THE AUSTRALIAN LEBANESE CHAMBER OF COMMERCE

Chamber NEWS

NOVEMBER 2016 AUSTRALIAN LEBANESE CHAMBER OF COMMERCE www.alcc.com.au

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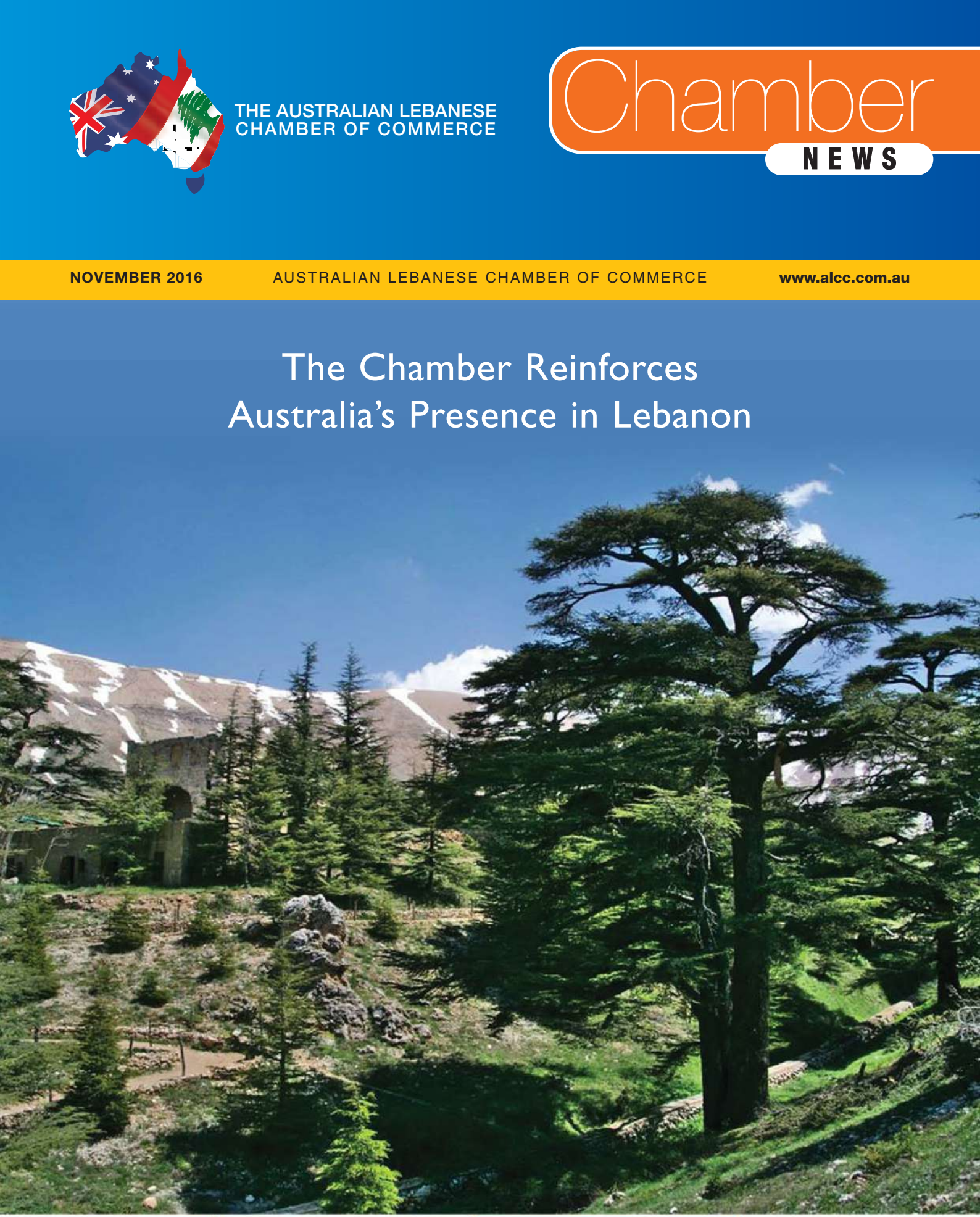

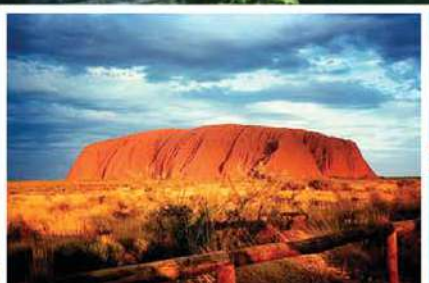

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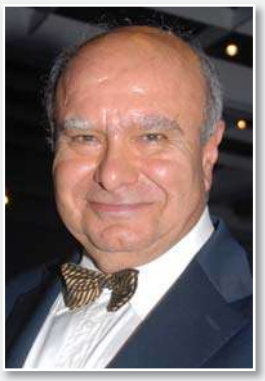
A WORD FROM THE PRESIDENT



Dear Members,
Supporters and Friends.

