



# Charity Law Association of Australia and New Zealand

**CLAANZ Conference 2018 — Thursday 2 August, Melbourne**

## **Charity Law Today: What does the future hold?**

### **Murray Baird**

Murray Baird has been the Assistant Commissioner and General Counsel at the Australian Charities and Not-for-profits Commission since its inception in 2012. He is responsible for the functions of Registration, Compliance, Legal, Policy, and Reporting at the Commission. Prior to that he was a lawyer practising in charity law and governance.

He is a member of the Advisory Council of the International Center for Not for profit Law, and a Fellow of the Australian Institute of Company Directors.

### **Jennifer Batrouney QC**

Jennifer is a highly respected and sought after advocate and advisor. She has had extensive experience in appearing before the High Court, the Federal Court and the superior State courts – mainly in equity, commercial, superannuation and revenue matters.

Jennifer is Vice President of the Australian Bar Association and Immediate Past President of the Victorian Bar and of the Tax Bar Association.

She graduated with an honours degree in law and a commerce degree majoring in accounting from the University of Melbourne in 1987. She completed her articles with Blake & Riggall (now Ashurst) in 1988 and remained with that firm as a solicitor until moving to the Bar in 1991. She was appointed a QC in 2000.

With 30 years' experience at the Bar (including 17 years as a silk), Jennifer is a trusted advisor to a range of large corporate clients and not-for-profit entities. In addition to her expertise in equity, trusts and charity law, she has vast experience in advising in relation to State taxes such as stamp duty, pay-roll tax and land tax as well as federal taxes such as income tax, GST and FBT.

Jennifer is known for her collaborative approach to conducting major complex litigation, as well as for her

clear and concise commercial opinions. She has a substantial practice in equity and trusts, particularly in the not-for-profit sector. She has assisted numerous not-for-profit entities to obtain or retain their tax concession charity status.

Jennifer is also the inaugural chair of the Law Council Charities and Not for Profits committee, a director of the Charity Law Association of Australia and New Zealand and inaugural Chair of the Australian Bar Association Tax Committee. She is a member of the Melbourne Law School Advisory Council and the Melbourne Law School Tax Group Advisory Board. She has also been elected to the Victorian Legal Services Board and appointed to the Victorian Legal Admissions Committee.

## **Garth Blake AM SC**

Garth Blake is a Sydney Barrister and Senior Counsel. He has appeared in several cases involving contractual and tortious liability of charities as well as the administration of charitable trusts including applications for judicial advice and cy-près schemes, and the removal of trustees. He has provided advice to charities in relation to investigations by the Australian Charities and Not for profits Commission.

He is a member of the Editorial Board of the international Ecclesiastical Law Journal published by Cambridge University Press and has written several published articles on issues of law and religion.

He is the chair of the Safe Ministry Commission and the Royal Commission Working Group of the General Synod of the Anglican Church in Australia. He has been extensively involved in negotiations for the National Redress Scheme. He is also the chair of the Anglican Communion Safe Church Commission.

In 2002 he was awarded a Churchill Fellowship to investigate church policy and practice in addressing child sexual abuse in the USA, Canada, the UK and Ireland.

In 2018 he was appointed as a Member in the General Division of the Order of Australia for significant service to the Anglican Church of Australia, particularly to child protection policy and professional standards, and to the law.

## **Sam Burnett**

Sam has a passion for the safety of vulnerable people and helps clients with child safety matters, including child safe standards, complaint handling processes and redress schemes.

Prior to joining Prolegis Sam worked as a Senior Legal Officer at the Royal Commission into Institutional Responses to Child Sexual Abuse, with a particular focus on public hearings involving religious organisations. Sam was a contributing writer of the religious organisations volume of the final report, and was involved in the development of recommendations for religious institutions.

## **Lesley Dredge**

Lesley has a strong commitment to social justice honed over many years working in the community sector, in government and with not-for-profit peak bodies. Affordable housing has been a long-standing passion. During her seven years with Aged and Community Services Australia (ACSA), the national peak for not-for-profit aged care providers, Lesley worked closely with the sector to develop policy initiatives to improve housing options for older Australians. For the past 6 years she has led the Community Housing Industry Association in Victoria.

## **Mark Fowler**

Mark is a Partner of Prolegis Lawyers based in the Sydney office. His specialist areas within the charity and not-for-profit sector include the law applying to schools, international aid organisations, retirement villages, aged care facilities and religious organisations. He also has a breadth of experience in property and commercial law, with a particular focus on the affordable, community and social housing sectors, and has advised many leading national and international housing charities.

