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**PEOPLE PASSION FLAVOUR**



# 8<sup>TH</sup> ANNUAL AGRIBUSINESS LAW CONFERENCE

Agribusiness's Guide to Greenwashing, Greenhushing and Bluewashing

Cartel and Monopoly Law for Australian Agribusinesses

ESG Compliance and Sustainability from a Whole of Business Perspective

Biosecurity Threats and the Lumpy Skin Disease Scare

What a Water-ful World: Recent Developments Impacting Agribusiness

Maximising Land Value Through Carbon Credit Trading

IP: Know, Protect and Secure the Fruits of your Labour

Industrial Relations: What Is on the Horizon for Agribusinesses?

Workplace Health and Safety for Agribusinesses

Product Liability in Agribusiness: Lessons from Home and Afar

Foreign Ownership of Australian Assets

Renewable Energy Arrangements in the Spotlight

**A Two-day Conference  
Thursday 9 & Friday 10 May 2024**

**Sofitel Gold Coast, Queensland**

## **Feedback from last year's conference:**

- ‘Fantastic conference with relevant topics and accomplished speakers who overall were excellent and high calibre.’
- Excellent speakers who were completely across their subject matter. As many attendees appeared to be in-house counsel for agribusinesses the questions of the speakers were interesting and relevant and gave insight into their business' particular challenges. Enjoyed the cocktail party - great networking opportunity.
- The substantive content is incredible, combined with interesting and effective speakers. I find even the material in areas in which I don't practice interesting. Great content, excellent to meet peers in our industry. Loved being on the Gold Coast. Efficiently run. Content is so well targeted for my role I would be happy to return.



**The professional development specialists**

# DAY 1 - THURSDAY 9 MAY 2024

**CHAIR: CAROLYN CHUDLEIGH,  
PARTNER, HFW AUSTRALIA,  
SYDNEY, NSW**

**MORNING THEME: MANAGING  
GOVERNANCE AND COMPLIANCE RISKS IN  
BUSINESS**

**9.00 - 9.10am**

**Introduction and welcome**

**9.10am - 9.25am**

Opening Address: Mr Donald McGauchie AO, Chairman,  
Australian Agricultural Company

**9.25 - 10.10am**

**Session 1: All the Colours of the Rainbow: An  
agribusiness's guide to Greenwashing, Greenhushing  
and Bluewashing**

Agribusinesses be warned: the regulator is on the warpath, with environmental claims by businesses squarely within its crosshairs. With this renewed focus on greenwashing, greenhushing and bluewashing, it has never been more important for the sector to be vigilant and well-informed of the key regulations in this area. This session delves into the key issues, including:

- Navigating the existing regulatory framework pertaining to environmental claims
- Lessons from the recent ACCC report for the agribusiness sector
- What are the implications of the ACCC's expanded focus for agribusinesses?
- Deep-dive into greenwashing, greenhushing and bluewashing:
  - understanding and defining the key terms
  - legal consequences and risks associated with greenwashing, greenhushing and bluewashing
  - potential penalties and liabilities for businesses found in violation of environmental advertising claims
- Practical guidance and strategies for agribusinesses and ensuring transparency and accuracy in environmental claims
- Case studies and examples

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

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

**10.20 - 11.05am**

**Session 2: Go Directly to Jail, do not Pass Go: Cartel  
and Monopoly Law for Australian Agribusinesses**

While cartel activity has been illegal for some time, the additional sanctions of criminal conviction for cartel conduct has resulted in a renewed focus by the ACCC to ensure all Australian businesses are incentivised to get compliant. For the agribusiness sector, the recent proposed reforms to mergers and acquisitions means it is not only harder than ever for agribusiness to do a deal but they are at an increased risk of falling foul of cartel and monopoly laws if they do. To help agribusinesses steer clear of claims of cartel activity, this session will explore:

- Types of cartel conduct, examples from successful prosecutions, and insights into the potential and actual penalties in such cases
- Recent trends emerging of inadvertent cartels arising through development of environmentally sustainable projects, and tips for avoiding this
- In what circumstances may cartel conduct cross over into a criminal prosecution and the difference between the two approaches in terms of the impact on the business and directors
- The role of voluntary reporting in light of available immunity and steps businesses should take to identify and proactively respond to address issues which may constitute cartel conduct

