



Australian Agribusiness Advisers' Guide

SECOND EDITION

The definitive guide for accountants and other professional advisers acting for clients in the agribusiness sector

Peter Slegers, Joshua Pascale and Daniel Marateo

NEW AND UPDATED

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The definitive guide for accountants and
other professional advisers acting for clients in
the agribusiness sector

Peter Slegers
Joshua Pascale
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Cowell Clarke

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About the authors

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The authors have also previously authored the *SMSF Income Stream Guide*, which is published by, and available from, The Tax Institute.

Contacting the authors

This publication was largely written from the authors' technical knowledge and years of experience in advising on tax, structuring, transactional and succession planning issues for agribusiness. If any reader believes that an important topic or issue is not covered, or that the commentary is incomplete or incorrect, they are invited to contact the authors. The authors are always interested in receiving feedback for further suggestions in later editions of the Agri-Guide and can be contacted at PSlegers@cowellclarke.com.au.

About Cowell Clarke

Cowell Clarke is a leading Australian commercial law firm which provides specialist legal services, advice and support to clients in all sectors of business and industry. Cowell Clarke has a dedicated Agribusiness Industry Group comprising specialist lawyers from its Tax and Revenue, Property, Wills and Estates, Corporate and Commercial and Superannuation Practice Groups.

Our experience and expertise spans across the entire agribusiness sector, including broadacre farming, livestock and food production, fishing and aquaculture, viticulture and wine, timber and forestry, processing, packing and wholesaling and farm machinery. We work closely with other advisers to agribusiness such as external and internal accountants, agri-consultants and real estate firms.

Some of the recent agribusiness projects Cowell Clarke has been involved with include:

- Prominent agricultural sales and acquisition matters, including marquee transactions such as "Clifton Hills Station".
- Advising and acting on a large scale primary production group restructure of pastoral land with a value of over \$800 million across multiple state jurisdictions to achieve the desired commercial and succession outcomes in a tax and duty effective manner.
- Advising on the listing of Australia's only ASX listed entity that provides investors with direct exposure to the Australian water market.
- Providing specialist tax advice and implementing the restructure of two large private tuna fishing groups to better streamline structures and minimise risk exposures as well as undertaking sophisticated succession planning post-restructure.
- Advising the pastoral landowner of a proposed \$650 million solar thermal power plant.
- Advising numerous chartered accounting firms on the application of challenging issues under the Small Business CGT Concessions and Small Business Restructure Roll-Over, as well as the relevant state and territory stamp duty laws in relation to the sale and restructure of numerous agribusiness concerns.
- Acting for Australian Independent Rural Retailers Limited, a public company that supplies rural products and related services throughout Australia, on a \$187 million takeover by Elders Limited by way of a scheme of arrangement including obtaining an Australian Taxation Office class ruling on the specific taxation issues relating to the transaction.

Cowell Clarke's offices are based in Adelaide and Sydney, however, our lawyers regularly travel to regional areas throughout Australia for client commitments. Of course, we also regularly meet with clients via audio visual technology.

Members of our Agribusiness Industry Group present at our annual Agribusiness Summit - a series of topical webinar presentations for our national accounting firm adviser network. We also tour regional centres for our annual CCARS (Cowell Clarke Accountants' Regional Seminars) events.

Cowell Clarke is a member of Agribusiness Australia, providing access to a national network within the agribusiness sector and connecting us with like-minded people through a variety of events.

Readers of the Agri-Guide should feel welcome to contact Cowell Clarke should they require our assistance or wish to know more about our capabilities, services and client events.



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Preface

“The thankful receiver bears a plentiful harvest.”

- William Blake, 1757-1827

It is often said that Australia is destined to become the great food bowl of Asia and the South Pacific. With its rich agricultural heritage, high quality food standards, clean and green practices and cutting edge technology, Australia is well positioned to continue to grow and expand its thriving agribusiness sector.

With this in mind, it is critical for those involved in the agribusiness sector to obtain optimal advice and guidance as the sector faces the challenges, opportunities and possibilities presented by the changing global economy, and the demand for its produce, in the twenty-first century marketplace.

The authors of the Australian Agribusiness Advisers' Guide (“**Agri-Guide**”) have released this second edition, which continues to offer insight to professional advisers in the agribusiness sector. In addition to updating the content of the first edition for currency, this edition contains a range of new and topical issues of critical relevance to the sector. It includes:

- detailed commentary on significant changes to the inter-generational stamp duty relief for primary production land in New South Wales that will now allow land to be transferred to discretionary trusts duty free;
- a new chapter on the novel area of carbon farming, including the significant tax, property and risk management issues;
- a new chapter reflecting on the complex issues confronted by primary production landowners when the energy company or property developer comes knocking;
- strategic observations on how the new superannuation earnings tax may impact self-managed superannuation funds that own primary production land;
- a new chapter highlighting the importance of effective trust distribution strategies and recent developments relating to section 100A; and
- the latest practical experience and developments in restructuring agribusiness enterprises.

In addition to these new developments, the Agri-Guide has been updated to reflect changes in the law and practice in areas including optimal business structuring for the agribusiness sector, acquisitions and sales, business

succession agreements, navigating the tax maze and addressing the ever-changing issues related to inter-generational succession planning.

The Agri-Guide is a product of the authors' passion and experience in dealing with specialist tax structuring, transactional and succession planning issues impacting on the various industries comprising the agribusiness sector.

The Agri-Guide is primarily targeted at accountants, financial advisers, agribusiness consultants, commercial lawyers and other professional advisers to the sector. It also has relevance to CFOs and internal management personnel employed by corporates connected with the agribusiness sector.

We trust that you will gain value and insight from this new edition of the Agri-Guide.

Peter Slegers
Joshua Pascale
Daniel Marateo

October 2023



The Agri-Guide provides a comprehensive review of the tax, structuring, transactional and succession planning issues for agricultural-based businesses and other primary producers, as well as businesses closely related to primary industries... a significant sector of the Australian economy.

This second edition of the Agri-Guide includes brand-new commentary on a number of topical issues for advisers acting in the agribusiness sector, including:

- section 100A trust strategies for minimising exposure in private agribusiness groups;
- the latest insights into carbon farming and tax relief for primary producers;
- commentary and tips on the new NSW duty exemption for land transfers to trusts; and
- practical guidance on what to do when the energy company comes knocking.

This second edition also provides additional strategies for managing transactions, restructuring and succession planning.



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