

Early bird expires 6 October*

Interactive
debate

Pre-
conference
workshops

Capital Monitor presents the



Climate Change
SERIES

Carbon Trading FORUM

Embarking on the transition
from policy to law

Don't miss this
opportunity to:

- Assess ramifications of the **Garnaut Report, Government Green & White Papers and the proposed Carbon Pollution Reduction Scheme** – the precursors to legislation
- Safeguard against **penalties and climate change risks** whilst anticipating **compliance obligations and compensation** for business
- Hear from the government's key advisors on emissions trading legislation – **Baker & McKenzie, Clayton Utz & Mallesons Stephen Jaques**
- Analyse the impact on reported profits and tax planning of **climate change taxation**
- Reduce risk of litigation and penalties arising from unverified **carbon and green marketing claims** under the *Trade Practices Act 1974*
- Precisely comply with carbon emission reduction obligations following the **National Greenhouse and Energy Reporting Scheme (NGERS)** by July 2009 to avoid criminal and civil penalties
- **Capitalise on opportunities and mitigate risks** for business presented by emerging climate change markets and legislation

17 – 18 November 2008
Crowne Plaza Darling
Harbour, Sydney

Expert speakers include:

Graeme Dennis, Partner, **Clayton Utz**

Paul Curnow, Partner, **Baker & McKenzie**

Sue Williamson, President, **Taxation Institute of Australia**

Anthony Collins, General Manager – Emerging Markets, **ASX**

Louis Chiam, Partner, **Mallesons Stephen Jaques**

Grant Anderson, Partner, **Allens Arthur Robinson**

Fiona Wain, CEO, **Environment Business Australia**

Greg Evans, Director, Industry Policy & Economics, **The Australian Chamber of Commerce and Industry (ACCI)**

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Pre-Conference Workshops: Monday, 17 November 2008

8:30 **Micro-Workshop A registration**

9:00 **Micro-Workshop A**
The National Greenhouse and Energy Reporting Scheme (NGERS): Risk, Obligation, Compliance for Business

The first of July 2008 marks the onset of the National Greenhouse and Energy Reporting Scheme (NGERS); businesses are working towards compliance by 30 June 2009. New emission reporting obligations will impact large companies, and the legislation lays the foundation for the measurement, reporting and permit acquittal arrangements giving effect when emissions trading commences in 2010.

- Meeting reporting requirements and compliance obligations under the *National Greenhouse Energy Reporting Act 2007* – clarifying scope, obligation and penalties for businesses
- Phasing into the thresholds at corporation level
- Challenges for meeting requirements by 30 June 2009 compliance period – building reporting and compliance capabilities

John Tomac, Director, Sustainability and Climate Change, PricewaterhouseCoopers

10:30 **Micro-Workshop B registration**

11:00 **Micro-Workshop B**
Embarking on a CDM (Clean Development Mechanism) project: dissecting issues and reviewing case studies in project development and carbon financing

Greenhouse gas emissions are reduced at a much lower global cost through CDM projects channelled to developing countries. While regulatory and policy frameworks are developed for approval and implementation of the project, what elements are critical to ensure success of the initiative and how feasible would it be for Australian businesses to enter into a CDM project?

- Starting up and managing CDM projects in Asia
- From developed to developing nations
- Analysing CDM project registration and pricing issues – what eligibility criteria exist for entry? Will the proposed AETS support entry into CDM/JI?
- Question marks in accreditation
- Initiating stakeholder involvement: Project developers, sellers
- Dispute resolution

Christopher Tung, Partner, Mallesons Stephen Jaques (Hong Kong)

12:30 **Networking lunch for speakers and full day delegates**



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Climate Change - It's the hottest topic on the political and public policy agenda. This weekly newsletter backed up with instant email alerts, provides subscribers with the latest legislative and public policy developments and debate from all federal, state and territory jurisdictions as well as key stakeholders to public policy.

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1:00 **Micro-Workshop C registration**

1:30 **Micro-Workshop C**
Entering the domain of renewable energy and clean technology

Reducing emissions in the most cost effective manner is high on the agenda for companies, but what opportunities are there for businesses to expand into the market of clean technologies?