*Speaker: Sar Katdare, Partner, Johnson Winter Slattery,  
Sydney, NSW*

**11.05 - 11.15am Panel Comments and Questions**

**11.15 - 11.40am Networking Break and Morning Tea**

# DAY 1 - THURSDAY 9 MAY 2024

**11.40am - 12.25pm**

## **Session 3: Going beyond the Board: ESG Compliance And Sustainability From A Whole Of Business Perspective**

These days, ESG compliance is not just a matter for the Board. Instead, it should serve as the driving force behind a comprehensive business strategy, actively guiding operational decisions across all echelons of the organization. The consequences for businesses who fail to discharge their ESG obligations extend far beyond the significant penalties and legal ramifications for directors and owners. They also include damage to reputation and restricted access to foreign markets and with the recent creation of a new sustainability ACCC taskforce, the risk of getting caught up in an inadvertent breach has never been higher. To help agribusinesses stay on the right side of the law, this session will explore:

- The ESG obligations agribusinesses face and the wide range of factors it can actually encompass - from their environmental position through to their approach to diversity and inclusion in its workforce, gender pay gap issues
- The reporting obligations for different agribusinesses (including for modern slavery), systems required to gather the data required for reporting, the pros and cons of voluntary reporting and an update on the introduction of mandatory reporting
- The benefits to a business from ESG compliance and the consequences for the business, Board, directors etc if they fail to comply, including impact on access to specific foreign trade markets
- How to look at ESG from a whole of business perspective using some practical examples of businesses which have done this well

*Speaker: Georgiena Ryan, Principal, Regional Business Lawyers, Wagga Wagga, NSW*

**12.25 - 12.35pm** Panel Comments and Questions

**12.35 - 1.20pm**

## **Session 4: Biosecurity Threats and the Lumpy Skin Disease Scare: Lessons Learnt from the Benefit of Hindsight**

In 2023, the Australian live beef export trade suddenly ground to a halt when the Indonesian government announced there had been an outbreak of lumpy skin disease on cattle imported from Australia. The sudden decision left the industry reeling, leaving many wanting to know more about the process and their rights, obligations and options in the wake of an unexpected turn of events. Using the lumpy skin disease scare as a case study, this session explores the key biosecurity risks for agribusiness and how they can be best mitigated, including:

- The key laws and regulatory scheme governing biosecurity requirements and systems
- What happens when an outbreak is discovered, including the role of government, options available for the producers, and recovering losses
- Spotlight on practical farm impacts from an outbreak, loss of land value, breach and/or loss of contracts
- When will personal and/or company civil or criminal liability arise?
- What lessons can be taken away from the lumpy skin disease scare and can such an outcome be prevented in the future?
- What are the key policy changes on the horizon in this area?
- Other case study examples including fire ants, Hendra virus and fungi

*Speaker: Andrew Gill, Partner, MinterEllison, Canberra, ACT*

**1.20 - 1.30pm** Panel Comments and Questions

**1.30 - 2.25pm** Luncheon

# DAY 1 - THURSDAY 9 MAY 2024

## AFTERNOON THEME: PROTECTING KEY ASSETS

### 2.25 - 3.10pm

#### Session 5: What a Water-ful World: Recent Developments Impacting Agribusiness

Water is an essential feature of our lives and absolutely fundamental to the agricultural sector and related businesses. After all, how else do we get to see trees of green (and red roses too!) This session explores recent updates on key issues and aspects relevant to agribusinesses including:

- Issues arising from the proposed Murray Darling Basin Plan
- The current state of play arising from water ownership, broking and trading
- Trends in valuation and value of water as a tradable commodity or when transferring as part of land
- Current issues arising from (and what the future holds) in terms of corporate dams
- What lies on the horizon when it comes to the world of water rights, entitlements and regulation

*Speaker: Matthew Houlahan, Associate Partner, Riparian Capital Partners, Brisbane, Qld*

### 3.10 - 3.20pm Panel Comments and Questions

### 3.20 - 4.05pm

#### Session 6: Getting The Most Bang For Your Buck: Maximising Land Value Through Carbon Credit Trading

In light of the recent credit crunch, many agribusinesses sitting on land holdings are looking for ways to maximise the value of their existing assets - especially their land. To help agribusinesses consider the opportunities that may exist for their businesses using carbon credit trading, and avoid rushing into a poorly planned decisions, this session explores:

