



## **Dr Vicky Priskich**

### **Barrister and Arbitrator**

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### **Overview**

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Vicky Priskich practices as a barrister and arbitrator. She is experienced in international arbitrations conducted under the SIAC, UNCITRAL and ICC Rules and in arbitral award enforcement proceedings in Australia.

Vicky Priskich is a Councillor of the Chartered Institute of Arbitrators Australia, Convenor of the Victorian Chapter of CI Arb Australia and a Fellow of CI Arb.

Vicky acts as counsel and arbitrator across a broad range of complex commercial disputes including, oil and gas supply and cost and revenue farm-in agreements and shareholder, distributorship and major construction agreements. She acts in commercial and family trust disputes and has appeared in banking and finance disputes in the Supreme and Federal Courts.

She is co-author of *Lender Liability* (Thomson Reuters, 2016) with Professor James O'Donovan. Her doctorate in law from the University of Melbourne was on the subject of liability and insolvency of corporate groups. Vicky has lectured at the University of Melbourne on the subject of Corporate Banking and Finance, which covered syndicated loans, Asia Pacific Loan Market Association (APLMA) facility agreement, negative pledge covenants and issues relating to guarantees.

### **Appointments and Memberships**

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- Councillor, Chartered Institute of Arbitrators Australia, 2018
- Board Member, Australian Centre for International Commercial Arbitration, 2018
- Convenor Victorian Chapter, Chartered Institute of Arbitrators Australia, 2017
- Member, London Court of International Arbitration, 2017
- Fellow, Chartered Institute of Arbitrators, 2016
- Member, Commercial Bar Association of the Victorian Bar, 2007

### **Admission to Practice**

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- Signed Victorian Bar Roll, 2005
- Supreme Court of Victoria  
Admitted as a Barrister and Solicitor, 2001
- Supreme Court of Western Australia  
Admitted as Barrister and Solicitor, 1994

## Qualifications

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- Chartered Institute of Arbitrators  
Diploma in International Commercial Arbitration, 2016
- The University of Melbourne, Australia  
Doctor of Juridical Science, 2002
- The University of Western Australia  
Bachelor of Laws, 1993

## Specialist areas

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- International law and arbitration
- Commercial law
- Energy
- Construction
- Banking and finance
- Company law
- Equity
- Trusts

## Significant Matters

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### International Law and Arbitration

Arbitration seated in Singapore, conducted under SIAC Rules involving Singapore law.  
Claim: SD 30 million.

Arbitration seated in Singapore conducted under ICC Rules involving English law.  
Claim: USD 40 million.

Arbitration seated in Singapore conducted under UNCITRAL Rules involving English law.  
Claim: USD 26 million.

Arbitration seated in Singapore, conducted under SIAC Rules involving English law.  
Claim: USD 500,000.

### Energy

International commercial arbitration involving obligations under a gas supply agreement of guaranteed supply of daily contract quantity and delivery priority.

International commercial arbitration concerning contractual interpretation of obligations under a cost and revenue sharing farm-in agreement.

*Application by Envestra Ltd (No 2) [2012] ACompT 3*

Estimate of debt risk premium using Bloomberg fair value curve and long-dated bonds.  
Amount in dispute: AUD10.5 million.

*Application by Jemena Gas Networks (NSW) Ltd (No 5) [2011] ACompT 10*

Estimate of debt risk premium with reference to callable bonds, 'make whole' callable bonds, bonds with coupon resets, CBASpectrum fair value curve.

*Application by Jemana Gas Networks (NSW) Ltd (No 3)* [2011] ACompT 6

Interpretation of the National Gas Rules to calculate the opening capital base and corresponding adjustments to remove the effect of the rate of return on capital.

Amount in dispute: AUD10.12 million.

*Application by United Energy Distribution Pty Ltd* [2009] ACompT 10

Dispute involving outsourcing expenditures involved in the roll out of smart meters in Victoria.

Amount in dispute: AUD8.4 million.

*Application by EnergyAustralia and Others (No 2)* [2009] ACompT 8

Dispute concerning operating costs and cost escalators. Amount in dispute: AUD151.3 million.

### **Commercial, Equity and Trusts**

International commercial arbitration involving a distribution agreement.

Supreme Court proceedings acting for BHP Billiton concerning the design and construction of a gas plant in Victoria.

*FEA Plantations Limited v Norman* [2012] HCATrans 71.

Application for leave to appeal to the High Court of Australia concerning equitable set-off of contractual claims involving a breach of a financial support agreement and whether equitable set-off excluded by contract.

