



The 42nd Annual Conference of the Banking  
& Financial Services Law Association

# FAST & FURIOUS

*Banking at the speed of change*

**CONFERENCE PROGRAM BROCHURE**

**Thursday 20 to Saturday 22 August 2026**

**Sheraton Grand Mirage Resort, 71 Seaworld Drive, Main Beach, Gold Coast, Queensland**

# PRESIDENT'S MESSAGE



Dear Colleagues

The BFSLA 2026 Annual Conference will be held from 20 to 22 August at the Sheraton Grand Mirage Resort on the Gold Coast.

This year's conference brings everyone together again, with a particularly engaging program. We're fortunate to have an exceptional group of speakers joining us, including **Sir Geoffrey Vos**, Master of the Rolls and Head of Civil Justice for England and Wales, along with **Justice John Bond** of the Court of Appeal, Supreme Court of Queensland, and **Justice Sally Fitzgerald**, Chief Judge of the High Court of New Zealand. Their perspectives — alongside those of leading practitioners and academics — will ensure lively and thought-provoking discussions across the conference.

This year's theme, *"Fast & Furious: Banking at the speed of change"*, captures the pace at which banking and financial services law continues to evolve. Across the program, we explore the practical implications of that change — from artificial intelligence and governance, to prudential regulation, fraud and scam prevention, and emerging financing trends. The Academic Symposium will give us the chance to step back and engage more deeply with some of these issues and hear from leading thinkers in the field.

Just as importantly, the conference is a chance to reconnect — whether that's at the welcome function, the conference dinner, or the more informal events across the program. We've tried to build in plenty of opportunities to catch up with colleagues, meet new people, and enjoy some time on the Gold Coast together.

A big thank you to the Conference Planning Committee for all their hard work in putting together such a strong program.

I hope you can join us — I'm really looking forward to seeing you there.

Helena Busljeta  
*President*

## KEYNOTE PRESENTERS

### **The Right Honourable Sir Geoffrey Vos**

#### **Master of the Rolls and Head of Civil Justice for England and Wales**

Sir Geoffrey Charles Vos KG has served as Master of the Rolls and Head of Civil Justice for England and Wales since 11 January 2021. He presides over the Civil Division of the Court of Appeal and leads the development of civil procedure and court reform. He chairs the Civil Justice Council, the Civil Procedure Rule Committee and the Online Procedure Rules Committee and oversees the Advisory Council on National Records and Archives and the Forum on Historical Manuscripts and Academic Research.

Sir Geoffrey also sits on the LawtechUK Panel and chairs both the UK Jurisdiction Taskforce and the International Jurisdiction Taskforce. Internationally, he is First Vice-President of the European Law Institute (from September 2025), and serves on the Steering Group of the Standing International Forum of Commercial Courts.



### **The Honourable Justice John Bond**

#### **Court of Appeal, Supreme Court of Queensland**

Justice Bond graduated from the University of Queensland with a Bachelor of Commerce in 1981 and a Bachelor of Laws with First Class Honours in 1984. He was admitted as a solicitor of the Supreme Court of Queensland in 1984. He served as the Associate to the Honourable Justice Sir Gerard Brennan of the High Court of Australia in 1985. After a further period in practice as a solicitor, he was admitted to the Queensland bar in 1987. He took silk in 1999. He served as a part time member of the Queensland Law Reform Commission in the period 2005 to 2014. As a barrister, Justice Bond's practice was devoted entirely to commercial litigation and advice at both trial and appellate level. Justice Bond was appointed as a judge of the trial division of the Supreme Court of Queensland in 2015 and as a judge of appeal of that Court in 2021.



### **The Honourable Justice Sally Fitzgerald**

#### **Chief Judge of the High Court of New Zealand**

Justice Fitzgerald graduated with an LLB (Senior Scholar) from Victoria University of Wellington in 1992 and was admitted to the New Zealand bar in the same year.

Justice Fitzgerald joined the Wellington office of Russell McVeagh as a solicitor in 1992, before relocating to London in 1994, where she was admitted as a Solicitor of the Supreme Court of England and Wales in 1999. She worked as a Senior Solicitor at Clifford Chance until 1997, and then at Debevoise & Plimpton from 1998 to 2001.

In 2001 Justice Fitzgerald returned to Russell McVeagh in Wellington. In 2003 she became a Senior Associate, Dispute Resolution at Sydney firm, Mallesons Stephen Jaques, and was admitted as a solicitor of the Supreme Court of New South Wales in 2003.

