

Big firms pull together on the ENVIRONMENT

Coming to grips with our environmental impact can be so daunting that many of us give up before we begin. But a new program, designed especially for law firms, promises to provide a foothold. It all starts with disclosure, as ANNE SUSSKIND reports.

EIGHT OF AUSTRALIA'S biggest law firms have "put their heads above the parapet" on their environmental performance, and undertaken to try and drive the issue through the entire sector, says Charlie Knaggs, of Net Balance, and an advisor to the Australian Legal Sector Alliance (AusLSA).

Plans for an alliance (see *LSJ* April 2010) have come to fruition with the launch of AusLSA late last month. The new body is modelled on the UK's Legal Sector Alliance, which has 200 member firms and represents about a third of solicitors in private practice in the UK. Its current foundation members are Clayton Utz, DLA Phillips Fox, Henry Davis York, Jackson McDonald, Maddocks, Malleons Stephen Jaques, McCullough Robertson, Norton Rose, and Swaab Attorneys.

Knaggs, who 18 months ago returned from London where he was a sustainability analyst at DLA Piper, and a taskforce representative to the LSA there, described AusLSA as a collaboration of firms coming together to talk and "share

knowledge and best practice, as it applies to the legal sector, to address the challenges of sustainability."

While he stresses collaboration, there will be reporting, and a bit of competition might be useful also: "They are competitive and that's one of the strengths of the thing, they can challenge each other. That's what businesses all do and we can harness that."

In his time in the UK, Knaggs is credited with developing the LSA Protocol carbon measurement tool, which has since been adopted as the standard for professional service firms across the UK.

Together with AusLSA members, he and Net Balance have produced a very practical environmental consumption guide, which will take firms through its consumption calculator, providing, Knaggs says, the tools and resources to make sound business decisions around sustainability – on issues ranging from paper consumption to reducing air travel.

At the high-profile launch of AusLSA to the industry, a report, *The Environmental*

Consumption of AusLSA Members 2009-2010, "captured the footprint of members and was the first public demonstration of the executive members' commitment." Firms of all sizes, including sole practitioners, as well as barristers and the judiciary, were encouraged to sign up.

At the time of going to print, full results of the report were not yet available, but Knaggs said all the information, and the results of a survey of seven of the eight executive member firms on their resource usage, showed that 69 per cent of all firms' carbon emissions were derived from electricity consumption, and 23 per cent from flights. The remaining two per cent came from car travel (including taxis and hire cars), on-site combustion and refrigeration.

AusLSA Executive members reported a mean consumption of 123.97 kg of paper per employee, ranging from a minimum of 80.73 kg to a maximum of 178.11 kg.

Knaggs said: "One thing for sure is that law firms are still paper hungry, but the appetite varies. The aim of the group is to disclose this and make steps towards reducing this impact. Sometimes you have to publicly admit you have a problem before you can start to address it."

"The measurement tools are designed by the sector for the sector in recognition of

what the main environmental impacts are, so you make sure you're reporting the material things – the big ticket items for law firms. Law firms don't traditionally capture this information in a good way."

Members, he said, were prepared for the media to be critical, and were comfortable with that.

"They shouldn't be criticised for high or low impact, but applauded for putting their heads above the parapet."

"One of the real strengths is that it is sector specific and sitting down in a forum with like-minded firms and understanding your unique circumstances has the potential to result in much greater benefits."

Leading the way

Henry Davis York's chief operating officer, Kelvin O'Connor, spearheads his firm's sustainability program and was on the working group which devised AusLSA's environmental consumption calculator (ECC). "It's the first time any sector has got together to consider our collective environmental issues."

"We don't have a lot of outputs – we don't make paint, [but] we work odd hours, use lots of paper and leave lights on, and as a sector, we have to find a better way to do things. The Stone Age didn't end because we ran out of stones – the Stone Age ended because we found a better way to do



PHOTO: ALEX CRAIG

Brendan Bateman, Charlie Knaggs and Kelvin O'Connor think that law firms can make an environmental difference if they start by quantifying and publicising details of their footprint.

things. We should apply the same thought to the 'oil age'...

"If we can establish some benchmarks for our sector and encourage people to decrease their footprint, we can benefit."

"Different firms do different sorts of work, however, and we also have to be careful that we don't turn it into a league table. That is not what we want.

considerably down. Among measures used to reduce electricity were sensor lighting in a new fitout, environmentally friendly globes, and ensuring PCs and printers were automatically cycled down.

Clayton Utz's environment and planning partner, Brendan Bateman, said the debate very often lost sight of the things

exciting, he said.

"For me, it's part of who I am – I am not a tree-hugger, but I honestly believe we've been given a world which has a limited amount of natural resources which we need to use in a sustainable way for the benefit of our children and future generations. The establishment of AusLSA has given the legal sector a clearer understanding of how lawyers can contribute to achieving sustainable development and discharge our broader social responsibility."