- Assessing legal, regulatory, environment and financing issues of clean energy projects
- Promoting the development of clean technology through the ETS – directing investment in low emission technology
- Conducting due diligence
- Facilitating the IPO, equity, project or joint venture financing structures
- Reviewing case studies and benchmarking against best practice
 - Wind power
 - Solar / Photovoltaic
 - Geothermal
 - Hydro
 - Renewables

John Taberner, Consultant, Freehills

3:00 **Micro-Workshop D registration**

3:30 **Micro-Workshop D**
Examining the roadmap for reducing greenhouse gas emissions

The government green paper reveals Australia's vital interest in reducing emissions - but what strategies and technologies will deliver the best results for the climate and for business? Will the Carbon Pollution Reduction Scheme lead to a reduction in Australia's emissions? This session will explore:

- Carbon emission management – devising carbon emission reduction strategies and utilising carbon trading schemes to comply with Australia's Carbon Pollution Reduction Scheme
- Accreditation / integrity of carbon offsets
- Carbon sequestration and forest sinks, carbon capture and storage - a key solution towards reducing emissions under the new scheme?
 - What available technologies are there?
 - Monitoring and verification
 - Opportunities in Australia
- Mechanisms for carbon offsetting – which offsets will be covered by the scheme?
 - Evaluating carbon reduction targets
 - Demand management
 - Energy efficiency
 - Fuel-switching

Anna Reynolds, Principal Consultant, Carbon Markets & Government Policy, Energetics

5:00 **Close of Micro-Workshops**

Transition from policy to law

Conference program: Tuesday, 18 November 2008

8:30 **Conference registration**

8:50 **Welcome and opening remarks from the Chair**
Matthew Baird, Barrister, Wentworth Chambers, NSW President, National Environmental Law Association (NELA)

9:10 **Carbon Pollution Reduction Scheme: Transitioning towards a carbon constrained economy**

- Government's green paper: canvassing options and preferences for a Carbon Pollution Reduction Scheme – coverage, liabilities
 - An expanded renewable energy target?
 - Why the inclusion of petrol
 - The first five years: emissions caps
 - Linkages with international schemes and carbon trading markets
 - The premise behind the Climate Change Action Fund
 - Assistance to low income households
- Defining trade-exposed: Ensuring a smooth transition
- Towards a low-carbon economy: Assessing economic impacts v targets – acting for national interests
- Precursors to the introduction of climate change law: Anticipating the arrival of exposure draft legislation in December

Invited: Department of Climate Change

KEYNOTE SPEECH

9:40 **Anticipating the design and implementation of the AETS (Australian Emissions Trading Scheme) – a call for tough action**

- Dissecting the Government Green & White Papers: Post-Garnaut
- Key proposals for emissions trading design and the impact of the proposed scheme on corporate Australia and the economy
- The road map to establishing a market-based ETS: ETS proposed implementation in 2010
- Issuance of Permits: Establishing permit allocation rules
- Industries on alert: Coal-fired power plants and treatment of other emissions intensive trade exposed industries (EITE)
 - establishing transitional arrangements

*Paul Curnow, Partner, Baker & McKenzie
Tier 1 – Global Climate Change Law Firm, Chambers Global 2008*

COMMENTARY

10:30 **Morning tea**

11:00 **Enter the dragon: the AETS, the controversy and debate**

- Auctioning of permits and the treatment of emissions intensive trade exposed industries
 - qualifying for assistance
 - monetary compensation or free permits?
 - revenue allocation
- Carbon Taxes v ETS
- Reviewing business sector response – the burden of the ETS and meeting the 20% renewable energy target
- The politics of climate change: tracking outcomes against election commitments

*Facilitated by:
Matthew Baird, Barrister, Wentworth Chambers
Panellists:
Fiona Wain, CEO, Environment Business Australia*

INTERACTIVE DEBATE

*Greg Evans, Director, Industry Policy & Economics, The Australian Chamber of Commerce and Industry (ACCI)
Tony Hill, Partner, Blake Dawson
Grant Anderson, Partner, Allens Arthur Robinson
Andrew Grant, CEO, CO2 Group
Paul Toni, Program Leader, Sustainable Development, WWF Australia*

11:40 **Winners and losers: Determining penalties, compensation, risks and opportunities for business**

- Regimes, statutes for compensating people / households
- Compensating trade-exposed businesses – high materiality thresholds for eligibility?
- Assessing carbon risk and liabilities of businesses
- Improving business competitiveness in a carbon trading environment (with the proposed implementation of Carbon Pollution Reduction Scheme)

Fiona Wain, CEO, Environment Business Australia

12:20 **Networking lunch for speakers and delegates**

1:20 **Green deals: Mastering carbon contracts**

- Buying and selling carbon – trading Australian Emissions Units
- Early trading ahead of the emissions trading scheme
- Accidental trading – liability for emissions charges in contracts
- Structuring carbon trades
- Carbon permits and financial services regulation

*Louis Chiam, Partner, Mallesons Stephen Jaques
Tier 3 – Global Climate Change Law Firm, Chambers Global 2008*

2:00 **Carbon pass-through: Passing through carbon permit costs under contracts**

- Contracting now for pricing under a future ETS
- Calculating the cost of carbon
- Change of law clauses – problems of enforcement
- Treatment of non-reviewable contracts
- Managing permit price risk