She returned to Auckland in 2006, and joined the partnership of Russell McVeagh in 2007, specialising in complex commercial dispute resolution, including regulatory investigations and proceedings, tax litigation, and arbitration law and practice.

Justice Fitzgerald was appointed a Judge of the High Court in 2016. From February 2020 to August 2023, she was the Auckland Criminal List Judge, with oversight of all criminal jury trials in the Auckland High Court. She was appointed the Chief Judge of the High Court of New Zealand in December 2023.



## PROGRAM AT A GLANCE

The conference program at a glance is set out below. Delegates are also welcome to attend any session of interest at the Academic Symposium. For the Academic Symposium program at a glance, see page 6 and for the detailed program, see page 15.

## CONFERENCE

### THURSDAY 20 AUGUST

12:00pm	<b>Academic Symposium</b>	<i>Horizons Room</i>
3:00pm	<b>Registration opens</b>	<i>Hotel Foyer</i>
5:00pm	<b>Welcome function</b>	<i>Horizons Room</i>
7:00pm	<b>Future Leaders' reception</b>	<i>Pearls Bar</i>

### FRIDAY 21 AUGUST

8:45am		<b>Conference opening and welcome</b>	<i>Grand Ballroom 1 &amp; 2</i>
9:00am	<b>Plenary</b>	<b>Keynote presentation</b> Chair: <b>Helena Busljeta</b> , Special Counsel, Mallesons Speaker: <b>The Right Honourable Sir Geoffrey Vos</b> , Master of the Rolls and Head of Civil Justice for England and Wales	<i>Grand Ballroom 1 &amp; 2</i>
10:00am		Morning break	<i>Grand Ballroom prefunction</i>
10:30am	<b>Concurrent</b>	<b>Square pegs, round exemptions: squeezing through merger reforms</b> Chair: <b>Louise McCoach</b> , Partner, Dentons Speakers: <b>Patrick Lowden</b> , Partner, Herbert Smith Freehills Kramer <b>Simon Cooke</b> , Partner, Mallesons <b>Troy Pilkington</b> , Partner, Russell McVeagh	<i>Grand Ballroom 1 &amp; 2</i>
10:30am	<b>Concurrent</b>	<b>Chasing the Machine: Can Governance and Accountability Keep Up with AI in Banking and Financial Services?</b> Chair: <b>Associate Professor Allison Silink</b> , University of Technology Sydney Speakers: <b>Professor Jeannie Paterson</b> , Melbourne Law School <b>Dr Mark Giancaspro</b> , University of Adelaide Law School <b>Professor Scott Donald</b> , University of New South Wales	<i>Grand Ballroom 3</i>

## FRIDAY 21 AUGUST (continued)

11:45am	<b>Concurrent</b>	<p><b><i>Strengthening the System: A Deep Dive into Australasian Prudential Policy</i></b></p> <p>Chair: <b>Kerry Beaumont</b>, Director of Enforcement &amp; Resolution, Reserve Bank of New Zealand</p> <p>Speakers: <b>Zoe Cox</b>, Senior Manager, Policy, Australian Prudential Regulation Authority</p> <p><b>Jess Rowe</b>, Director of Prudential Policy, Reserve Bank of New Zealand</p> <p><b>Pat Mahony</b>, Senior Manager, Resolution, Australian Prudential Regulation Authority</p>	<i>Grand Ballroom 3</i>
11:45am	<b>Concurrent</b>	<p><b><i>Fund Finance Fundamentals: an all-angle perspective</i></b></p> <p>Chair: <b>Tom Highnam</b>, Partner, Allens</p> <p>Speakers: <b>James Abbott</b>, Partner, Corrs Chambers Westgarth</p> <p><b>Sarah Elliott</b>, Executive Leader, Financial Sponsors, Funds &amp; Real Assets, NAB</p> <p><b>Peter Allen</b>, Commercial Director (Senior Legal Counsel), IFM Investors</p>	<i>Grand Ballroom 1 &amp; 2</i>
1:00pm		Lunch break	<i>Grand Ballroom prefunction</i>
2:00pm	<b>Plenary</b>	<p><b><i>What keeps GCs awake at night – and what excites them?</i></b></p> <p>Chair: <b>Allison Hancock</b>, Partner, MinterEllisonRuddWatts</p> <p>Speakers: <b>Shannon Finch</b>, Group General Counsel, Westpac</p> <p><b>Jon Benson</b>, Group General Counsel, NAB</p> <p><b>Andrew Gibbons</b>, GM Legal Services and General Counsel, BNZ</p> <p><b>Larissa Vaughan</b>, GM Regulatory Affairs and General Counsel, TSB</p>	<i>Grand Ballroom 1 &amp; 2</i>
3:15pm		Afternoon break	<i>Grand Ballroom prefunction</i>
3:45pm	<b>Concurrent</b>	<p><b><i>Project Acacia: Wattle it mean?</i></b></p> <p>Chair: <b>Yu Zhang</b>, Partner, Allens</p> <p>Speakers: <b>Kylie Stewart</b>, Acting Deputy Head, Payments Evolution, Reserve Bank of Australia</p> <p><b>Tālis Putniņš</b>, co-CEO, Digital Financial Cooperative Research Centre</p>	<i>Grand Ballroom 1 and 2</i>

