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At a comfortable discount

High M&A and capital market activity in the energy & resources industry has made 2007 one of the busiest calendar years on record for Queensland practices. But despite the frantic activity, partner fee levels remain at a comfortable discount compared to those interstate. *ALB* reports

The landslide victory of the ALP in the recent election, which saw Kevin Rudd taking up the position of Prime Minister, was a victory not only for the party but also for Queensland. Never before has a home-grown Queensland politician led an election campaign that saw him being installed in the top seat.

In the history of federal Australia, only two other Queenslanders have made it to the prime ministerial seat. Rudd is on track to become the first Prime Minister of whom Queenslanders can be truly proud, and they have high expectations of him.

Ask Chris Ward, managing partner of Cooper Grace Ward, if the state will benefit from having a Queenslanders at the helm, and he'll answer: "We think so, but we haven't got anything to back that up.

"When you've got the Treasurer and the Prime Minister living in this city, then you think there's got to be some intrinsic value for the state," Ward continues. "I'm not suggesting anything other than that

things are done properly, but I can't help but think it must give a greater focus to what we're doing here in Queensland."

Hopgood Ganim managing partner Bruce Humphrys agrees the election result could

bring benefits for the state: "It certainly isn't going to do us any harm. [Rudd] seems a passionate Queenslanders."

Pillars of prosperity

Whether Queensland will benefit from having a home-grown Prime Minister will become clear in due time, but the question is whether the state needs it. The buoyant local economy has put it on the map as one of Australia's primary economic powerhouses. Its success story rests on two pillars: construction and resources.

In *ALB* Issue 5.8 we looked at the construction and property industry, but the almost frantic merger & acquisition and capital markets activity in the energy & resources sector has made the latter one of the main drivers of legal industry growth in Queensland.

McCullough Robertson's resources practice is responsible for about 18–20% of the firm's total revenues and focuses predominantly on the coal industry. The firm has acted on several major transactions, such as the sale of Peabody for A\$2bn last year. 2008 is also looking good, with deals such as the listing and restructuring of Whitehaven Coal Ltd,



“I think it should be comforting to clients that we’re able to compete with the people that charge a lot more”

**BRUCE HUMPHRYS,
HOPGOOD GANIM**

a company with a market capitalisation of around A\$1bn. “Our practice divides between corporate M&A and joint venture structuring and establishment and operational,” says partner Damian Clarke, who leads the firm’s resources practice. “It’s one of the spearhead practice areas the firm’s investing in.”

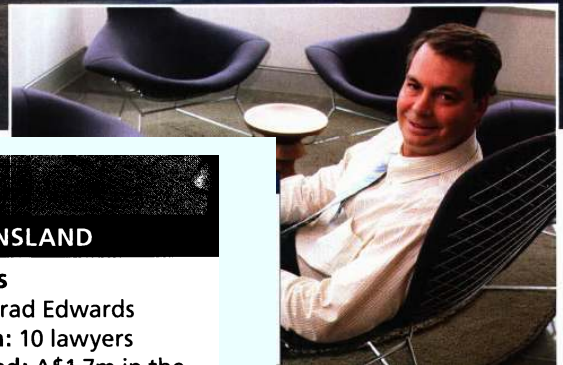
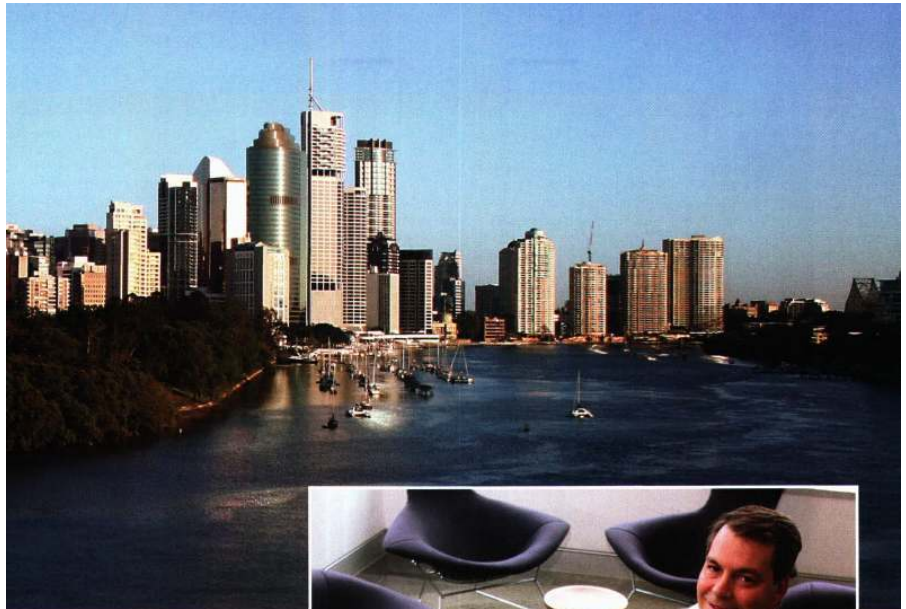
Hopgood Ganim has a broad resources practice, but practice leader Martin Klapper takes a special interest in the coal seam sector. He is a founding member of the Australian Coal Seam Gas Council, an industry lobby group which provides a forum for cooperation between the coal and petroleum industries.