Allow me to begin by saying thanks to you, our dear sponsors, members and friends for the wonderful support you continue to offer the Australian Lebanese Chamber of Commerce.

We are extremely proud of the great relationship we have developed and strengthened over the years and do look forward to many beneficial years to come.

As you well know the Chamber's main objective is to make sure that our members and supporters do benefit from the services, the networking and the interaction that the chamber is able to provide.

Its music to our ears when we hear or learn that you have benefited in one way or another. We will continue to upgrade our services in order to offer you the best possible service in whatever field you are in.

On behalf of the board of directors, I take this opportunity to wish you and the families many happy, healthy and prosperous years ahead.

Joe Khattar, AM
ALCC President

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TORCH LEADS KNOWLEDGE INFORMATION TECHNOLOGY ECONOMY (KITE) IN LEBANON IT EMERGING ECOSYSTEM

Torch inaugurated its first annual conference under the title 'Progress in the Knowledge Information Technology Economy (KITE). The conference convened in in collaboration with Libank, on October 10, 2016 at Biel – Pavillon Hall at 16:00. The successful conference was led by Torch cofounder Chairwoman and CEO, Her Excellency, Dr. Ghinwa Jalloul, who is a former Member of the Lebanese Parliament and former President and founder of the Information Technology Committee of the Lebanese Parliament.

Following an interview with Mr. Michael Rizk, Head of Trade Relations between Australia and Lebanon and Director in the Australian Lebanese Chamber of Commerce, Dr. Jalloul, a PhD holder from University of Technology, Sydney, said "I am so proud of what we have achieved in Less than 8 months of actual operation, improving the potential of youth, job creation and adding real value in terms of job creation and economic output"

Torch was established under decree 331 of Central bank of Lebanon, in partnership with Libank, with the mission of accelerating the transition of Lebanon to the Knowledge Economy. In achieving its mission, Torch has set a 14 weeks IT Coding boot camp training program. The program is giving out 240 scholarships in total. It targets university graduates with backgrounds in computer science and all related disciplines in order to provide them with hands on technical coding skills and expertise. The 14 weeks intensive program also capacitates its trainees with information technology skills so that torch graduates acquire in the 14 weeks program what is equivalent to two years professional IT and coding expertise. Additionally Torch supports IT students and students

from various disciplines to developing their ideas into innovative minimum viable products (MVPs) on internet, mobile platforms or IOT. Each MVP become the corner stone and an introduction to develop into a startup.

Torch Boot camp program bridges the gap between university academic training and actual job and business requirements. Students leave university with academic knowledge not knowing how to apply it or transform what they know into real life situations. Completing the Torch IT Coding Boot Camp gives students a sense of direction, they leave Torch knowing their destination and where they would like to end up.

There are students who have developed their initial ideas into complete MVPs and are currently on their way to establishing their own startups and others who have been placed in top jobs related to their field in multiple Lebanese Companies. As an attestation to the excellence of Torch training programs and also the proficiency of its students, students from the first training round participated in the Startup Weekend Beirut from 13 to 15 May, 2016 and excelled in first place in the development of an idea and programming it into a mobile phone application and website in just 54 hours as well as contributing to earning second place. Torch students also participated in the Innovative Response Hackathon where 2 teams of Torch graduates where selected to work on specialized applications for the United Nations, UNHCR.

The progress of KITE is directly related to employment rates as well as providing several

business opportunities and is fast spreading through Lebanon and the world via mobile phones and through Internet applications. Its contribution to the global economy is significant and when adopted, has the full potential to positively reflect on job creation for youth and to give Lebanon the added value to its economy in all vital sectors. The Torch conference highlighted the distinguished and important role played by Central Bank of Lebanon through Decree 331 to support KITE and its full potential to transform the economy.