Prior to joining Prolegis Lawyers, Mark was a Director in a firm based in Brisbane also specialising in charity and not-for-profit law. He is an Appeals Panel member for the Australian Council for International Development (ACFID), the peak body for Australian non-government organisations (NGOs) involved in international development and humanitarian action. He is a member of the Australian Charities and Not-for Profits Commission Professional Users Group and has served as a member of the Queensland Law Society's Human Rights Working Group. He is also an Associate Adjunct Professor at Notre Dame Law School.

Mark is a doctoral candidate in law at the University of Queensland, with his research focussing on religious freedom and tax. He is the Chair of CLEAR Australia International Ltd, a charity uniting Christian lawyers' societies in Australia to partner with like societies in the developing world in order to progress the rule of law and human rights and is the Deputy Chancellor for the Anglican Diocese of the Northern Territory.

## **Peter Hills-Jones**

Peter moved to Australia in November 2017 to take up the post of CEO at the Public Fundraising Regulatory Association. He was previously Director of Compliance at the UK's Institute of Fundraising and also served as CEO of the UK's own PFRA. Before joining the charity sector, Peter served in both the UK's home civil service and Parliament, where he led a number of select committee inquiries into matters related to economic regulation and market competition.

## **Dr Rosemary Langford**

Dr. Rosemary Teele Langford is a senior lecturer with the Melbourne Law School, University of Melbourne where she teaches subjects including Corporations Law, Trusts and Corporate Governance and Directors' Duties. She is the author of *Directors' Duties: Principles and Application* (Federation Press, 2014) and her

next book on directors' conflicts will be published later this year by Oxford University Press. Rosemary also edits the Directors' Duties section of the Company & Securities Law Journal. Prior to entering academia she practised with Arthur Robinson & Hedderwicks (now Allens Linklaters).

## **Andrew Lind**

Andrew was admitted as a Solicitor of the Supreme Court of Queensland and The High Court of Australia in 1990.

He has worked in a top tier national law firm and then as a partner of a medium sized CBD firm (acting for private enterprise, not for profits and Government owned corporations).

Andrew has served on many not-for-profit and charity boards and on church leadership teams. He currently serves on policy and law reform committees of the Law Council of Australia and the Queensland Law Society.

## **Alice Macdougall**

Alice Macdougall is a Special Counsel at Herbert Smith Freehills and has been specialising in Charity Law for over 18 years. She advises charities and foundations principally on governance, tax, and structuring options. She works with government and peak bodies in relation to reform. Alice provides papers and presentations on the regulation, compliance and governance issues affecting charities. Alice is a member of the Law Council's Committee on Charity Law and is also on the board of two charities.

## **Miriam McDonald**

Miriam McDonald BA, LLB, LL.M. Consultant in the Maddocks commercial law practice group.

A legal practitioner for over 20 years, Miriam heads up the Charities and Not-for-profits team. Miriam advises across a range of practice areas, including: corporations law and corporate restructuring; corporate governance; charities and not-for-profit law, charitable trusts, charity registrations, tax concessions for not-for-profit organisations; charity mergers, amalgamations, partnerships and auspicing; development and implementation of regulatory compliance programs; general commercial contracts; acquisition and refinancing of business; joint ventures; and privacy. Miriam is distinguished by her strategic thinking at both legal and commercial levels and by her ability to manage complex commercial transactions. She has an excellent ability to communicate with, and relate to, legal and non-legal personnel about complex legal issues in ways that are easily understood.

## **Suhanya Mendes**

As Legal Counsel at the ACNC, Suhanya Mendes (LLB(Hons), BCom(Acc)), provides advice to the Commissioner and ACNC staff about the ACNC's statutory obligations under the ACNC and Charities Acts. Prior to that she was in private practice advising NFPs and charities on their governance, structuring and

taxation obligations. She has worked with a range of Australian and international organisations in the education, disability and faith sectors, amongst others. Suhanya has also served on a number of NFP boards and in volunteer roles including as Legal Fellow with International Justice Mission in Uganda for a year. Suhanya has presented for Legalwise, CLAANZ, Leo Cussen Institute, the Law Institute of Victoria and Television Education Network.

