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Agribusiness Consulting

AAAC Professional Development Workshop
Melbourne
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Legal Issues – Achieving Improved Outcomes

Economic Loss Assessments: The Lessons Learned

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Principal

better advice for a better life

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ELA – Lessons Learned

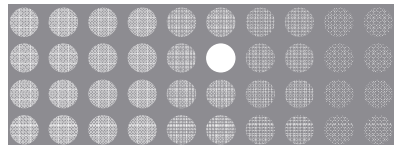
Outline of Issues Covered

Not an “A to Z of ELA”

- Outline of Services Provided
- Types of Claims
- Engagement Process
- Investigation Process
- Reporting
- Presenting Expert Evidence
- Other Settlement Processes
- Other Matters

These issues will be covered using examples & anecdotes

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Economic Loss Assessment

Provision of Professional Services

- A particular action or inaction has caused loss
- Requires cause and effect.
- Liability and/or Quantum
- Clientele
- Expertise re scientific, technical or industry practice to determine cause and effect. (Main domain of consultants)
- Economic/financial consequences of alleged transgression. (maybe done in conjunction with accountants or other qualified professionals).

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Types of Claims

- Personal Injury
- Negligence (Duty of Care)
- Breach of Contract
- Trade Practices
- Family Law
- Exploration and Mining on Agricultural land
- Agricultural Tenancies Act
- Compulsory Acquisition
- Land Use and Planning - Land and Environment Court

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Engagement Process

- Primary – direct from Parties, *or*
- Secondary – from insurers/legal practitioners on behalf of their client(s)
- Basis of engagement
 - opinion for the use by, or on behalf of the client, *or*
 - expert witness to assist the Court
 - what is expected
- Instructions
 - initial discussions
 - inputs into formulating instructions
 - written, including background information, what assumptions are inherent

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Engagement Process . . . cont

- **Fees**
 - Basis of charging
 - Responsibility for payment of fees
 - Issue of contingency fees
- **Client Engagement Letter**
 - Setting out all matters relevant to the engagement
 - “No surprises”

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Investigation Process

- Identify Relevant Issues
 - Causation, contributory actions, opportunity to mitigate
- Identify Information Required
 - source documents
 - research
 - published statistics
- Collection and Collation of Information
 - Understandable tables
 - Meaningful formats
- Analyses
 - To help justify and substantiate conclusions

- Report Presentation
 - Be mindful of the Reader
 - Often complex and involved issues
 - Report has to be simple enough to be understood by non agriculturalists, but at the same time professionally robust
 - Footnotes, graphs, charts, well labelled tables, supporting Schedules, Attachments
 - Simple things eg formatting of report, including page layout, section headings, line numbering, summary, table of contents
 - Quality control

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Presenting Expert Evidence

- Joint Experts Report
- Concurrent Evidence/Hot tubbing
- Court Appointed Expert
- Verbal Evidence
- Impartial
 - Assist the Court
 - Not “pushing” client’s case
- Confident
 - Knowledgeable
 - Willing to concede

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Other Settlement Processes

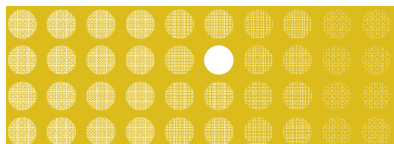
Roles of the Consultant in other processes including:

- Mediation
- Arbitration
- Other?

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Other Issues

- Conflicts of Interest
- Effects on other Services
- Promotion of Services



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