## FRIDAY 21 AUGUST (continued)

3:45pm	<b>Concurrent</b>	<b><i>Earth, Wind and Fire: Environmental issues in workouts and insolvencies</i></b> Chair: <b>Ben Upton</b> , Partner, Simpson Grierson Speakers: <b>Katie Higgins</b> , Partner, Clayton Utz <b>Alex MacDuff</b> , Partner, Russell McVeagh	<i>Grand Ballroom 3</i>
5:00pm		AGM and Board Meeting	<i>Grand Ballroom 3</i>
6:30pm		Pre-dinner drinks	<i>Grand Terrace</i>
7:30pm		Conference dinner	<i>Grand Ballroom 1&amp;2</i>

## SATURDAY 22 AUGUST

7:30am		<b>Opinions Committee breakfast</b> Hosts: <b>Christine Baumberg</b> , Counsel, Ashurst Perkins Coie <b>Clare Samson</b> , Special Counsel, Norton Rose Fulbright	<i>Lagoon Room</i>
9:00am	<b>Plenary</b>	<b><i>Judicial case law update</i></b> Chair: <b>Matt Cunningham</b> , Partner, MinterEllison Speakers: <b>The Honourable Justice John Bond</b> , Court of Appeal, Supreme Court of Queensland <b>The Honourable Justice Sally Fitzgerald</b> , Chief Judge of the High Court of New Zealand	<i>Grand Ballroom 1 &amp; 2</i>
10:00am		Morning break	<i>Grand Ballroom prefunction</i>
10.30am	<b>Concurrent</b>	<b><i>Boardroom on Trial: Directors &amp; Officers Under Scrutiny</i></b> Chair: <b>James Ruddell</b> , Senior Associate, Bell Gully Speakers: <b>Carmen Boothman</b> , Partner, Ashurst Perkins Coie <b>Janko Marcetic</b> , Partner, Chapman Tripp <b>Professor Jason Harris</b> , The University of Sydney, Sydney Law School	<i>Grand Ballroom 3</i>
10.30am	<b>Concurrent</b>	<b><i>Megawatts to Megadeals: Financing the data centre boom</i></b> Chair: <b>Olga Campbell-Wood</b> , Executive Director, Legal, Australia & New Zealand, CSC Speakers: <b>Stuart Cormack</b> , Partner, Gilbert + Tobin	<i>Grand Ballroom 1 &amp; 2</i>

## SATURDAY 22 AUGUST (continued)

11:45am	<b>Concurrent</b>	<b><i>Catch me if you can 2.0 – latest developments and the future of fraud and scam prevention in Australia and NZ</i></b> Chair: <b>Sarah Atchison</b> , Senior Corporate Lawyer, BNZ Speakers: <b>Emma Peart</b> , Partner, Chapman Tripp <b>Alan Thomsen</b> , Head of Customer Protection, ANZ NZ <b>Kathryn Tomasic</b> , Partner, Mallesons	<i>Grand Ballroom 1 and 2</i>
11:45am	<b>Concurrent</b>	<b><i>Challenges for secured parties when the property developer goes under</i></b> Chair: <b>Jane Muir</b> , Barrister, Gerard Brennan Chambers, Brisbane Speakers: <b>Craig Ensor</b> , Partner, Corrs Chambers Westgarth <b>Sophie Hawksworth</b> , Senior Associate, Simpson Grierson	<i>Grand Ballroom 3</i>
1:00pm		Lunch break	<i>Grand Ballroom prefunction</i>
1:00pm		Future Leaders' lunch	<i>Terraces Restaurant (private area)</i>
2:00pm	<b>Plenary</b>	<b><i>Closing Session: The Grand Finale</i></b>	<i>Grand Ballroom 1 &amp; 2</i>
3:00pm		Conclusion of conference	<i>Grand Terrace</i>
3:10pm		Beach party	<i>Grand Terrace</i>