*Valuestream Investment Management Ltd v Richmond Management Pty Ltd* [2012] FCA 898

Acting for unit holders in a commercial unit trust regarding imprudent and improper investments, replacement of trustee.

*Vigliaroni v Concrete Precast Systems Pty Ltd* [2009] VSC 253

Supreme Court proceedings to set aside uncommercial contracts entered into by a director of a corporate trustee of a unit trust. Alleged breaches of director's duties by entering into related party transactions.

*Vigliaroni v CPS Investment Holdings Pty Ltd* [2009] VSC 254

Supreme Court proceedings tracing and claiming assets misappropriated from a commercial unit trust. Breaches of duties by a director of corporate trustee.

*Australian Competition and Consumer Commission v Telstra Corporation Ltd* [2007] FCA 1904

Federal Court proceedings concerning the scope and capabilities of Telstra's Next G Mobile Network throughout Australia.

*Silvia, in the matter of FEA Plantations Ltd (Administrators Appointed)* [2013] FCA 469

Application seeking an order to vary a scheme of company arrangement.

*ACCC v April International Marketing Services Australia Pty Ltd* [2009] FCA 735

Application for leave to serve proceedings on parties outside the jurisdiction.

Advising a trustee of a foundation regarding the scope of the class of beneficiaries falling within the terms of the trust and trustee's power of delegation.

*Australian Competition and Consumer Commission v April International Marketing Services Australia Pty Ltd (No 6)* [2010] FCA 704

International price fixing cartel for paper products, extra territorial operation of legislation, liability of companies within a corporate group.

Advising in a dispute over the terms of a commercial agreement regarding ownership of shares and claims of estoppel.

### **Banking and Financial Products**

Acting for an Australian financial institution in Supreme Court proceedings regarding a claim based on conversion of cheques, restitution and breach of duty of care.

Acting for financiers in the enforcement of commercial loan agreements, hire purchase agreements, overdrafts, and guarantees.

Advising a commercial customer on its liability to a bank for dishonoured cheques from an overseas third party involving over \$2 million.

Acting for a financier in proceedings for breach of a commercial loan agreement, misleading and deceptive conduct and restitution for mistaken payments.

*Australian Prudential Regulation Authority v Siminton (No 2)* [2006] FCA 336

Counsel for the Australian Prudential Regulation Authority in the Federal Court of Australia concerning breaches of the Banking Act, obtaining mareva orders and tracing funds through the banking system.

*Australian Prudential Regulation Authority v Siminton (No 3)* [2006] FCA 397

Proceedings for contempt of court orders prohibiting transfer of funds in bank accounts.

*Application by Envestra Ltd (No 2)* [2012] ACompT 3

Estimate of debt risk premium using Bloomberg fair value curve and long-dated bonds. Amount in dispute AUD10.5 million.

*Application by Jemena Gas Networks (NSW) Ltd (No 5)* [2011] ACompT 10

Estimate of debt risk premium with reference to callable bonds, 'make whole' callable bonds, bonds with coupon resets, CBASpectrum fair value curve.

### **Publications**

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- Professor James O'Donovan & Dr Vicky Priskich, *Lender Liability* (Thomson Reuters, 2016)
  - "Equitable set-off: Principles, Application and Exclusion by Contract" (2014) 22 *Insolvency Law Journal* 115
  - "Cheques and Conversion: Five Different Categories of Fraud" (2012) 23 *Journal of Banking and Finance Law and Practice* 214
  - "Liability of a Payee on a Cheque for Conversion and Moneys Had and Received - *Heperu Pty Ltd v Perpetual Trustees Australia Ltd*" (2011) 34 *Australian Bar Review* 214
  - "Theft, Fraud and Mistaken Payments: Personal and Proprietary Remedies" (2008) 19 *Journal of Banking and Finance Law and Practice* 163
  - "Funds Recovery From Fraudulent Deposit" (2004) 20 *Australian Banking and Finance Law Bulletin* 70

- "Bank Liability When Customer is Fraudulent" (2002) 18 *Australian Banking and Finance Law Bulletin* 65
- "Corporate Groups: Current Proposals for Reform in Australia, the UK and a Comparative Analysis of the Regime in Germany" (2002) 4 *International and Comparative Corporate Law Journal* 37
- "CASAC's Proposals for Reform of the Law Relating to Corporate Groups" (2001) 19 *Companies and Securities Law Journal* 250
- "A Statutory Business Judgment Rule in Australia: Proposals and Policy" (1999) 27 *Australian Business Law Review* 38
- "Webb Distributors Revisited: The Interaction between the Principle of Preservation of Share Capital in Winding Up to Claims for Misleading and Deceptive Conduct" (1998) 16 *Companies and Securities Law Journal* 35