Clayton Utz's Sydney office will soon move from a one-star to a six-star rated building, Bateman said, a much more energy efficient building with a central atrium from top to bottom and natural circulation so that airconditioning use would be dramatically reduced. It also has a more efficient floor plan, and, for example, encourages staff to use alternative means of transport such as cycling, by the simple measure of providing additional shower facilities. In

Melbourne, staff were offered tram tickets to travel to see clients within the CBD rather than taking taxis.

Manageability

Measuring environmental impact can be a nightmare, daunting to even think about. Aside from all the questions about cradle-to-grave effects, which we cannot possibly be fully aware of, there are many other conundrums for a business wanting to do the right thing and work out where it stands in the environmental stakes.

Everybody thinks different things should be measured. What AusLSA's calculator promises to do for law firms is provide some order in the swirling mass of indicators, compare like with like, and quantify a result that will be consistent with all other firms, thus allowing a comparison between them. It promises consistency and transparency, and seems to have built in a remarkable number of factors, and be very up to date in the indicators it is

"One thing for sure is that law firms are still paper hungry ... Sometimes you have to publicly admit you have a problem before you can start to address it."

"It's taken several years for the UK LSA to get a couple of 100 members to disclose their environmental footprint. Hopefully, once we start the discussion, we can achieve similar results here."

"The foundational firms need to be congratulated for putting it out there. We're encouraging other firms to do what we are doing."

At HDY, total greenhouse gas was down by eight per cent last year, electricity consumption down 15 per cent and paper use and water wastage were

people could accomplish in their everyday lives, a large part of which were lived in the office environment.

The legal sector did have special attributes – for example, it was document dependent, and occupied a large amount of commercial office space in Australia.

Consequently, it had a significant environmental footprint. The suite of tools AusLSA was providing would provide a benchmark, and a base to measure improvements. Working collaboratively was also

using. It seems, to the environmentally untrained eye, to be rigorous, and offer reassuring guidelines, from a knowledgeable perspective.

The first step, the guide to AusLSA's calculator says, is to identify the boundaries of the business and its operations: "The AusLSA ECC adopts the control approach from the Greenhouse Gas Protocol. Under the control approach, the firm accounts for 100 per cent of the greenhouse gas emissions over which it has control. It does not account for emissions from operations in which it has an interest but no control."

There is further refinement, which tells you what to do about outsourcing, catering, security, IT back-up, part-time staff, and staff working from home. What should and what should not be included?

With regard to business travel data, the calculator is concerned with emissions relating to travel by taxi and car hire, air travel, employee-owned vehicles on firm business – but not bus and coach, metro and tram, courier journeys and post, freight, commuting and hotel stays.

To take another quandary, with regard to offsetting, the calculator calculates the footprint prior to offsetting, to ensure that the total emissions for all firms are comparable.

However, it does provide an opportunity for those firms that do offset their carbon to record the amount of offset purchased.

With regard to paper (which can be a whole field of study in itself), for example, the calculator's drop down menu allows you to select from paper sizes, record the weight in grams per square metre, the number of reams purchased and the recycled content of the brand of paper used.

It guides you through the 12 "green accreditation" schemes for paper, outlining the benefits of each.

There's lots more, but what it seems to do is answer the thorny questions.

Reporting can be done anonymously. But that said, AusLSA argues that there is good

evidence to show that public reporting leads to more significant emissions reductions.

The categories the report looks at are: electricity, onsite combustion, air travel, taxis and hire cars, company-use vehicles, refrigerants (where it

breaks down into bar fridges, standard fridges and commercial fridges) water, and paper, waste, carbon credits, and emissions factors.

At the end of the process, in exchange for what will no doubt be some hard work, the

cover page of the report you'll get in reply will read: "Your Emissions Profile will appear here". Phew – but who ever said it was going to be easy to save the world? It's still a nightmare, but perhaps a more manageable one. □

■ CASE STUDY

Automated computer shutdown saves a packet

This is an edited version of a case study supplied to AusLSA by Philip Scorgie, director of environmental sustainability at Norton Rose Australia.

AT NORTON ROSE, IT was clear that reductions in electricity consumption would have a major impact on the total carbon footprint. By contrast, waste was less than 10 per cent of the total. The process of getting the hourly electricity consumption from retailers is not difficult. Around 75 per cent of the electricity consumed (excluding heating and air conditioning) was constant day and night. More detailed analysis identified that two-thirds of electricity consumed for computers and other electrical equipment was used by desktop PCs. The remaining one-third was used by servers, printers and other electrical devices.