# PROGRAM AT A GLANCE

## ACADEMIC SYMPOSIUM

### THURSDAY 20 AUGUST

11:45am		Registration opens	
12:00pm	<b>Plenary</b>	<i>A Liquidator's right of recoupment for costs incurred and services performed in preserving and realising secured assets</i> <b>Justice Neil Campbell</b> , NZ Court of Appeal and Supreme Court	Mirage Boardroom
12:40pm	<b>Plenary</b>	<i>A new era or not? The RBA's legislated responsibility for financial system stability</i> <b>Associate Professor Louise Parsons</b> , Bond University	
1:20pm		Lunch break	
1:50pm	<b>Plenary</b>	<i>Insolvency Law and Digital Assets – The Scorecard from Australia</i> <b>Professor Andrew Godwin</b> , Melbourne Law School	
2:30pm	<b>Plenary</b>	<i>'Proprietary' liability of recipients of misapplied trust assets: a non-proprietary account</i> <b>Professor Lusina Ho</b> , University of Hong Kong	
3:10pm	<b>Plenary</b>	<i>The payment of commissions by banks and finance companies to car dealers for introducing borrowers—when does the law of secret commissions apply at common law?</i> <b>Peter Watts KC</b> , Bankside Chambers	
3:50pm		Closing discussion	

# THE PROGRAM IN DETAIL

## CONFERENCE

THURSDAY 20 AUGUST

3:00pm

Registration opens

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5:00pm

Welcome function

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7:00pm

Future Leaders' reception

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7:00pm

Dinner – own arrangements

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## FRIDAY 21 AUGUST

8:45am

Conference opening and welcome

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9:00am

### **Keynote presentation**

Plenary

Chair: **Helena Busljeta**, Special Counsel, Mallesons

Speaker: **The Right Honourable Sir Geoffrey Vos**, Master of the Rolls and Head of Civil Justice for England and Wales

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10:00am

Morning break

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10:30am

### **Square pegs, round exemptions: squeezing through merger reforms**

Concurrent

The recent introduction of the Australian Competition and Consumer Commission's mandatory clearance regime has brought with it a new set of challenges and considerations for participants in banking and finance transactions — challenges that demand careful attention from lenders, borrowers, and their advisers alike.

And just prior to this regime becoming compulsory in Australia, in late 2025, the New Zealand Government also announced significant reforms to the Commerce Act 1986 aimed at modernising merger control and strengthening the Commerce Commission's ability to address anti competitive conduct.

This session will explore:

- The practical implications of Australia's mandatory clearance regime for everyday financing transactions. Which transaction structures are problematic under the regime and how can market participants can identify and manage these risks at an early stage?
- The proposed New Zealand changes that will enhance the Commerce Commission's ability to scrutinise acquisitions by changing the legal thresholds, addressing serial acquisitions, and introducing new intervention and call-in powers.

Chair: **Louise McCoach**, Partner, Dentons

Speakers: **Patrick Lowden**, Partner, Herbert Smith Freehills Kramer

**Simon Cooke**, Partner, Mallesons

**Troy Pilkington**, Partner, Russell McVeagh

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## FRIDAY 21 AUGUST (continued)

10:30am

Concurrent

### ***Chasing the Machine: Can Governance and Accountability Keep Up with AI in Banking and Financial Services?***

Artificial intelligence is reshaping the financial services landscape at pace, offering institutions powerful tools to streamline operations, assess risk and engage customers. But it comes at the cost of new risks and potential liability as noted in APRA's recent Letter to Industry on Artificial Intelligence (AI) (30.4.26). This panel brings together three leading scholars to interrogate the governance challenges AI presents across critical domains of banking and financial services law.

Professor Jeannie Paterson examines how the foundational licensing obligation to provide financial services efficiently, honestly and fairly should frame the oversight of AI deployment, probing the tension between operational efficiency and the risks of hallucination and misalignment in customer-facing contexts.