Graeme Dennis, Partner, Clayton Utz

2:40 **How will the financial markets service the forthcoming Carbon Pollution Reduction Scheme?**

- Examining the likely Scheme design (coverage, trajectories, linkages etc)
- Assessing the implications of scheme design for the financial markets
- How will the market evolve over time?
- How can firms manage their market risks?
- ASX's plans to support the scheme

Anthony Collins, General Manager – Emerging Markets, ASX

3:20 **Afternoon tea**

3:40 **Demystifying Climate Change Taxation**

- Taxation, fiscal incentives, obligations and restrictions
- Income tax and GST treatment of emissions permits
- New accounting policies and potential impact on reported profits and tax planning
- Tax deductibility of penalties for non-compliance
- Becoming ETS-ready
- Examining the taxation implications of climate change measures currently in place

Sue Williamson, *President, Taxation Institute of Australia*
Partner Taxation, Clayton Utz

4:20 **Greenwashing: Verifying carbon claims under the Trade Practices Act 1974**

With the growing trend of green marketing claims, rising consumer concerns about veracity of claims on carbon offsets have prompted the issuance of guidelines by the ACCC. These alert consumers and industry on the obligations under the *Trade Practices Act*.

- Green Marketing and Carbon Offset Claims under The *Trade Practices Act 1974*
- Penalties for misleading and deceptive conduct
- Consumer attitudes
- Case Law Update

Grant Anderson, *Partner, Allens Arthur Robinson*

5:00 **2012 and beyond: responding to a dire need for effective global response and action**

- Benchmarking international best practice: where does Australia stand?
- From international policy to Australian policy: Post Kyoto/Bali Agenda
 - Kyoto Protocol's ratification and ramifications for corporate Australia
 - UN Climate Change conference in Bali
 - China and India: the pillars of economic growth and climate change contention
- AETS Linkages to international markets and schemes
- Climate change adaptation – consequences and action

Matthew Baird, *Barrister, Wentworth Chambers*
NSW President, National Environmental Law Association (NELA)

5:30 **Close of conference**

Who Should Attend:

- **Corporate Counsel or In House Counsel**
- **CEOs, General Managers & Directors**
- **Carbon Trading, Sustainability & Environmental Managers**
- **Government Lawyers, Advisers & Specialists**
- **Partners, Barristers, Associates**
- **Corporate & Commercial Lawyers**
- **Environmental Lawyers**



Global Climate Change: Australian Law and Policy is a comprehensive guide to climate change law and policy at local, state and national levels in Australia. The international framework established to deal with climate change is also examined in the book, together with frameworks in other non-Australian jurisdictions.

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Soft Cover ISBN: 9780409325355

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17 September

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27 November 2008

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6 & 7 November

18th Annual National Credit Law Conference (QLD)

1 - 3 October

Visit www.lexisnexis.com.au/pd for the full program and registration or call customer service on 1800 772 772



About the presenters



Graeme Dennis, Partner, **Clayton Utz** is recognised as a leading energy and resources lawyer by independent research companies such as Chambers Global, Best Lawyers and PLC Which Lawyer 2008. Graeme has a reputation for developing innovative solutions for complex issues, particularly in trading, greenhouse and energy areas. In 2000 he designed the documentation for the first “green warrants” traded in Australia, in involving the simultaneous sale of credits in relation to renewable energy, green energy, and emission reduction credits; and worked with the Sydney Futures Exchange in relation to the development of carbon sequestration trading products. He is a member of the International Swaps and Derivatives Association Committee for Energy, Commodities and Developing Products, which designs documentation for international and domestic trading in emissions.



Paul Curnow, Partner, **Baker & McKenzie**'s Global Climate Change Practice is at the forefront of the law and policy around carbon markets and emissions trading. Paul advises a range of Australian and international private sector clients on carbon market opportunities, including a number of market-leading funds on CDM, JI and voluntary carbon transactions in a range of jurisdictions. Paul has also advised a range of government clients, including the Australian and Chinese governments, on climate change law and policy. Prior to Baker & McKenzie, Paul worked for the Australian Greenhouse Office representing the Australian Government in the international climate change negotiations.



Louis Chiam, Partner, **Mallesons Stephen Jaques** specialises in utilities and energy law. Louis acts for a range of Australian and international corporations and government entities and is regularly ranked as one of Australia's leading energy lawyers. Louis has experience in renewable energy and infrastructure projects, energy markets and restructuring and industry regulation. He has advised extensively on Australia's renewable energy and climate change laws.



