

COMMERCIAL UPDATE – JULY 2006

New Principal

We are pleased to announce that Rob Lister joined PRL as principal of the firm on 1 July. Rob has many years experience as a commercial and technology lawyer in private practice and as in-house counsel. Rob was previously principal of Tabasco Technology Lawyers which some of you will know.

The addition to our team of Rob and David Silk, who works with Rob as a senior consultant, will enable us to provide an integrated service customised to technology focussed large, medium and small companies (both private and listed), tertiary and research institutions, cooperative research centres, private equity and venture capital investors and government agencies in areas including regulation and governance, IP protection, commercialisation and exploitation methods funding, financing and investment, and the full spectrum of corporate and commercial transactions and contracts.

This part of our practice will focus specifically on the following industry sectors:

- natural resources, energy and environmental
- medical, pharmaceutical, health
- bio-technology
- information and communications technology
- finance
- education and research institutions
- venture capital and private equity
- automotive and industrial.

Mid Year IPO Survey

A recent Australian survey conducted by market research company Connect 4 found 80 new floats came into the Australian marketplace in the first half of 2006. The survey found that Perth based boutique law firms were three of the most active in that period, with Pullinger Readhead Lucas raising the highest level of funds of the Perth based firms. For further information, see www.connect4.com.au.

Planning & Development Act 2005

The Planning & Development Act 2005 (“Act”) came into operation on 9 April 2006. The Act consolidates the existing planning legislation in WA (being the Western Australian Planning Commission Act, the Metropolitan Region Town Planning Scheme Act & the Town Planning & Development Act). Three aspects of the Act of note are:

1. Subdivision

The Act seeks to streamline and improve the sub-division approval processes including, provisions for the WA Planning Commission (“WAPC”) to try and deal with an application for a plan of sub-division within 90 days of it being submitted and to a diagram or plan survey within 30 days.

2. Compensation and Acquisition Provisions

Claims for compensation where a planning scheme only allows development for a public purpose or prohibits a continuation of a non conforming use may now only be made after the land is sold, or a development application is refused, or approval given on unacceptable conditions.

The State Administrative Tribunal is now the appropriate jurisdiction for determining the value of land where there is a dispute that cannot be settled by arbitration, & for determining what constitutes a non conforming use, or whether land is injuriously affected.

3. Approval Processes for Lease and Licences of part of a lot from the WAPC

There is now no requirement to obtain WAPC approval where the lease relates to a building and/or associated facilities irrespective of the period for example, a shopping centre lease. In relation to leases of land only, WAPC approval is now required for leases or licences for more than 20 years.

In addition, the Act has made it clear that the approval provisions do not apply to Crown Land and that a lease can be entered into without first obtaining WAPC approval so long as the lease is subject to an application to WAPC for approval with that application to be made within 3 months of the date of the lease and the approval is given within 6 months of the date of the lease or such period as is agreed between the parties.

Department of Industry and Resources (DOIR) Fees Increase

Please note that mining tenement rentals and lodgment of dealings fees have increased from 1 July 2006 in accordance with the State Government Budget for the 2006/7 year by the Consumer Price Index of 3.6%. A new schedule of fees is available on the DOIR website: www.doir.wa.gov.au.

Proposed Amendment to Corporations Act – Shareholder Meeting Rules

At present a company must call a meeting if 5 percent of eligible shareholders or 100 shareholders call for a meeting to be held. Under the new rules this will be limited to 5 percent of the voting power.

The 5 percent criteria was the standard until 1988 when the Government decided in the interest of shareholder democracy to extend this and added the 100-member rule. The result was that 100 shareholders each with a very minor shareholding could call for a meeting at any time. With the company shackled by this rule, special interest groups with political agendas could put forward radical resolutions and gain publicity for their cause while shareholders paid the freight.

ASIC Fees Change

Please note that from 1 July 2006 the ASIC fees for Company registrations have fallen! To register a Pty Ltd Company the fee is now \$400 rather than \$800. For further information, see www.asic.gov.au.

For Further Information and Advice

PULLINGER READHEAD LUCAS

Level 2, 50 Kings Park Road, West Perth WA 6005

Phone: (08) 9320 4999, Fax: (08) 9320 4900

Email: info@prllawyers.com.au Internet: www.prllawyers.com.au