Dr Mark Giancaspro turns to the lending space. He analyses the growing reliance on automated decision-making in consumer risk profiling and the troubling consequences of wrongful high-risk classifications and unjust credit denials that flow from flawed data inputs and opaque algorithmic assessments, calling for robust regulatory frameworks to secure accountability and consumer protection.

Professor Scott Donald broadens the lens to the trusteeship context, examining how trustees are navigating AI adoption. He argues that the requirement for trustees to give "real and genuine consideration" when exercising discretion poses particular challenges for trustees, and maps where AI may appropriately support trustee decision-making and where its deployment would be legally inadvisable without meaningful human oversight.

Together, the presentations offer a timely and integrated analysis of what responsible AI governance must address for financial services providers navigating an increasingly automated future.

Chair: **Associate Professor Allison Silink**, University of Technology Sydney

Speakers: **Professor Jeannie Paterson**, Melbourne Law School

**Dr Mark Giancaspro**, University of Adelaide Law School

**Professor Scott Donald**, University of New South Wales

11:45am

Concurrent

### ***Strengthening the System: A Deep Dive into Australasian Prudential Policy***

This session brings together leading prudential regulators from Australia and New Zealand to explore how both jurisdictions are evolving their prudential regulatory frameworks in response to emerging risks, global standards, and shifts in the financial system. Attendees will emerge from the session with an enhanced understanding of: why the Australian and New Zealand prudential frameworks are highly connected, and the points of difference; how prudential policy is made on both sides of the Tasman, and the important role of legal practitioners and industry in the process; what recent international developments mean for the future of prudential policy on both sides of the Tasman. Focus case studies will provide insights into prudential policy in action – eg recent operational risk and governance reforms in Australia, and the 2025 capital review in New Zealand. A discussion on the respective Trans-Tasman resolution regimes, will draw how the regulators operationalise prudential policy. This session is ideal for practitioners seeking a deeper understanding of prudential policy and directions and the regulatory frameworks and practices behind them.

Chair: **Kerry Beaumont**, Director of Enforcement & Resolution, Reserve Bank of New Zealand

Speakers: **Zoe Cox**, Senior Manager, Policy, Australian Prudential Regulation Authority

**Jess Rowe**, Director of Prudential Policy, Reserve Bank of New Zealand

**Pat Mahony**, Senior Manager, Resolution, Australian Prudential Regulation Authority

## FRIDAY 21 AUGUST (continued)

11:45am

Concurrent

### ***Fund Finance Fundamentals: an all-angle perspective***

This panel offers a practical overview of the core structures, considerations and market dynamics shaping fund finance today. Drawing on perspectives from Sponsors, Bankers and legal private practice, the discussion will explore how fund finance products are evolving and what sponsors, lenders and advisers should be paying attention to in the current environment.

Chair: **Tom Highnam**, Partner, Allens

Speakers: **James Abbott**, Partner, Corrs Chambers Westgarth

**Sarah Elliott**, Executive Leader, Financial Sponsors, Funds & Real Assets, NAB

**Peter Allen**, Commercial Director (Senior Legal Counsel), IFM Investors

1:00pm

Lunch break

2:00pm

Plenary

### ***What keeps GCs awake at night – and what excites them?***

This panel session will bring together general counsel from both sides of the Tasman. The panellists will share their perspectives on the most pressing trends currently shaping the legal landscape.

The session will explore what challenges are causing concern for today's general counsels, as well as the opportunities and innovations that excite them.

Chair: **Allison Hancock**, Partner, MinterEllisonRuddWatts

Speakers: **Shannon Finch**, Group General Counsel, Westpac

**Jon Benson**, Group General Counsel, NAB

**Andrew Gibbons**, GM Legal Services and General Counsel, BNZ

**Larissa Vaughan**, GM Regulatory Affairs and General Counsel, TSB

3:15pm

Afternoon break

3:45pm

Concurrent

### ***Project Acacia: Wattle it mean?***

Project Acacia was a joint Reserve Bank of Australia and Digital Finance Cooperative Research Centre initiative exploring what role blockchain technologies including digital central bank money can play in the future of financial market infrastructure. The report for this landmark project was published in May 2026. This panel featuring the key players in this project will discuss what the project was about, what came out of the project and the potential future implications.