Klapper’s coal seam expertise was nowhere more apparent than in his advisory role to Arrow Energy on its 50/50 joint venture with AGL, and its acquisition of the merchant gas and pipeline businesses of Queensland Power Trading Corporation, known as Enertrade. Arrow’s share of the acquisition cost was approximately

A\$139m, including transaction costs – a deal which Bruce Humphrys describes as a ‘cracker’. Klapper’s team also made the headlines by advising Buccaneer Energy on its A\$20m listing on the ASX and its involvement in the IPO of China Yunnan Copper Australia.

Although the sector is booming, some clouds have emerged over its future

prospective in the form of lower resources exports. The exports of metal ores and minerals, for example, were down 20% in October 2007 on a month-to-month basis, while metals tumbled 22%. This drop is partly explained by infrastructure bottlenecks. However, Clarke does not expect this to cause serious damage to the industry. “It’s a huge short-term problem,

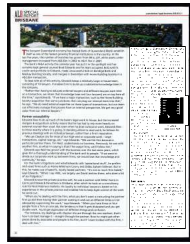


id Edwards, Bank of Queensland

BANK OF QUEENSLAND

BoQ in-house facts

- **General counsel:** Brad Edwards
- **Size in-house team:** 10 lawyers
- **External legal spend:** A\$1.7m in the financial year ending 1 August 2007
- **Firms used:** Clayton Utz, Home Wilkinson Lowry, Dibbs Abbott Stillman, and several specialist firms such as MacGillivrays Solicitors in Brisbane



The buoyant Queensland economy has helped Bank of Queensland (BoQ) establish itself as one of the fastest growing financial institutions in the country. In the last five years, the number of branches has grown from 98 to 237, while assets under management increased from A\$6.6bn in 2002 to A\$21.7bn in 2007.

The bank's M&A activity this calendar year has put it in the spotlight and has certainly kept general counsel Brad Edwards and his team occupied. BoQ sold its credit card portfolio to Citibank, made unsuccessful bids on Bendigo Bank and Mackay Building Society, and merged in December with Home Building Society in a A\$2.6bn transaction.

To deal with all of this activity, Edwards keeps a relatively large in-house team, consisting of 10 lawyers. It enables him to build up a substantial knowledge base in the company.

"Rather than having to educate external lawyers and different lawyers each time on a transaction, we retain that knowledge base and [our lawyers] are on tap here all the time," says Edwards. "If we have a major transaction, such as the Home Building Society acquisition that we've just done, then we plug our internal team into that," he says. "We do need external expertise on those types of transactions, but our team can effectively manage that process from an internal perspective. We get very good value from our internal lawyers."