Many considerate users shut their computers down at night when they go home. However, most don't. An awareness campaign on shutting down had less impact than hoped. Therefore we decided to automatically turn off the desktop computers at 7.00 pm. A product called Nightwatchman was deployed to automate the shutdown process. Nightwatchman was configured to send a warning 30 minutes before the scheduled shutdown. If computers are in use, the user simply clicks "No"



when prompted to shut down. Nightwatchman shuts down everything uniformly and even saves unsaved documents and emails in a special area for retrieval the next day.

The automated shutdown process received a mixed response from users. Some thought it was a great initiative but others complained about being inconvenienced. Most complaints centred around having to wait for computers to start up in the morning. At first the slowest computers could take 30 minutes to start up. Considerable effort was put into simplifying the start-up process in order to reduce the pain. A target of five minutes was achieved. Many people argued that this is still too long. However, the average of two or three minutes seems acceptable.

The option of automatically starting up computers was discussed at length. This obviously would have reduced the complaints regarding

logon times. However, a reduction in electricity savings would result because some individuals started later than others. Norton Rose has computers on every desk for interstate and international travellers. Starting these up automatically would be wasted electricity if they were unused.

Environmental awareness was also considered. We wanted to encourage the practice of switching things off at home, and in the office. We believe having to turn computers on in the morning encourages this practice. Shutting them down at night had a huge impact on electricity consumption. It more than halved the power used by the desktops. Combined with other initiatives, a total reduction of 25 per cent was achieved. This saved over \$100,000 a year. As electricity prices increase, these savings will too.

The other initiatives included: bringing forward the automated lights-off time, configuring the printers to go into "sleep mode" after one hour of inactivity, reprogramming boiling water taps to only heat water during business hours, upgrading older style fluorescent lights to more efficient units, reducing the number of lights in public areas that don't need to be so brightly lit and replacing inefficient halogen downlights with LEDs. □

Where there's a will, there's now a course

Specialisation in wills and estates is something that small- to medium-sized firms can really "sink their teeth into", according to Jennifer McMillan, a lecturer in the College of Law's new applied law course in the area.

"I anticipate in the next 10 to 20 years, wills and estates work will be a growing part of practice because of demographic changes," McMillan told *LSJ*.

"In the past, it was a poor cousin in practice, but it's now one of those areas of law where we are getting some momentum," she said. "I think we are going to see it become a more important area."

The students who have enrolled in the inaugural

ing more complex estate planning.

Second, McMillan observed, the law of wills and estates saw little change for decades but then "all of a sudden there was a flurry of new legislation" for practising solicitors to get their heads around, for example laws relating to same-sex couples, family provision and intestacy.

Older and richer

Society is getting richer and, as a result, McMillan believes estate planning and litigation will see continuing growth in the next few years. "They are functions of a more sophisticated and affluent society, and changing social boundaries," she said.

"In estate planning, the single biggest shift has been

"The sheer amount accumulated in super lends itself to issues with estate planning, capacity and family provision, especially when dealing with blended families or providing for a disabled child."

semester of the course leading towards a Master of Applied Law (Wills & Estates), which started on 7 March, would seem to agree. McMillan confirms that interest has been very high and enrolments have exceeded expectations. The course can be undertaken as a graduate certificate (two subjects), graduate diploma (four subjects) or masters (seven subjects).

There are a few factors contributing to this rise in interest, McMillan says. The first is the ageing population.

"We're seeing more litigation, and family provision and capacity cases," she said. The growth in super and self-managed funds also meant people no longer "need just a standard will", instead requir-

in super, particularly self-managed funds. The sheer amount accumulated in super lends itself to issues with estate planning, capacity and family provision, especially when dealing with blended families or providing for a disabled child."

"For wealthy people, wills and estate planning can be used as an asset protection tool," McMillan pointed out.

With all this wealth, she said, there is going to be more litigation – "where there is money, there is a lawsuit waiting to happen" – particularly dealing with issues around family provision.

McMillan predicts the number of capacity cases will start to rise too: "There's an ageing population and more



PHOTO: ALEX CRAIG

people in that group are suffering from dementia."

There would be instances where the will of an elderly person with Alzheimer's would be contested.

Another area to look out for is elder abuse and so called 'inheritance impatience', she said. "There are real concerns about what the role of the solicitor is in trying to prevent a vulnerable elderly person from being exploited, including issues around who holds power of attorney."

"I've seen a few cases in the last couple of years where people have been taken advantage of. It's sad but very much a function of the concentration of wealth in older Australians."

For all these reasons,

Jennifer McMillan is an accredited specialist and brings more than 21 years of practical knowledge in wills and estates as the lecturer in the College of Law's new applied law course in the area.

McMillan said there has been a demand for an applied law masters.

The course is run online, with face-to-face components consisting of webinars, workshops, and mentoring. It costs \$1,950 a subject and the next semester starts on 8 August. Law Society accredited specialists will have advanced standing in the course. For more information, visit www.collaw.edu.au/Future-Students/Applied-Law-Programs/Wills-Estates. □