Torch first KITE conference inaugurated in the presence of H.E minister of Public Reform, former ministers and representative of Ministry of Telecommunication, esteemed guests of public officials, ambassadors, Lebanese businessmen and businesswomen, representative of Lebanese universities, economic sectors, business men of interest from Europe, Gulf and Africa attended the conference.

The conference witnessed the announcement and presentations of six innovative MVPs (Minimal Viable Products) as mobile applications accomplished in record time by students trained at Torch. These MVPs not only aid us as users but also the students themselves as they have now formed their own businesses contributing to the KITE business creation opportunities as well as improving individuals job. Included in the conference was an announcement by Dr. Jalloul herself of newly developed training programs that are set to be launched by Torch soon under the title 'Training Hub' and the introduction of the Torch business platform program known as the B Platform, which aims to provide consultancy and technical support to experts in various domains who want to establish new business in KITE. Concluding the conference was a dialogue led between Lebanese bankers, businessmen, businesswomen and experts who proudly expressed success stories in their mobile applications with the addition to leaders in investors, trade sectors, businesses and the media who discussed and elaborated on the relations between classical and knowledge economy as well as how the knowledge economy adds value to the various sections and lead to the development of business opportunities.

Torch's aim is to support the Lebanese youth to remain pioneers, distinctive and successful in their homeland leading to the creation of business opportunities in the field of information technology as an important and added value to lever of the Lebanese economy. "The KITE provides novel and promising opportunities for investors", says Jalloul, "already we are receiving enquiries about the current MVPs".

"Torch training programs and training methodology are unique to Torch and there are no similar programs that we know of" Jalloul says. About the possibility of expanding Torch programs, Jalloul says" Torch is founded in Lebanon but has the vision, through strategic partnerships with the private sector and academic institutions of expanding regionally and internationally". Some enquiries are already received and are under consideration.

In record time of less than one year from the date of its inception, Torch received more than 800 applicants. Only 90 were recruited through its scholarship programs. Torch carries its training at Torch premises, located at Jallad Building in Hamra Street. Torch assures that applications to any of the Torch programs are still open through the Torch website (www.torch.academy) to all applicants looking for building their coding expertise, having a distinctive idea or innovative project, or wanting to engage in the Knowledge Information Technology Economy (KITE) to transform their ideas into reality.

BEIRUT WATERFRONT

The region's most anticipated new district.

Think of Beirut, and images of its reconstructed central district will definitely surface. Solidere's ambitious project to restore the area's heritage and complement it by building a contemporary and progressive proposition became a symbol of the capital's brand and soft power. Alongside the almost-completed historical core, the project's second phase is emerging on 73 ha of reclaimed land surface on the Waterfront. Infrastructure works on this new district are now completed, offering investors 29 ha of development land with 1.7 million sqm of Built-Up Area. While many plots have been sold and projects planned, the new district still brims with investment potential due to location, infrastructure and urban design considerations.

Geographically, it is a direct extension of the core with perfect pedestrian and vehicular access, and it commands spectacular views to the sea and to snowcapped mountains. Its infrastructure has been meticulously designed and implemented in line with Solidere's standards, and its sea façade is protected with a terraced sea defense that withstands centennial storms.

The Waterfront's carefully considered masterplan designates it as a mixed leisure, commercial and residential district with generous public space including a 1.3 km-long corniche and a 78,000 sqm city park with an active programming that will guarantee its public appeal and liveliness year-round. The Eastern Marina Development, an anchor project of the district, will agglomerate upscale leisure, hospitality and residential offerings.

In Zaitunay Bay, the now operational Beirut Yacht Club is shaping itself as the new exclusive destination. The club is accessible for members only and boasts several top-notch recreational facilities including a private pool and sundeck, a restaurant, a bar lounge, a games room, a wellness center along with private meeting and event spaces. It also includes 54 full-service furnished Club residences, the majority of which are for sale, along with nine guest suites that are available for rent.

The new district will house several landmark properties bearing the signature of A-list international architects, adding to what will certainly become Beirut's new iconic destination.

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THE AUSTRALIAN LEBANESE CHAMBER OF COMMERCE

THE GULF STATES: OPPORTUNITIES AND CHALLENGES

In recent times, a drastic decline in the price of crude oil, from highs of approximately US$140 per barrel in 2011, to current prices of approximately US$50 per barrel – and no sign of this price moving significantly upwards in the near future – has caused a paradigm shift in the thinking of many of the ruling families who reign over the hydrocarbon-rich Gulf states (United Arab Emirates, Kingdom of Saudi Arabia, Qatar, Kuwait, Oman and Bahrain). With a historical reliance on hydrocarbon revenues to fund social infrastructure, foreign investment and domestic growth, this perceived new normal in terms of the price of oil has accelerated the need for economic diversification in order to ensure the long-term sustainability and viability of these economies, whilst also maintaining social stability and cohesion, in a region that is constantly beset by political and security issues.