Chair: **Yu Zhang**, Partner, Allens

Speakers: **Kylie Stewart**, Acting Deputy Head, Payments Evolution, Reserve Bank of Australia

**Tālis Putniņš**, co-CEO, Digital Financial Cooperative Research Centre

## FRIDAY 21 AUGUST (continued)

3:45pm

Concurrent

### ***Earth, Wind and Fire: Environmental issues in workouts and insolvencies***

As environmental risks and regulation intensify, insolvency practitioners and lenders increasingly face liabilities that go beyond traditional financial concerns. The panel of experienced legal advisers will explore how issues such as contaminated land, regulatory enforcement, and climate-related risks intersect with insolvency regimes and the impact that can have on contingency planning and workouts. Through a discussion-driven format, the session will examine practical challenges including allocating risk for environmental liabilities, managing distressed assets, and balancing stakeholder interests. Drawing on recent examples, the panel will highlight emerging trends and offer practical perspectives on navigating environmental risks in restructuring and enforcement scenarios.

Chair: **Ben Upton**, Partner, Simpson Grierson

Speakers: **Katie Higgins**, Partner, Clayton Utz

**Alex MacDuff**, Partner, Russell McVeagh

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5:00pm

### **AGM and Board Meeting**

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6:30pm

### **Pre-dinner drinks**

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7:30pm

### **Conference dinner**

Dress code: Smart casual

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## SATURDAY 22 AUGUST

7:30am

### Opinions Committee breakfast

This session is for delegates who are members of the BFSLA Opinions Committee

Hosts: **Christine Baumberg**, Counsel, Ashurst Perkins Coie

**Clare Samson**, Special Counsel, Norton Rose Fulbright

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9:00am

### Judicial case law update

Chair: **Matt Cunningham**, Partner, MinterEllison

Speakers: **The Honourable Justice John Bond**, Court of Appeal, Supreme Court of Queensland

**The Honourable Justice Sally Fitzgerald**, Chief Judge of the High Court of New Zealand

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Plenary

10:00am

### Morning break

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10:30am

### *Boardroom on Trial: Directors & Officers Under Scrutiny*

This session will explore the evolving landscape for directors and officers in both New Zealand and Australia. Despite ongoing legislative changes, directors and officers remain firmly in the spotlight for legislators, regulators, and shareholders alike. The panel will provide an overview of recent developments, highlighting key differences and similarities across the Tasman. It will also examine the role of insurance and notable litigation trends, including actions by regulators and shareholders for alleged breaches of directors' duties.

Chair: **James Ruddell**, Senior Associate, Bell Gully

Speakers: **Carmen Boothman**, Partner, Ashurst Perkins Coie

**Janko Marcetic**, Partner, Chapman Tripp

**Professor Jason Harris**, The University of Sydney, Sydney Law School

Concurrent

## SATURDAY 22 AUGUST (continued)

10:30am

Concurrent

### ***Megawatts to Megadeals: Financing the data centre boom***

As the digital economy accelerates, data centre infrastructure has emerged as one of the most consequential new asset classes in the capital markets — attracting a diverse range of financiers, sponsors and advisers navigating complex and rapidly evolving terrain. This session brings together perspectives from across the deal table to explore how the market is responding to surging demand, from structuring and documentation nuances to the management of energy, technology and regulatory risk. We will consider how current financing approaches are evolving, what optionality is being preserved for future refinancings or capital markets solutions, and where the most significant pressure points lie. Drawing on recent deal experience and developments in comparable markets, the panel will range across questions including: how AI-driven demand is reshaping risk allocation and funding models; what legal and regulatory constraints are emerging as genuine bankability issues; and how sponsors, lenders and advisers are positioning for a market that is booming, but still finding its shape.

Chair: **Olga Campbell-Wood**, Executive Director, Legal, Australia & New Zealand, CSC

Speakers: **Stuart Cormack**, Partner, Gilbert + Tobin

11:45am

Concurrent

### ***Catch me if you can 2.0 – latest developments and the future of fraud and scam prevention in Australia and NZ***

As part of the rising tide of duties on banks, the fraud and scams prevention landscape is constantly evolving and continues to be a major risk area for banks and financial institutions in Australia and New Zealand. This panel session will cover:

- Latest developments in fraud and scam prevention measures in Australia and NZ
- The challenges facing Fraud and Operational teams within banks and financial institutions
- What does the future look like?