Sue Williamson, Tax Partner, **Clayton Utz** has represented a range of significant Australian and international clients on the full spectrum of taxation matters including advising on transactions, international tax, general corporate tax, tax disputes and tax litigation. Sue has advised clients on a range of climate change measures encompassing measures adopted by clients independently of the Governments programs and, more recently, the ETS proposals. Sue is President of the Taxation Institute of Australia. She has participated on various Taxation Institute and government committees, consults with Treasury and the Australian Taxation Office on taxation issues and is a frequent speaker at industry events.

Anthony Collins, General Manager of Emerging Markets, **Australian Securities Exchange (ASX)** has, in several different roles, over 13 years experience in the development of new interest rate, equity, commodity, energy and environmental markets. A primary focus of Anthony's current role at ASX is the development of financial markets for carbon, water, natural gas and coal. Anthony is also responsible for developing the commodity markets operated by ASX. Anthony has been directly engaged in climate change and emissions trading issues since managing the research & development department at the Sydney Futures Exchange when it first prepared to facilitate emissions trading in 1999.



Grant Anderson, Partner, **Allens Arthur Robinson** specialises in climate change and energy law, and has extensive experience in general commercial and trade practices law. As part of his climate change practice, Grant advises on renewable energy and gas-fired power station projects including, most recently, the King Island solar generation plant (acting for CBD Energy Limited) and the Neerabup and Braemar II power stations (acting for the financiers). He also acted for Climate Exchange plc on its investment in Climate Change Products Pty Ltd, a company that specialises in the development of climate change related derivatives for both OTC and exchange trading. In addition to advising on the new national greenhouse and energy reporting scheme, and the proposed Australian emissions trading scheme, Grant also advises companies on their compliance with the Trade Practices Act, including the consumer protection provisions under Part V of that Act which are particularly relevant to ‘green’ marketing and claims of carbon neutrality.



Fiona Wain, CEO, **Environment Business Australia** has been in this current role for 9 years. Her passion for raising awareness about the scale and relevance of sustainability issues is balanced with her determination to champion solutions to key challenges - many of which are provided by EBA members. Fiona is a national and international spokesperson for the environment and sustainability industry, has authored many articles, is a frequent conference speaker and is the chair person of the annual Business and Sustainability Summit.



Matthew Baird, Barrister, **Wentworth Chambers** specialises in climate change law and environmental criminal law. Matthew has been involved with environmental issues for over 25 years, appearing in a number of important cases on ESD and Climate Change. Matthew is the President of the NSW division of the National Environmental Law Association, Deputy Chair of LAWASIA's Standing Committee on Environmental Law, a member of the Law Council of Australia's Planning and Environmental Law Group, and a member of the Commission of Environmental Law of the IUCN (the World Conservation Union).

About your workshop facilitators

John Tomac, Director, **PricewaterhouseCoopers** Sustainability and Climate Change Practice is a Chartered Accountant by qualification but has spent the past ten years of his career as a risk management specialist within PwC where he has worked across the globe and industry sectors. Over the last few years his focus has been on applying risk management disciplines and techniques to help clients deal with and prepare for the uncertainties, risks and opportunities that the climate change issue creates. He also leads a team within PwC that provides assurance services to clients over their carbon accounting systems and processes. Given the future liabilities and assets that are likely to accrue to companies arising from their emissions footprint, the integrity of these systems and processes will be key to the effective operation of the soon to be introduced Australian emissions trading scheme.

Christopher Tung, Partner, **Mallesons Stephen Jaques** has been based in Hong Kong since 1992 and practises dispute resolution, construction and environmental law. He specialises in climate change and clean energy matters and is a leading advocate of sustainable development law in Asia. Chris has also been involved in the development of cutting edge risk management tools for banking, construction and energy sector clients.

John Taberner was a Partner at **Freehills** for 20 years between 1988 and 2008 and is now a full-time Consultant to Freehills. John practises exclusively in environmental law and has done so for over 27 years. He is recognised as a leading practitioner in the field, named by the Australian Financial Review in March 2008 as Best Lawyer in the greenhouse field. He acts and has acted for a number of significant government, semi-government and private clients in all matters involving environmental legal issues, including in relation to strategic and particular greenhouse and climate change issues. John served for four years as Secretary of the National Environmental Law Association of Australia, and for four years as a member of the Executive Committee of the International Bar Association's Committee on Environmental Law. Through John, Freehills is and has been for some time a member of the Australian Emissions Trading Forum (AETF) and a member of the International Environmental Lawyers Network based in Washington DC.

Anna Reynolds, Principal Consultant for Carbon Markets and Government Policy, **Energetics** has been working on climate change policy since 1997 with a range of national and international organisations to raise awareness and secure policy changes. Before she joined Energetics in 2008 she was Deputy Director of WWF international's climate change program overseeing work across the Asia Pacific region.

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