In spite of these current pressures, some countries have already gone down the road of futureproofing their continued prosperity: the United Arab Emirates, and in particular Dubai, its commercial hub, long ago reduced its reliance on hydrocarbon revenue, with the vast majority of its gross domestic product underpinned by tourism, transport, logistics, financial services, manufacturing and MICE (meetings, incentives, conferences and events). There is also a concerted move towards structural reform in a number of areas, particularly in terms of taxation, employment, capital markets and foreign investment, and the shrewd use of their well-known experience in real estate investment and development to underpin the growth of their key industries, as opposed to being merely an industry in itself.

Other countries have just commenced their economic diversification journey: the Kingdom of Saudi Arabia, which derives 95% of its revenue from hydrocarbons, has accelerated plans to transform its economy into a regional and international powerhouse not reliant on oil. The centrepiece of this plan is Vision 2030, the brainchild of Deputy Crown Prince Mohammed bin Salman, which will cut government spending, attract foreign and domestic investment and improve productivity. Part of this plan is to privatise 5% of Saudi Aramco, which will raise $US100 billion and value the company at US$2 trillion, making it the most valuable in the world. In the meantime, as a short-term measure, expenditure is being funded in part by foreign reserves, and the Kingdom tapping the international bond markets for the first time in 10 years.

Although the path to reform is never always a smooth one, like change management in an organisation, it is crucial to have equal and transparent representation for all stakeholders who are vested in this journey. There must be a sense of ownership for all those involved, which empowers them to contribute in their own discrete way to the progress of these nations. It is only this holistic approach which will allow a successful navigation of these compelling issues and produce outcomes that will propel these nations into a different realm of international competitiveness, efficiency and stability.

Adam Malouf is a highly experienced, international senior executive who worked for many years in the Gulf States for multinationals and family offices, in banking, funds management, private equity and corporate advisory. He is also an experienced non-executive director, being a Fellow of the Australian Institute of Company Directors, and has been a non-executive director of the Australian Lebanese Chamber of Commerce for 17 years and the Australia Arab Chamber of Commerce for 2 years.

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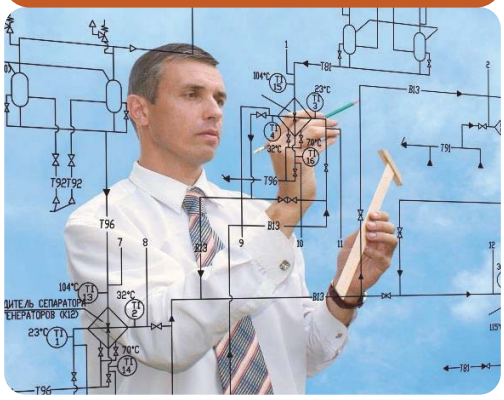

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ALCC ANNUAL LUNCHEON SEPTEMBER 2016

The ALCC held its signature annual luncheon on Friday 16 September at Doltone House, Jones Bay Wharf, with special guest speaker, John Borghetti, Chief Executive Officer and Managing Director of the Virgin Australia Group, and Melissa Doyle, Seven Network, as Master of Ceremonies. The luncheon was well attended, with over 800 members and guests from all industry sectors, as well as government bodies and authorities.

In an interactive Q&A session with Ms. Doyle, Mr. Borghetti provided the audience with many important insights into his time in the aviation sector, his views on the direction of the industry and what this means for businesses and individuals alike.

The luncheon was graciously sponsored by Colin Biggers & Paisley Lawyers, and proudly supported by the Chamber's principal partners, Arab Bank Australia and Etihad Airways.

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10 YEARS IS LONG ENOUGH! LIMITING LIABILITY FOR BUILDERS AND DEVELOPERS

Danny Arraj
Managing Partner
Blackstone Waterhouse Lawyers

Veno Panicker
Partner, Construction & Infrastructure,
Blackstone Waterhouse Lawyers

CERTAINTY FOR BUILDERS AND DEVELOPERS – 10 YEARS IS LONG ENOUGH!