Chair: **Sarah Atchison**, Senior Corporate Lawyer, BNZ

Speakers: **Emma Peart**, Partner, Chapman Tripp

**Alan Thomsen**, Head of Customer Protection, ANZ NZ

**Kathryn Tomasic**, Partner, Mallesons

## SATURDAY 22 AUGUST (continued)

11:45am

Concurrent

### **Challenges for secured parties when the property developer goes under**

With construction costs and risks ballooning in recent years, property developers and their funders in both Australia and New Zealand have experienced challenges in recouping their expenditure. This session will cover:

- Mortgagees' ability to recover their costs of completing a distressed development – a mortgagee who “builds out” a distressed development has an equitable right to recover its costs, but the scope of the right vis-a-vis subsequent mortgagees involves considering the principles in *Matzner v Clyde Securities Limited* [1975] NSWLR, the terms of any deed of priority, and whether the deed excludes equitable principles and any statutory rights. Discussion will refer to recent cases, *Prolend Solutions No 50 Pty Ltd v Monaco Solicitors Pty Ltd* [2026] QCA 68 and *JSY Securities Pty Ltd v Dakabin Homes Pty Ltd* [2026] QSC 106.
- Legal and practical issues for secured creditors in statutory management – the strict moratorium does not affect the existence of security rights but does prevent secured creditors from exercising them. The high profile Du Val group collapse in New Zealand provides a useful case study.
- Whether liability for construction defects could affect secured lenders and insolvency practitioners

Chair: **Jane Muir**, Barrister, Gerard Brennan Chambers, Brisbane

Speakers: **Craig Ensor**, Partner, Corrs Chambers Westgarth

**Sophie Hawksworth**, Senior Associate, Simpson Grierson

1:00pm

**Lunch break**

**Future Leaders' lunch**

2:00pm

### **Closing Session: The Grand Finale**

End the conference on a high with a spirited session designed to entertain and engage. While the exact format remains a surprise, expect a lively mix of insight and humour — an energising way to connect with peers and wrap up our time together.

Plenary

3:00pm

**Conclusion of conference**

3:10pm

**Beach party**

# THE PROGRAM IN DETAIL

## ACADEMIC SYMPOSIUM

Delegates are welcome to attend any session of interest at the Academic Symposium.

### THURSDAY 20 AUGUST

11:45am

Registration opens

12:00pm

Plenary

#### ***A Liquidator's right of recoupment for costs incurred and services performed in preserving and realising secured assets***

Where a liquidator has incurred costs and performed services in preserving and realising secured assets, the liquidator is entitled to recoup their reasonable costs and reasonable remuneration for their services from the proceeds of realisation in priority to the claim of the secured creditor. This is sometimes referred to as the salvage principle. Justice Campbell will examine the origins of, justifications for and limits of this right. It will be suggested that the terminology of salvage is unhelpful and that there is no requirement that the liquidator's costs and services provide an incontrovertible benefit to the secured creditor. There will be a particular focus on how the right of recoupment is exercised where the secured assets consist of the proceeds of litigation pursued by the liquidator and the liquidator is liable to pay a success fee to a funder of the litigation.

**Justice Neil Campbell**, NZ Court of Appeal and Supreme Court

12:40pm

Plenary

#### ***A new era or not? The RBA's legislated responsibility for financial system stability***

Section 45 of the RBA Act now legislates a financial system stability responsibility for the RBA. This responsibility is also listed as one of the key functions of the RBA (in s 8AB). This paper will consider the evolution of the RBA's responsibility/mandate for financial stability prior to this legislative change, what the change means, and also how the demise of the rules-based order internationally might impact this responsibility (given that financial stability considerations are deeply influenced by international 'soft law'). It will also consider differences between financial system stability and financial stability more broadly.

**Associate Professor Louise Parsons**, Bond University

1:20pm

Lunch break

## THURSDAY 20 AUGUST (continued)

1:50pm

Plenary

### ***Insolvency Law and Digital Assets – The Scorecard from Australia***

The emergence of digital assets presents challenges for insolvency law in jurisdictions around the world. In addition to resolving the threshold question of whether a digital asset constitutes ‘property’ (and, if so, the doctrinal basis for its treatment as such), jurisdictions have had to consider conflict of laws issues (including *lex situs* and applicable law) and the extent to which existing insolvency law procedures and measures are able to accommodate digital assets, whether in a domestic or cross-border context. This paper provides a scorecard of the position under Australian law. It concludes that, similar to the position in other common law jurisdictions, Australian law has largely proven effective in dealing with the challenges to date. There are, however, unique features of digital assets (and transactions in digital assets) that are shaping the application of insolvency law and revealing potential areas for clarification or law reform. These unique features include the speed with which digital assets can be transferred, their volatile value, and the difficulties in locating or tracing them as a result of their existence on a distributed blockchain and the pseudonymity of their owners. The paper assesses the position in Australia against the position in other jurisdictions and relevant international developments, including the UNIDROIT Principles on Digital Assets and Private Law and ongoing work on cross-border insolvency law by UNCITRAL.

