

A Two-day Conference
organised by
**TEN The Education
Network**
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**Australian Agricultural
Company Limited**



Elders Limited



THE 7TH ANNUAL AGRIBUSINESS LAW CONFERENCE

The Impact of Competition Law in Agribusiness
Carbon Credit Farming: What Lies Ahead?
Biosecurity in Agriculture: Taking it to the Bio Frontline
FIRB Update – An Agricultural Perspective
M&A in Agribusiness: Maximizing Value, Minimizing Risks
Getting Legal Structures in Agribusiness Right
Managing the Agricultural Supply Chain
Employment Law Issues in Agribusiness
Getting Agribusiness Marketing Right
Agriculture and Native Title: Latest Legal Developments
ESG in Agribusiness: A Practical Challenge for Boardrooms
Cyber Risk, Smart Farming and the Agribusiness Sector



A Two-day Conference
Thursday 11 & Friday 12 May 2023

Sofitel Gold Coast

Feedback from last year's conference:

- “Fantastic conference, great hosts and venue. Looking forward to next year.”
- “Great speakers and content. Great to be able to network with lawyers in the industry.”
- “The range of topics was excellent and most interesting. The speakers were terrific. The cocktail function was kept low key and was good fun.”
- “Thank you for being topical, relevant and precise in your advice.”



Leaders in online CPD for Lawyers & Accountants

DAY 1 - THURSDAY 11 MAY 2023

CHAIR DAY 1:
CAROLYN CHUDLEIGH, PARTNER,
HFW AUSTRALIA, SYDNEY

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

9.00 - 9.05am

Introduction and welcome

9.05 - 9.25am

Opening Address

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

9.25 - 10.10am

**Session 1: The Impact of Competition Law in
Agribusiness**

Competition and consumer laws affect agribusinesses ranging from the everyday to large mergers and acquisitions, so it is important for businesses in this sector to be aware of how these laws may impact them. This session provides a practical guide to what every agribusiness needs to know and understand about the impact of competition and consumer laws on their business operations. It covers:

- The ACCC's response to misleading and deceptive conduct in the agribusiness sector
- Unfair contract terms in agribusiness standard form consumer and small business contracts
- Unconscionable conduct in the agribusiness sector
- Consumer guarantees - are there any issues in relation to repairs and after sales in agribusiness?
- Ensuring product safety laws in agribusiness - the ACCC's role
- The ACCC's operation of agribusiness industry codes - what you need to know to remain compliant
- Update on cartels mergers and misuse of market power in the agribusiness sector
- Relevant agribusiness case studies

Speaker: Felicity McMahon, Partner, Allens, Sydney

10.10 - 10.20am Panel Comments and Questions

10.20 - 11.05am

Session 2: Carbon Credit Farming: What Lies Ahead?

There are a number of ways the agribusiness sector can earn a carbon credit. But where is it going and what is being done to make it work? This session looks at the key issues, including:

- The current carbon farming government programs and methods explained
- Financial supports and educational arrangements - are they enough?
- Tapping into demand for Australian Carbon Credit Units - what risks are there?
- What about soil carbon credit benefits - real or illusory?
- Should you save carbon credits for their own commodities?
- Getting the mix right - carbon versus other on farm eco values
- What developments are there in measuring carbon?
- Practical case studies

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

11.05 - 11.15am Panel Comments and Questions

11.15 - 11.35am Networking Break and Morning Tea

DAY 1 - THURSDAY 11 MAY 2023

11.35am - 12.20pm

Session 3: Biosecurity in Agriculture: Taking it to the Bio Frontline

Biosecurity is now one of the greatest issues facing the Australian agricultural sector. What is the current position, how it is being handled and what more should be done, is the focus of this session, including:

- Understanding biosecurity requirements for agribusiness - a compliance imperative
- The Biosecurity Act 2015 (Cth) - key compliance obligations to take note of
- The operation of Australian border controls - does it go far enough?
- Managing biosecurity risk - assessing scope of risk and agency coordination
- Some key biosecurity risks and the regulatory and practical response:
 - foot and mouth disease,
 - bee virus impact on almond production
 - key lessons learnt from bird flu
 - varroa mite
 - citrus canker
 - brown marmorated stink bug
- Biosecurity at a broader level - from supply chain to the consumer
- Case studies

Speaker: Andrew Gill, Partner, MinterEllison, Canberra

12.20 - 12.30pm Panel Comments and Questions

12.30 - 1.15pm

Session 4: Foreign Investment Review Board Update (FIRB) - An Agricultural Perspective