Partner accessibility

Edwards likes to do as much of the bank's legal work in-house, but the increased mergers & acquisitions activity means that he has had to rely more heavily on external counsel than usual. But even when he does outsource work, Edwards likes to know exactly where it is going. In deciding where to send work, he follows his previous dealings with an individual lawyer, rather than a firm's reputation.

"We use Clayton Utz for most of our high-end or corporate work – large transactions, capital raisings, etc," says Edwards. "We use the firm because a particular partner there, Tim Reid, understands our business. Previously, he was with another firm, so what I'm saying is that if he swaps firms, we'll follow him."

Edwards says Reid has grown with the business over the last seven years, which gives him a thorough understanding of the bank and its people. "If we were to divide our corporate work up between firms, we would lose that knowledge and continuity," he says.

For the bank's litigations and what Edwards calls 'operational stuff', he prefers mid-sized firms such as Home Wilkinson Lowry and Dibbs Abbott Stillman. But in this, he makes use of specific, locally based partners. "It's not so much firm based," says Edwards. "When I say HWL, we largely use David Jenkins there, who does a lot of our litigation."

Edwards knows the private practice well; he was a partner with Miller Harris in Cairns and Stokes & Panettiere in Brisbane, after which he took on a consultancy role for Nicol Robinson Halletts. His loyalty to individual lawyers is based on his experiences in the private practice and enables him to keep tight control of the work he sends out.

"When you're dealing with the firm, what you don't want is instructing the partner first up and then having their partner coming in and out at different times or not adequately supervising the work," says Edwards. "When you have three or four people from a firm on one job, the tendency is that it gets dissipated and you get double work. You'd get duplication of different things and confusion.

"For instance, my dealings with Clayton Utz are through the one medium; that's how I can best manage it – straight through the partner. Now he might get other pieces done by associates and people in his firm, but if I want to deal with the firm, I deal with him."

but we're hopeful that there will be enough emphasis on solving the problem." The new Labor government sees the bottlenecks as one of the key hurdles for further economic growth and is adamant about addressing the problem. Together with the states, it has created a new national office, under the name Infrastructure Australia, to improve infrastructure delivery.

The Business Council of Australia has welcomed the measure, and estimates that if done properly, reforms could increase the nation's GDP by A\$20bn. Clarke says that with serious measures being taken, the problems are expected to ease in the long term. "We see only upsides," he says. "New projects are coming online, which makes for an exciting time."

Hopgood Ganim's Humphrys also expects the resources industry to remain a strong driver in the coming years.



Chris Ward,
Cooper Grace Ward

He is not very concerned about the infrastructure bottlenecks, because the firm has a broad range of clients across the sector, making it less vulnerable to isolated hiccups. "Our [practice] is very much right across the board. We're doing upstream, downstream, energy, renewable energy and also related infrastructure projects are seeping into those things – water desalination plants, roads, rails and pipelines." Humphrys says the firm already has a significant number of IPOs in the pipeline for 2008.

Fee levels

As the Queensland economy is booming, the services of local lawyers are increasingly in demand. After Sydney, Brisbane is the city where firms are currently appointing the most partners.

Queensland houses almost 17% of the nation's legal services providers, while employing more than 13,500 lawyers, according to a study of IBISWorld published in October 2007. The study also says revenue share of Queensland practices is higher than practice share, which implies higher revenue per practice relative to the Australian average.



Your business partner

Cooper Grace Ward featured in ALB Magazine's 2007 Brisbane Report on the back of its successful rebrand in 2006.

By following through on its promises around client service and its people focused culture, Cooper Grace Ward has continued to build its diverse client base, which includes both Queensland-based and national market leaders.

"The past year has been all about momentum," says Chris Ward, managing partner of Cooper Grace Ward.

"During 2006 we made some fairly bold and progressive moves in terms of our firm's culture, our delivery of outstanding client service, and our brand," he says.