- Foundational principles involving carbon credits, including their types and market dynamics
- How carbon credits are generated and traded
- Identifying opportunities - how agribusinesses can assess their land and operations for carbon credit potential
- Specific sectors within agriculture that may benefit from carbon credit trading
- The legal and regulatory aspects of participating in carbon credit trading - what are the key compliance requirements and obligations?
- Identifying potential risks associated with carbon credit trading and key strategies to help mitigate these risks
- Carbon trading versus EPBC environmental offsets
- Case studies highlighting best practices and lessons learned

*Speaker: Leanne O'Neill, Partner, Cooper Grace Ward Lawyers, Brisbane, Qld*

### 4.05 - 4.15pm Panel Comments and Questions

### 4.15 - 4.35pm Networking Break and Afternoon Tea

### 4.35 - 5.20pm

#### Session 7: IP: Know, Protect and Secure the Fruits of your Labour

As an agricultural business, a lot of hard work, time and labour is exerted to produce a great product. You could have the best product in the world, but without an effective marketing strategy that includes proper protection for your intellectual property, there will be no fruits of your labour to enjoy at the end. This session explores the latest best practice guidance on how to protect IP in the agribusiness sector, including:

- Who benefits from IP rights in agricultural innovation?
- Understanding categories of innovation in agribusiness and a comparative review of the IP protection available
- Use of exclusive licenses in agricultural innovation
- Case studies

*Speakers: Scott Bouvier, Partner, King & Wood Malletsons, Sydney, NSW and Melissa Miller, Senior Associate, King & Wood Malletsons, Sydney, NSW*

### 5.20 - 5.40pm Panel Comments and Questions

### 6.00 - 8.00pm

#### Conference Cocktail Party Hosted by AACo



# DAY 2 - FRIDAY 10 MAY 2024

**MORNING CHAIR: JEFF DAVIS,  
DEPUTY GENERAL COUNSEL,  
RABOBANK, SYDNEY, NSW**

## **MORNING THEME: WORKPLACE RISKS AND PRODUCT LIABILITY ISSUES**

**9.00 - 9.05am**

**Introduction and welcome**

**9.05 - 9.50am**

### **Session 8: Industrial Relations: What Is On The Horizon For Agribusinesses?**

In 2023, the Commonwealth Government announced a suite of reforms to industrial relations, with more on the horizon. The impact on the sector from these reforms is set to be significant. This practical session examines the key changes and the steps agribusinesses should be taking now to ensure compliance in the new landscape. Key issues covered include:

- Limitations on fixed term contracts
- Changes to the rights of casual employees
- Flexible working arrangements and the ability to request them
- Same job, same pay reforms
- Changes to enterprise bargaining and agreement processes and award entitlements
- Proposed changes to the employee/contractor distinction in response to the Jamsek and Personnel Contracting decisions, and the associated implications

*Speaker: Jamie Robinson, Special Counsel, K&L Gates, Brisbane, Qld*

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

**10.00 - 10.45am**

### **Session 9: Safety Doesn't Happen By Accident: Workplace Health And Safety For Agribusinesses**

The agricultural sector is one of the most dangerous sectors in terms of physical injuries and fatalities in the workplace. In recent years, there has been a wave of reforms to occupational health and safety laws in many Australian jurisdictions which have significantly increased liability for directors of employing authorities. In some jurisdictions, these workplace health and safety changes even result in directors being held criminally responsible for a failure of the business to comply. This session shall help agricultural business get up to speed on their obligations and steps they can (and are expected) to take to minimise harm in their workplace. It covers:

- WHS obligations for agricultural business around Australia, discussing issues that have arisen in practice
- The more significant aspects of new legislation, including criminal responsibility for directors, what is required for a prosecution and how the courts have responded to the new WHS laws
- WHS requirements of specific industries (including the transport and logistic industry) and the chain of responsibility and practical tips for business to create safe workplaces
- What happens when there is a major injury or death onsite - dealing with coronial investigations, working with the external organisations, identifying and managing risk of vicarious trauma for staff

*Speaker: Alanna Fitzpatrick, Partner, K&L Gates, Brisbane, Qld*

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

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

# DAY 2 - FRIDAY 10 MAY 2024

**11.15 - 12.00pm**

## **Session 10: Product Liability in Agribusiness: Lessons from Home and Afar**

Agriculture can be a risky business, with the potential for liability arising on a number of fronts. This session examines the product liability risks that can arise and how the sector should respond to these challenges. It includes:

- Liability from incorrect chemical usage
- Crop husbandry techniques and product liability
- Product liability for contamination or incorrect formulation
- The duty of care - how far does it extend?
- Overview of the exposure at different levels of the supply chain (retailer vs manufacturer vs importer) having regard to the consumer guarantees
- Managing liability exposure:
  - where do your risks lie?
  - optimising business structures and processes to manage risks
- Deep dive into the Monsanto litigation in the US and other jurisdictions - what are the key lessons?

*Speaker: Lucinda O'Brien, Managing Associate, Allens, Brisbane, Qld*

**12.00pm - 12.10pm** Panel Comments and Questions

**12.10 - 1.10pm** Lunch

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

**AFTERNOON THEME: HARVESTING OPPORTUNITIES IN AGRIBUSINESS**

**1.10 to 1.15pm**

**Introduction and welcome**

**1.15 - 2.00pm**

## **Session 11: Foreign Ownership of Australian Assets: Navigating the New Register and Dealing with FIRB**

Despite FIRB reforms being in place for some time, many agribusinesses are still grappling with how to manage the practical side of the changes when faced with foreign investment, particularly the new reporting obligations and managing the newly merged Register of Foreign Ownership of Australian Assets. This session shall:

- Summarise the changes which came into effect and how they actually impacted agribusinesses
- Explore issues and unique problems experienced by agricultural businesses which have made it difficult for some businesses to comply, with a spotlight on the new reporting obligations
- Share examples of steps businesses could take to increase compliance, address issues which have arisen in their sector and hear what lessons may be learned from other industries

*Speaker: Franki Ganter, Partner, Allens, Brisbane, Qld*

**2.00 - 2.10pm** Panel Comments and Questions

# DAY 2 - FRIDAY 10 MAY 2024

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**2.10 - 2.55pm**

## **Session 12: Flicking the Switch: Renewable Energy Arrangements in the Spotlight**

The agricultural sector is increasingly moving to both use renewable energy in production as well as provide land for the development of solar and wind farms. This session will examine the key legal issues in becoming involved in such ventures, including:

- An overview of the current state of renewable energy technology and systems in Australia and its impact on land
- Challenges and opportunities for rural land owners in renewable energy projects
- Tips for responding to social impacts including health concerns, landscape changes, potential harm to wildlife, loss of amenity and wider community concerns
- Planning and outcome considerations for long and short-term benefits and consequences including investigation, investment, construction, operations and decommissioning
- Strategies for contract negotiation and how to achieve the best commercial outcomes including:
  - structuring the arrangement - lease, licence or joint venture?
  - financial issues and rent
  - dispute resolution
  - liability limitation and risk management
  - other key terms
- Learnings from cases and recent developments

*Speaker: Leanne O'Neill, Partner, Cooper Grace Ward Lawyers, Brisbane, Qld*

**2.55 - 3.05pm** Panel Comments and Questions

**3.05pm** Conference Close

# GENERAL INFORMATION

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## Conference Registration Fee

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The registration fee includes attendance at the conference and conference papers. Refreshment breaks and lunch on both conference days.

## 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

**WA Lawyers:** 6 CPD points (being the maximum allowable per event under the LPBWA rules – TEN is an accredited 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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### Sofitel Gold Coast

81 Surf Parade, Broadbeach, Qld

Sofitel Gold Coast Accommodation Offer to Conference Delegates

Sofitel are offering a **15% discount** on the unrestricted rate of the day to any guests attending Agribusiness Law Conference.

This discount will apply to any guests staying between Wednesday 8th May to Friday 10th May 2024.

To take advantage of this discount, simply call the in-house Reservation Team on (07) 5592 2250

or via email on H0454@sofitel.com and **quote the code: 8TH090524\_001.**

## 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/summer tops are generally OK, but it is advisable that you bring a jacket/long sleeved top just in case you need it).



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  - 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. "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).
  - d. "live conference" means a conference other than a recorded conference.
  - e. "recorded conference" means a recording of a presentation or a series of presentations which you can view at a time of your choosing
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## Cancellation by You – all conferences

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  - 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.

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