This session looks at recent changes at FIRB and how they directly impact the agribusiness sector, including:

- When does a proposed investment in agricultural land require FIRB approval
- Current monetary thresholds for agricultural land investments
- Defining what is agricultural land and understanding specific exclusions
- When land 'could reasonably be used for' a primary production business?
- The national interest test and equal opportunity for Australian investors
- Exemptions from the open and transparent sale requirement
- Case studies - some problematic scenarios and likely FIRB rulings

Speaker: Marcus Clark, Partner, Johnson Winter & Slattery, Canberra

1.15 - 1.25pm Panel Comments and Questions

1.25 - 2.20pm Luncheon

AFTERNOON THEME: ACQUISITIONS, STRUCTURING AND SUPPLY CHAIN ISSUES

2.20 - 3.05pm

Session 5: M&A in Agribusiness: Maximizing Value, Minimizing Risks

The pace of mergers and acquisitions in the agribusiness sector has ramped up in recent years. This session looks at the key legal and regulatory issues to bear in mind in agricultural M&As, with particular emphasis to the road humps that can cause the deal to go awry:

- How the structure of the deal influences later outcomes
- Early due diligence - a key negotiating tool
- Getting regulatory approvals early to hasten the merger
- Land transaction problems and its impact on other parts of the negotiation
- Sale and leaseback arrangements
- Legal compliance checklists - Corporations Act and FIRB in particular
- PPSA issues in agribusiness acquisitions
- Tax compliance as a priority
- Case studies

Speaker: Michael Linehan, Partner, Clayton Utz, Melbourne

3.05 - 3.15pm Panel Comments and Questions

DAY 1 - THURSDAY 11 MAY 2023

3.15 - 4.00pm

Session 6: Getting Legal Structures in Agribusiness Right

Legal structures are not a one-size-fits-all approach, particularly in the agribusiness space. This session looks at the key issues, including:

- Assessing the new venture - factors to consider in right corporate structure
- A review of business structure options for a standard farm operation
- The farm corporation and structure of shareholding
- Advantages and disadvantages of the cooperative structure
- Landholding structuring - how should that mesh within a corporate structure?
- Assessing business risk and its impact on legal structure choice
- Business structure evaluative checklists

Speakers: Michael Linehan, Partner, Clayton Utz, Melbourne and Jodie Knowlton, Partner, BDO, Brisbane

4.00 - 4.10pm Panel Comments and Questions

4.10 - 4.30pm Networking Break and Afternoon Tea

4.30 - 5.15pm

Session 7: Managing the Agricultural Supply Chain: Contract Negotiation and Management

This session looks at latest developments in supply chain contract best practice and their impact on operational activity in the agribusiness sector. It includes:

- Contractual developments in post-covid agribusiness supply chains
- Contract planning and management in the procurement process
- Model responsible supply chain standards to inform contract negotiation
- Smart contracts for management of sustainable supply chain
- Implementing ESD plans through supply chain contracts
- Risk based due diligence along responsible supply chains
- Incorporating supply chain standards and risk based due diligence provisions into a contract
- Spotlight on key provisions in the sustainable supply chain

Speaker: Geoffrey Farnsworth, Partner, Holding Redlich Lawyers, Sydney

5.15 - 5.25pm Panel Comments and Questions

6.00 - 8.00 pm

**Conference Cocktail Party
Hosted by AACo**



DAY 2 - FRIDAY 12 MAY 2023

CHAIR DAY 2 - AM:
BRIAN HEALEY, PARTNER, K&L GATES, BRISBANE, QLD

MORNING THEME: BUSINESS AND OPERATIONS

9.00 - 9.05am

Introduction and welcome

9.05 - 9.50am

Session 8: Employment Law Issues in Agribusiness: A Real and Present Danger

Every industry comes with its own unique workplace issues. But the agribusiness sector comes with a particularly challenging set of workplace issues to navigate. This session explores the key issues, including:

- Flexible work arrangements - understanding the new requirements and obligations on employers
- The changing nature of casual employment and the impact on agribusiness
- Ensuring compliance to minimum wages and conditions and staying on the right side of the Fair Work Commission
- Paying correct rates and keeping your records straight
- Awareness of obligations when using a labor hire service
- Reforms involving multi-employer enterprise bargaining - what will this mean for the agribusiness sector?