**Professor Andrew Godwin**, Melbourne Law School

2:30pm

Plenary

### ***‘Proprietary’ liability of recipients of misapplied trust assets: a non-proprietary account***

Despite their venerable pedigree, the conceptual basis of tracing and claiming remains contested. The proprietary explanation, that claims made upon tracing vindicate equitable proprietary rights, has gained traction in the UK Supreme Court. This paper argues that this account is not supported by the historical origins of these claims and mischaracterises their conceptual nature. It advances an alternative justification based on the errant trustee’s lack of authority to dispose of trust assets and a principled balance between proper trust administration and the protection of third parties: purchasers for value without notice and good-faith volunteers.

**Professor Lusina Ho**, University of Hong Kong

## THURSDAY 20 AUGUST (continued)

3:10pm

### ***The payment of commissions by banks and finance companies to car dealers for introducing borrowers—when does the law of secret commissions apply at common law?***

Plenary

The decision of the United Kingdom Supreme Court in *Hopcraft v Close Brothers Ltd* [2025] UKSC 33 is a very important decision dealing with the payment by banks and finance companies of commissions to parties who introduce parties seeking finance to purchase a motor vehicle. Usually the party receiving commission will be the car dealer who is supplying the vehicle. In the UK litigation, billions of potential refunds were said to be at issue. The Court held that in such situations the dealer will not usually be a fiduciary and for that reason the law of bribes and secret commissions will be inapplicable. This paper argues that the reasoning in the case is open to criticism on many levels. The Court's finding that a dealer who offers buyers its expertise and advice in obtaining finance will not in providing that advice (and/or an introduction) usually be a fiduciary where it is also selling the car seems to place too much weight on the concept of "single-minded loyalty" in fiduciary law. On the other hand, the apparent assumption of all the parties and the Court in the litigation that all payments by a third party to an agent (or other fiduciary) without the fully informed consent of the principal trigger the law of secret commissions arguably overstates the reach of that law. The paper also queries whether the Court was correct to conclude that only fiduciary relationships attract the law of secret commissions. Non-fiduciary employment relationships ought also to be governed by that law.

**Peter Watts KC**, Bankside Chambers

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3:50pm

**Closing discussion and invitation to speakers to network with Conference delegates at the welcome function**

# SOCIAL FUNCTIONS

## THURSDAY 20 AUGUST

5:00pm Welcome function

7:00pm Future Leaders' reception

## FRIDAY 21 AUGUST

6:30pm Pre-dinner drinks

7:30pm Conference dinner

## SATURDAY 22 AUGUST

1:00pm Future Leaders' lunch

3:10pm Beach party



## CONFERENCE REGISTRATION

You can register for the conference via the link below.

### CONFERENCE REGISTRATION

#### The old-fashioned way

If you are unable to use the link for any reason, please contact Julia at [Julia@bfsla.org](mailto:Julia@bfsla.org). We will then process your registration and send you a confirmation and invoice.

## ACCOMMODATION

**Sheraton Grand Mirage Resort, Gold Coast**, 71 Sea World Drive, Main Beach, Queensland 4217.

We have secured competitive rates for all BFSLA delegates at the Sheraton Grand Mirage.

Rates are quoted in **Australian dollars**. They include GST of 10% and are for Sole/Twin or Double occupancy  
**BFSLA conference room rate \$455 per night**



Below is the link to the Sheraton Mirage Gold Coast accommodation booking website. All accommodation must be booked directly with the Sheraton Mirage via the online link or by calling +61 1800 073 535. Please remember to quote **BFSLA Conference 2026** for the conference rate.

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If unable to use the Sheraton Mirage online link internally please call the reservations team for assistance on 61 07 5577 0000 or email [goldcoast.00372@marriott.com](mailto:goldcoast.00372@marriott.com) Please note it is very important not to send credit card details by email.

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