"Making those moves was challenging but the real challenge is staying focused and maintaining the momentum, making sure that we achieve the full benefit of the positive changes we have made for our clients and our team members."

Among other initiatives, Cooper Grace Ward has developed and implemented "Client Service Imperatives", a set of guiding principles for its team members in dealing with clients.

"The Client Service Imperatives are about building successful client relationships and have become a part of the way we do business," says Ward.

"We have them posted on our website, allowing our clients to view them and keep us honest."

Cooper Grace Ward's 18% growth in revenue and 15% growth in team numbers certainly lend weight to its client and people focused approach.

Results in 2007

Revenue Growth (2007 calendar year): 18%

Team Growth (2007 calendar year): 15%

Top 5 Deals

- Acted in the \$117 million sale of the Zupps Group, a major motor dealership group, to ASX listed company, Automotive Holdings Group Ltd (ASX:AHE)
- Acted for Facilitate Digital Holdings Ltd (ASX:FAC) in the acquisition of Impact Data Pty Ltd on an earn-out model transaction with an expected value of around \$40 million; also advised in the IPO of Facilitate Digital, conducted by reverse takeover of ASX listed company Purus Energy Ltd (ASX:PUR)
- Acted for Freedom Fuels in its acquisition of 16 service station sites in Victoria from Horizon Petroleum Pty Ltd
- Acted for Waeco Pacific and its Australian interests as part of the Global Takeover of the Waeco companies by Dometic, the Swedish Group
- Acted for vendors in the sale of a water tank manufacturing business for in excess of \$20 million

Awards and Recognition

Finalist – ALB Australasian Law Awards 2007 (Best Brisbane Firm)

Winner – Lawtech Awards 2007 (Legal IT Team of the Year – Small to Medium Sized Firm)

Finalist – MFAA Excellence Awards 2007 (Support Services to the Mortgage & Finance Industry)

Ranked 7th – Book of Lists 2007, a list of Queensland's largest law firms



COOPER GRACE WARD'S SERVICES

- Corporate and Commercial
- Corporate Governance and Compliance
- Dispute Resolution and Litigation
- Employment and Workplace Relations
- Family, Estate Planning and Wealth Management
- Finance
- Health and Medical Litigation
- Insolvency
- Insurance
- Intellectual Property
- IPOs and Capital Markets
- Mergers and Acquisitions
- Property, Planning and Environment
- Revenue, Tax and Superannuation.



This is remarkable as the hourly rates charged in Queensland are still lower than in Sydney, Melbourne or Perth.

Enquiries made by *ALB* revealed that the average hourly rate of a corporate partner in Queensland's independent firms is about A\$400–440 plus GST, compared to an average of A\$500–700 in similar sized practices in both Sydney and Melbourne.

Brad Edwards, general counsel and company secretary of Bank of Queensland, says it is just a case of supply and demand. "In Sydney, Melbourne and especially Perth, there aren't enough lawyers around to do the work, so they put a premium on it."

Cooper Grace Ward's average rate for a partner is A\$440 plus GST. "I'm certain that some of my partners could charge

almost anything and the client would pay it," says Ward.

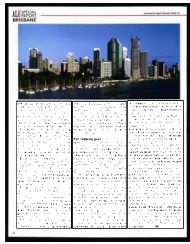
Prices are a significant factor in competition between firms, says Ward, but the buoyancy of the economy has taken some of the pressure off rates. "Clients want the result at the moment. I suspect if things weren't so buoyant they might be looking closer at the hourly rates." He says it is important to keep an eye on what other firms are charging. "We don't sit down and agree on prices, but you keep an eye on your competitors," he says.

