

Business Roundtable on Directors' Duties, Climate Risk and Sustainability

Centre for Policy Development & Future Business Council

Details:

Date: Friday 21 October 2016

Time: 7:30am – 11:00am

Venue: Boardroom, Minter Ellison
Level 23, Rialto Towers, 525 Collins Street Melbourne

Background and Focus:

The Centre for Policy Development and the Future Business Council are holding a high-level roundtable to explore the economic, legal and cultural drivers of better business performance and leadership on sustainability and long-term value creation. The roundtable is kindly being hosted by Minter Ellison, Melbourne.

The roundtable is a unique opportunity to hear first-hand new analysis of the responsibilities of company directors to respond to climate change. As the economic, environmental and social impacts of climate change and other sustainability challenges become more foreseeable and quantifiable, company directors may be held to have not only an opportunity but also a legal duty to act. Noel Hutley SC will be present to discuss a new legal opinion on whether directors' duties under the Corporations Act permit and require consideration of climate-related risks.

The roundtable will also feature a discussion with Dr Paul Fisher, a 26-year veteran of the Bank of England, and former Deputy Head of the UK Prudential Regulation Authority. Paul will provide an international perspective on how regulators and investors are responding to climate-related risks, emerging risk disclosure frameworks, and the possible implications for Australia's corporate sector and regulators.

Senior leaders from across Australia's business sector, legal and regulatory community have agreed to join the discussion to consider the implications of the legal opinion and new approaches to risk disclosure for directors, investors and regulators.

Agenda

<u>Time</u>	<u>Topic</u>	<u>Additional Information</u>
7:30am-8:00am	Informal introductions	Light breakfast provided
8:00am-8:10am	Formal welcome and introduction	Jeremy Blackshaw, Minter Ellison Tom Quinn, Future Business Council
8:10am-8:30am	International perspectives on climate-related risks and disclosure	<p><u>Speaker:</u> Paul Fisher, former Deputy Head of UK Prudential Regulation Authority and Executive Director of the Bank of England</p> <p><i>Dr Paul Fisher will provide an an international perspective on how regulators, investors and business leaders are approaching climate-related risks and disclosure frameworks.</i></p>
8:30am-9:15am	The Australian context – sustainability risks and disclosure	<p><u>Moderators:</u> Sam Mostyn and Sam Hurley</p> <p><i>This session will consider the implications of the global trends identified by Paul Fisher and the current state of play in Australia on sustainability-related risk disclosure.</i></p> <p><u>Questions for discussion:</u></p> <ul style="list-style-type: none"> - <i>What are the sustainability risks that are of particular interest in the Australian context? Do they differ from those emphasised globally?</i> - <i>How well placed are Australian companies, investors and regulators to meet higher expectations on disclosures? Are they going beyond static risk disclosure to more complex scenario analysis and strategic responses to risk? Does the Paris Agreement bring ‘transition risks’ forward?</i> - <i>How is the wider economic and financial environment – subdued growth and investment, low returns, long term policy challenges – impacting strategies for long-term value creation and risk management?</i>
9:15am-9:30am	Coffee/tea break	Refreshments provided

9:30am-9:45am	Legal opinion on directors' duties and climate risk	<p><u>Speaker:</u> Noel Hutley SC</p> <p><i>Noel Hutley SC will outline his opinion on whether company directors who fail to adequately consider climate-related risks could be held liable for breaches of their duties under the Corporations Act including, in particular, that of due care and diligence.</i></p>
9:45am-10:45am	Implications of legal opinion and priorities for boards and directors	<p><u>Moderators:</u> Sam Mostyn and Sam Hurley</p> <p><i>This session will discuss the implications of the legal opinion for boards and directors, and other potential drivers of better performance on sustainability and long-term value creation.</i></p> <p><u>Questions for discussion:</u></p> <ul style="list-style-type: none"> - <i>Are these legal findings consistent with what company boards and directors are hearing in-house? Is this a live issue? How and when might directors be exposed for a breach of duty in connection with climate risk?</i> - <i>How important are directors' duties in this context to effective risk management and long-term performance? Should clarifying what they permit and require be a priority or are other drivers of better sustainability performance more critical?</i> - <i>What are the implications for risk and governance as these issues come into focus? What are the best mechanisms for ensuring boards are engaging on these issues, and demonstrating that they are doing so?</i>
10:45am-11:00am	Summary and conclusion	Travers McLeod, Centre for Policy Development

Note: Discussions at the roundtable will be held under the Chatham House Rule.

Participant List

Speakers

Name	Organisation
Paul Fisher	Former Executive Director for Supervisory Risk and Regulatory Operations, Bank of England
Noel Hutley SC	St James Chambers

Participants

Name	Organisation
Alison Rowe	Chairwoman, Future Business Council
Angela Emslie	Chair, HESTA
Claire Molinari	Advisor, Reef Trust
Bryan Horrigan	Dean of the Faculty of Law, Monash University
Ed John	Executive Manager, Governance, Engagement and Policy, Australian Council of Superannuation Investors
David Eterovic	Partner, Minter Ellison
Dominik Rohe	Country Head, BlackRock Australia
Garry Weaven	Chairman, IFM Investors
Geoff Summerhayes	Member, Australian Prudential Regulation Authority
Gillian Sparkes	Commissioner for Environmental Sustainability, Victorian Government
Innes Willox	Chief Executive, Australian Industry Group
Jeremy Blackshaw	Managing Partner Melbourne, Minter Ellison
John Macfarlane	Director, ANZ
John Price	Commissioner, Australian Securities & Investment Commission
John Thwaites	Chair, ClimateWorks and Chair, Melbourne Water
John Wiseman	Deputy Director, Melbourne Sustainable Society Institute
Harrison Young	Chairman, Risk Committee, Commonwealth Bank of Australia
The Hon Kenneth Hayne AC QC	Professorial Fellow, University of Melbourne and Former Justice, High Court of Australia
Lisa Nichols	Barrister, Chancery Chambers
Mark Cubit	Managing Trustee, Planet Wheeler Foundation and Monash University Governing Council
The Hon Mark Dreyfus QC	Shadow Attorney-General
Mark Joiner	Director, QBE Australia and former CFO, National Australia Bank and Citigroup
Nick Brodribb	Head of Legal, Qantas
Phil Vernon	Managing Director, Australian Ethical
Ross Freeman	Partner, Head of Commercial Disputes, Minter Ellison
Russell Caplan	Non-Executive Director, Aurizon and Chairman, Olympic Parks Trust
Sarah Barker	Special Counsel, Minter Ellison
Sam Hurley	Policy Director, Centre for Policy Development
Sam Mostyn	Chairwoman, Citibank Australia
Sebastian Hartford-Davis	Barrister, Banco Chambers
Stan Krpan	Chief Executive Officer, Sustainability Victoria
Steven Skala	Vice Chairman Australia and New Zealand, Deutsche Bank
Terence Jeyaretnam	Partner, Climate Change and Sustainability Services and EY Indigenous Reconciliation Leader, Ernst and Young
Tom Quinn	Chief Executive Officer, Future Business Council
Travers McLeod	Chief Executive Officer, Centre for Policy Development