## **Simon Miller**

Simon Miller is General Counsel at Save the Children Australia. Simon has experience in commercial practice in Australia and London and over a decade of in-house experience advising international NGOs on legal, governance and accountability matters. Simon is Deputy Chair of the Australian Council for International Development's Code of Conduct Committee.

## **Ian Murray**

Ian is a Senior Lecturer in the Law School at UWA where he researches in the areas of Resources Taxation and the intersection between Not-for-profit Law, Tax and Corporate Governance. Ian's current research projects relate to:

- The accumulation of assets by charities.
- Outsourcing of government functions to not-for-profits.
- Development of analytical tools to review native title asset management structures.

## **Hayley Parkes**

Hayley joined Housing Choices Australia in 2015 as General Counsel and Company Secretary where she has led the legal strategy supporting its growth and business diversification. She is no stranger to curly economic policy questions and contracts you can build forts with, having worked previously at both the ACCC and Mallesons Stephen Jaques. She is passionate about using her skills and experience to empower people and organisations to stand up for their beliefs and create a fairer society. Hayley is a graduate member of the AICD, has a Graduate Diploma in Competition and Consumer Law from Melbourne University and a Bachelor of Law (Hons)/ Bachelor of Science from Monash University.

## **Andrew Phillips**

Andrew is a senior analyst for Charities Services, the business group of the Department of Internal Affairs that regulates charities in New Zealand. He provides legal support across the team that is responsible for registering new charities, and the team that monitors and investigates existing charities. He has a legal background, and has worked in Charities Services for five years in different roles, including as a registration analyst and investigator. He has an avid interest in charitable issues, working in disability support through his university years and continues to provide support to charitable groups in his spare time. He regularly posts

on the Charities Services blog to make it easier for charities to meet their legal obligations, and supports the independent Charities Registration Board in through the preparation of papers and advice.

## **Anne Robinson AM**

Anne Robinson is the founder and a Partner of Prolegis Lawyers. Anne's areas of advice include corporate law, governance, charitable trust structuring and tax issues. Anne has advised charities, not-for-profits and philanthropists on corporate law, governance, charitable trust structuring and tax issues across the whole range of Australia's charitable institutions.

She has also had 30 years' experience in governance of not-for-profit organisations, including as director and board chair of several significant and well-known charities, including Australia's largest international aid and development organisation.

Anne was Deputy Chair of the Not-for-Profit Sector Reform Council and a member of the NFP Tax Concession Working Group between 2008 and 2013. Anne is currently a member of the Australian Taxation Office Not-for-Profit Stewardship Group, a member of the Australian Charities and Not-for-profits Commission Professional Users Group and Chair of the Charity Law Association of Australia and New Zealand.

Anne holds a Bachelor of Arts and Bachelor of Laws (Hons) from Macquarie University.

## **Lucas Ryan**

Lucas leads the AICD's policy work on not-for-profit governance, ethical business and technology. He is the secretary of the NFP Chairs' Forum. Lucas' current areas of focus are in regulatory reform, strategic challenges for not-for-profits and whistleblowing.

Previously, Lucas was a foundation staff member of the Australian Charities and Not-for-profits Commission with responsibility for governance policy and education, and stakeholder engagement. He is a Graduate of the AICD and has held director roles on NFP and government boards.

## **Krystian Seibert**

Krystian Seibert is a researcher, educator and advocate focused on public policy, philanthropy and the not-for-profit sector.

He is an Industry Fellow at the Centre for Social Impact at Swinburne University of Technology, which is a multi-disciplinary research centre focused on promoting positive social change through improving the systemic and organisational conditions that shape communities.

Krystian was previously the Advocacy & Insight Manager at Philanthropy Australia, the peak body for philanthropy in Australia. He retains a strategic advisory role with Philanthropy Australia focused on its

advocacy and thought leadership work.

Prior to this, he was an adviser to a former Australian Assistant Treasurer. In this role he was responsible for the delivery of major not-for-profit sector reforms including the establishment of Australia's first independent charities regulator, the Australian Charities and Not-for-profits Commission (ACNC).

Krystian is a frequent commentator on matters relating to public policy, philanthropy and the not-for-profit sector, with his writing featuring in publications such as The Age, The Australian, The Conversation, the Stanford Social Innovation Review, Alliance Magazine and Pro Bono Australia News.