Managing partner Craig Green of MacGillivrays Solicitors says his firm's average is A\$430 plus GST. The firm is widely represented in Queensland with offices in Brisbane, the Gold Coast and Sunshine Coast, but it also has branches in Melbourne and Sydney. In part, the

"I'm certain that some of my partners could charge almost anything and the client would pay it, but there needs to be some consistency in the firm"

CHRIS WARD, COOPER GRACE WARD





firm has been able to push itself into these markets by charging the same hourly rates there as it does in Brisbane.

“Because we’re doing the work at our Brisbane charge-out rates, it gives us quite a competitive edge,” says Green. “The rates are very competitive in Sydney and quite competitive in Melbourne.”

To curb the high costs of maintaining the interstate offices, the firm flies part of the work back to Brisbane. “My partners fly to Sydney with an empty suitcase and bring back the files and do the work in Brisbane. But having our offices in Sydney still means that we have people who can attend court and we have our own boardrooms for conferences.”

Hopgood Ganim prides itself on charging below market rates, while still being able to compete with the best. “Our partners are around the 400 mark,” says Humphrys. “Some more senior partners demand a slightly higher rate than that, but I’d say that for a firm of our size and capabilities that could almost be A\$100 an hour off the pace.”

Humphrys says hourly rates could be seen as a reflection of how firms run their businesses. “I think it should be comforting to clients that we’re able to compete with the people that charge a lot more,” he says. “We run our practice like a business, so it’s really a question of being able to offer a rate that we think provides a great deal of value. That’s our reputation, that’s our niche.”

Rates are an important tool in competing with other firms, says Humphrys, but it is increasingly challenging to keep them at a

stable level. The pressures on firms caused by continuously rising wages and office rents are enormous, and the cost to run a practice in Brisbane is quickly catching up with those in Sydney or Melbourne.

Despite being a good competitive weapon, low hourly rates only get you so far. “At the end of the day, in our market, it’s about technical expertise or we’ll ultimately fail,” says Humphrys.

The corporate path

Queensland law firms have recently added another tool to their arsenal in their battle for staff and clients – since July 2007 they have had the ability to incorporate.

Brisbane-based Gilshenan & Luton Lawyers claims to be the first Queensland law firm to do so, following the commencement of the *Legal Profession Act 2007*

(*Qld*). It incorporated on the very day the Act commenced.

The incorporated model allows law firms to function like corporate entities, with changes in the management structure that are aimed at making the firm a more efficient business. Supporters of the corporate model name various benefits such as protection from everyday trading debts, flexibility of ownership, control and distribution of profits, favourable superannuation options, asset protection and income tax benefits.

Since the passing of similar legislation in NSW and Victoria, several thousands of practices have taken the opportunity to implement the corporate model. But the question is: will the same happen in Queensland? Firms subtly point out that

in contrast to other states, Queensland does not offer stamp duty relief. This makes incorporation a rather expensive exercise.

“We aren’t rushing at it,” says Ward of Cooper Grace Ward. “I think one of the main reasons you want to look at it is to ensure that you can embed all of your team members into your practice. I think it would be beneficial for non-lawyer team members, but unfortunately there are some stamp duty and tax ramifications which aren’t insignificant.”

Ward is also concerned it may affect the culture of the firm in a negative way. “Our culture, as far as we’re concerned, is one of our most valuable assets... Stamp duty is one thing, but you can deal with that over time, we want to understand what it will do to the firm over time.”

“While we’re keeping a very keen eye on it, it’s not something we’re considering in the short term,” says Humphrys. “I have to say that the lack of relief of stamp duty is a big factor for us, but there are also a lot of things that go with it in terms of how they value the practice. I personally, still have a lot of questions about how the capital interests of the partners of a private practice come out in a corporation.”

Green is not lining up for a corporate banner either. “I’m a little concerned that if we went down that track, we might find it distracting,” he says. “I’d rather go and beat around the bush with a stick chasing more clients than sit at my desk and wonder about whether we want to incorporate or not.” **ALB**



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Promotion to MD

AT China Yunnan Copper Australia executive director Jason Beckton becomes managing director.

He replaces Mark Elliott, who will stay on as an executive director.