plan at the conference. If you fail to comply with the Plan, you agree to leave the conference immediately at the request of a TEN staff member or venue staff member. If you leave under these circumstances, you will not be entitled to a refund of any part of the registration fee. TEN will not be responsible for any travel or accommodation costs or fees incurred by you in relation to the conference or as a result of you leaving the conference early.
6. The COVID safe plan will prevent your attendance at a face to face conference if you are diagnosed with COVID-19 prior to or during the conference and the infection has not been cleared by two negative PCR tests, if you have a fever (ie raised temperature) at the time of registration or if you have a respiratory illness (including a cold or cough) at the start of or during the conference. In these circumstances:
  - a. You will be entitled to attend the live online version of the conference and/or recorded online version if that is offered; or
  - b. If not, you will be entitled to a full refund of the registration fee paid or a credit equal to that fee to use for a future purchase of a TEN product.

## Conversion of face to face conferences to live online conferences

7. If the conference is being held face to face or face to face AND online, TEN reserves the right to convert the conference on no less than 24 hours' notice to a solely online conference or to cancel the conference or to postpone the conference to a later date if TEN determines that it is unable to hold the conference face to face on the date/s advertised for any one or more of the following reasons:
  - a. State or national border closures
  - b. Restrictions on movement of persons imposed on persons by any responsible authority in Australia
  - c. The inability or refusal of one or more presenters or TEN team members to attend the conference to present
  - d. In its opinion, it is unsafe to hold the conference face to face for any reason.
8. If TEN converts the conference from face to face only or to face to face and online to online only or postpones the conference or cancels the conference, TEN will not be responsible for any loss or damage you suffer as a result including any travel costs relating to the conference.
9. If TEN converts the conference from face to face to online or postpones the conference and as a result you are not able to attend you will be entitled to a full refund of registration fee paid or a credit equal to that fee to use for a future purchase of a TEN product.

## Copyright

10. The copyright in materials prepared by presenters at a conference and made available to you by TEN is and remains the property of each presenter.
11. You are entitled to use those materials for private study and research only.
12. The copyright in the live stream and in any recording of a conference offered online is the property of TEN.
13. You are entitled to watch a conference for private study and research only.

## Conference cancellation by TEN – all conferences

14. TEN reserves the right to cancel a conference for any reason.
15. If TEN cancels the conference, you will be entitled either to a refund of the registration fee you have paid or to a credit equal to that fee which you can use to purchase another TEN product within 12 months of the first day of the cancelled conference.

## Cancellation by You – all conferences

16. Refunds for registration cancellation by you other than under Clause 6(b):
  - a. If notice of cancellation is actually received by TEN more than 10 days before the first day on which the conference is to be held, 85% of the registration fee you have paid
  - b. Otherwise, no refund.

## Governing Law – all conferences

17. The agreement between TEN and you is governed by the laws in force in the State of Victoria and the courts and tribunals of that State have sole jurisdiction to determine disputes arising in relation to it.

# REGISTRATION FORM TAX INVOICE\*

Registration is simple; complete the form below and fax or post your registration to us or register online.

Television Education Network Pty Ltd, (ABN 19 052 319 365)

GPO Box 61, Melbourne, Victoria 3001

Phone (03) 8601 7700 Enquiries Jenna Pickrell (03) 8601 7729

Register online: <http://www.tved.net.au> – go to CONFERENCES

Please register me for the **Sixth Annual Agribusiness Law Conference** – a 2-day conference to be held in Melbourne on Monday 23 & Tuesday 24 May 2022 [MALMAY22]

[ ] **Discount Registration** – for registrations made on or before 13 May 2022 - **\$2145** (\$1950 + \$195 GST)

[ ] **Full Price Registration** – **\$2310** (\$2100 + \$210 GST)

## Conference Papers

The papers from this conference will be available in electronic format approximately 1 week after the conference has been held. You can pre-order the papers now online via our website at [www.tved.net.au](http://www.tved.net.au).

The papers are **\$198** (\$180 + \$18 GST) (code: E/PMALMAY22).

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