## **Elizabeth Shalders**

Elizabeth Shalders is a Senior Associate at Lewis Holdway Lawyers in Melbourne who practices full time in the field of Not-for-profit law and governance. She is a member of the Law Council of Australia Legal Practice Section Not-for-Profit Committee and the Law Institute of Victoria Not-for-Profit Committee, and in addition to 8 years professional experience in this field, she also has notable academic and speaking achievements in this field. These include authoring or co-authoring articles in Taxation in Australia and Australian Tax Forum, as well as speaking at conferences hosted by the University of Melbourne Law School, University of Queensland Law School and The Queensland University of Technology Centre for Philanthropy, among others.

Elizabeth began her career in this area as a student research assistant to the High Court appeal team of Word Investments Ltd, in the matter of Commissioner of Taxation v Word Investments Ltd (2008) 236 CLR 204, and completed her Honours Thesis on the taxation of charities at the Australian National University (as part of a Bachelor of Laws). Elizabeth was a member of the Moores Legal Not-for-profit team from 2010 to May 2015.

## **Michael Shand QC**

Michael Shand QC has practised as a barrister at the Victorian Bar in Melbourne Australia since 1980, a Queen's Counsel since 1997. He is a commercial lawyer and arbitrator.

He has since 2007 served in an honorary capacity as the Chancellor (Chief Legal Adviser) of the Anglican Diocese of Melbourne. He is a director of Kooyoora Ltd, an independent not for profit company formed in 2017 to provide professional standards services including complaint handling, screening and educational services to charitable bodies and agencies. Its foundation members are the dioceses of Bendigo and Melbourne. He also served as Chancellor of the Anglican Diocese of Ballarat from 2002 to 2010.

As Chancellor, he has been responsible for drafting the legislation on professional standards for the Dioceses of Melbourne and Bendigo and establishing the bodies that operate under the legislation. He has also prepared the ancillary regulations and protocols for the legislation and the Terms of Reference for the Melbourne Anglican Interim Redress Scheme. He was a founding director in 2016 of the Melbourne Anglican Diocesan Corporation Ltd, the entity formed to be accountable on behalf of the diocese for claims of abuse.

He gave evidence in March 2017 before the Royal Commission into Institutional Responses to child sexual abuse.

He has been since February 2003 a fellow of the Chartered Institute of Arbitrators and a Chartered Arbitrator. He is a member of the Pool of Arbitrators appointed by NBN Co Ltd pursuant to its dispute management obligations. He is also a member of the Special Tribunal of the Anglican Church of Australia.

He served as Chairman of the Chartered Institute of Arbitrators, Australian Branch from February 2005. Since the incorporation of that organization early in 2006 until September 2006, he served as President of the Chartered Institute of Arbitrators (Australia) Limited. He also served as a director of the Australian Centre for International Commercial Arbitration Ltd from 2006 – 2016.

He served as the Chairman of the Victorian Bar Council from September 2006 – September 2007.

## **Justice Michael Sifris**

Justice Michael Sifris was appointed to the Supreme Court of Victoria in July 2010 and currently sits in the Commercial Court. Justice Sifris was admitted to practice in Victoria in 1987, having previously practiced in South Africa. Whilst at the Bar, his Honour specialised in banking and finance law, corporations and insolvency law. His Honour acted for many leading financial institutions, was retained in many of the high profile corporate collapses and regularly appeared for ASIC, the corporate regulator. His Honour was a member of various committees of the Victorian Bar including the Human Rights Committee and was Chairman of List A Barristers in 2009-2010. In 2007 his Honour founded Lonsdale Chambers, a group of barristers specialising in corporate insolvency law.

## **Sue Woodward**

Sue has been a Director of Justice Connect's specialist Not-for-profit Law service with a focus on national projects and advocacy since 2015, have been the driving force behind its establishment in 2008. In the intervening three years, she was the inaugural Director, Policy & Education at the Australian Charities and Not-for-profits Commission. Sue is a former academic with the University of Melbourne Law School, including teaching master level subjects on the regulatory and governance issues for not-for-profits. She has also worked as a consultant to several leading philanthropic trusts. Sue is the lead contact for the #fixfundraising campaign.

Sue is currently a member of the Law Council's Not-for-Profit Practice and Charities Committee and the Australian Taxation Office Not-for-Profit Stewardship Group. She is a board member of the Human Rights Law Centre, and has held other charity board positions in mental health and social enterprise.

Sue has been involved in researching and advocating on legal and regulatory issues of importance to Australia's not-for-profit sector for more than 15 years. She holds Bachelor of Laws (Hons) from Melbourne University and a current practising certificate.