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

9.50 - 10.00am Panel Comments and Questions

10.00 - 10.45am

Session 9: Getting Agribusiness Marketing Right: A Legal Perspective on Doing Business

This session looks at some of the marketing dilemmas affecting agribusiness, such as viable sustainability claims and greenwashing, and how to best balance commercial marketing needs with legal requirements, including:

- Defining the goal of your marketing and keeping within legal parameters
- Identifying your target market and ensuring compliance with regulation at the same time
- Some key marketing strategies and their regulation:
 - ensuring your 'expertise' is legitimate,
 - country of origin claims
 - meat and milk replacements
 - avoiding greenwashing in your marketing
- Navigating the digital marketing landscape for agribusiness - a regulatory perspective
- Case studies

Speaker: Scott Bouvier, Partner, King & Wood Mallesons, Sydney

10.45 - 10.55am Panel Comments and Questions

10.55 - 11.15am Networking Break and Morning Tea

11.15 - 12.00pm

Session 10: Agriculture and Native Title: Latest Legal Developments

Following the seminal Wik decision it seemed clear that native title can coexist with pastoral leases. Decades on, how has the law evolved and how can the sector best navigate native title law and pastoral use? This session looks at where this is at and what comes next when managing native title issues, including:

- Recent developments in native title law and its potential impact on agribusiness
- Towards a model for native title holders to work with agriculture
- Compensation for extinguishment of native title - is this fair for both parties?
- Spotlight on non pastoral use on pastoral leases - the legal framework
- Lessons from the High Court's decision in Timber Creek:
 - what does the decision mean for agribusiness and when might they be in the firing line?
 - impact on broadacre land use and public land use
- Accidental destruction of sacred sites - lessons from Ostwald Construction Materials Pty Ltd
- Recent cases

Speaker: Dominic McGann, Partner, McCullough Robertson Lawyers, Brisbane

12.00 - 12.10pm Panel Comments and Questions

12.10 - 1.10pm Lunch

DAY 2 - FRIDAY 12 MAY 2023

**CHAIR DAY 2 - PM:
PATRICK WHITE, HEAD OF LEGAL
AFFAIRS, ELDERS LIMITED,
ADELAIDE**

AFTERNOON THEME: CONTEMPORARY CHALLENGES

1.10 - 1.55pm

Session 11: ESG in Agribusiness: A Practical Challenge for Boardrooms

Environmental Social and Governance (ESG). These three words are no longer just feel-good mantras in the agricultural sector, instead they require practical application. This session looks at the key issues, including:

- The focus on ESG in current agribusiness board rooms - is it meeting the challenge?
- The ESG imperative - what exactly does it consist of?
- Embedding ESG into governance frameworks - key stages of development
- What does ESG reporting involve?
- What needs to be reported and why?
- Tips for meeting shareholder and stakeholder expectations
- Case studies

Speaker: Franki Ganter, Partner, Allens, Brisbane

1.55 - 2.05pm Panel Comments and Questions

2.05 - 2.50pm

Session 12: Cyber Risk, Smart Farming and the Agribusiness Sector

While technology has helped agribusiness increase productivity and profitability, it has also made the sector particularly vulnerable to cyber crime. As recent headlines have shown, cyber breaches are a business risk, a reputational hazard and a financial disaster that should be front of mind for all agribusiness leaders. This session examines the key risks, how the legislative framework has responded to the growing threat, and the liability issues that can arise. It covers:

- Agribusiness exposure to cyber crime - where are the risks?
- Understanding the data breach regime and key reporting obligations
- Risk assessment and management strategies to prevent data breaches
- Identifying eligible data breaches
- Preventing serious harm by providing remedial action
- Managing the fall-out following a data breach with affected parties and stakeholders
 - communications with stakeholders
 - managing public relations
 - working with relevant government agencies
- Cyber security and liability issues for directors
- Case studies

Speaker: David Rountree, Partner, Allens, Brisbane

2.50 - 3.00pm Panel Comments and Questions

3.00pm Conference Close

GENERAL INFORMATION

Conference Registration Fee

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

Conference Papers

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

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

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

The Conference Venue

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 10th May to Friday 12th May 2023.

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 OPE100523**.

Travelling to the Conference Venue

Delegates are advised to make their own travel arrangements.

Conference Dress

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).

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. "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
 - f. "online" in relation to a conference means a conference you attend by viewing the conference over the Internet
 - g. "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.

Conversion of face to face conferences to live online conferences

5. 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.
6. 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.
7. 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.

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9. You are entitled to use those materials for private study and research only.
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Conference cancellation by TEN – all conferences

12. TEN reserves the right to cancel a conference for any reason.
13. 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

14. 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

15. 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.