IMPACT

A recent decision in the New South Wales Supreme Court has provided further certainty for builders and developers of residential projects. A building claim should not be permitted after 10 years of an occupation certificate.

On 2 November 2016, his Honour Justice Stevenson delivered Judgement in *Owners Corporation Strata Plan 76841* (***Owners***) *v Ceerose Pty Ltd & Anor* [2016] NSWSC 1545.

The decision involved the operation of section 109ZK of the *Environmental Planning and Assessment Act 1979* (**EPA Act**) which provides a 10 year 'long stop' following a final occupation certificate within which a building action can be pursued against builders, subcontractors, certifiers and other industry participants.

Blackstone Waterhouse acted for Ceerose in the proceedings.

In refusing leave for the Owners to amend its pleading:

(a) refusing a new claim for alleged water ingress in the order of $1,000,000 (**Water Ingress Claim**); and

(b) limiting claims for alleged fire services and BCA issues to $195,0000 (**Fire and BCA Claims**),

the decision provides clarity as to the operation of the 10 year long stop – and comfort for all involved in the industry as to how long parties to residential building works can be in the line of fire.

Builders and developers in New South Wales are regularly subjected to poorly formulated claims for alleged defects. Too often, proceedings are commenced after which an Owners Corporation will properly investigate and particularise its claims- as a matter of case management and for the industry, this practice is unsatisfactory.

BACKGROUND

Ceerose completed residential building works for a 64 apartment development in Waitara, New South Wales, in April 2006. A final occupation certificate was issued on 10 April 2006.

On 1 February 2012, the Owners commenced proceedings in the Consumer Trader and Tenancy Tribunal alleging various defects 'exceeding $30,000' claimed in breach of the statutory warranties pursuant to section 18B of the *Home Building Act 1989* (**HBA**).

In February 2014, the proceedings were transferred to the District Court as the Owners' claims had by that stage been quantified in the sum of $555,000.

At that time the Water Ingress Claim had not been made by the Owners.

Whilst the Fire and BCA Claims had been made by the Owners, they had not been quantified.

Ceerose made the decision not to pursue cross-claims against the certifier and various subcontractors based on the amount claimed by the Owners – including its assumption that the Fire and BCA Claims would not exceed $195,000 (given the proceedings were in the District Court where the monetary limit for such claims is $750,000). Throughout this period, there were ongoing settlement negotiations between the parties – though successive Court timetables were made for the Owners to finalise their evidence in the proceedings.

The Owners breached numerous Court timetables including on 10 March 2015 and 28 August 2015. Critically, the latter Orders required the Owners' evidence by 26 February 2016 – prior to the expiry of the 10 Year Long Stop period – which expired on 10 April 2016.

On 7 March 2016, the Owners first identified the Water Ingress Claim – however, the Owners did not provide meaningful exert evidence in support of that claim at that stage. It was not in dispute that this was a separate allegation of defective works to those previously identified in the proceedings.

In May 2016, after the expiry of the 10 Year Long Stop period, the Owners served expert evidence in support of the Water Ingress Claim including as to liability and quantum. Further the Owners provided costings of the Fire and BCA Claims in the sum of approximately $600,000.

The Owners transferred the proceedings to the Supreme Court and pursued an application to amend their pleading to include the Water Ingress Claim and the Fire and BCA Claims.

Ceerose opposed the Owners' application:

(a) in respect of the Water Ingress Claim in its entirety; and

(b) in respect of the Fire and BCA Claims insofar as the claims exceeded $195,000 (being the difference between the then quantified claim of $555,000 and the $750,000 limit of the District Court).

For completeness, we note that the alleged defects in the proceedings were disputed by Ceerose.

PREJUDICE TO CEEROSE

Ceerose submitted that permitting the Water Ingress Claim should be disallowed because of the 'obvious and significant' prejudice that would be visited on it by reason of the expiry of the 10 Year Long Stop Period.

By way of example, Ceerose served evidence in support of potential cross-claims it could have raised against:

(a) the certifier, mindful that that claim would be against the company that employed the certifier (as opposed to the certifier as an individual); and

(b) various subcontractors involved in the relevant works relating to the Water Ingress Claim (based on a direct tort claim),

but for the expiry of the 10 Year Long Stop period.

The Court accepted Ceerose had evidenced that it had lost the opportunity to pursue cross-claims against those parties – meeting the threshold that those claims were more than 'fanciful' or 'theoretical' – but were 'viable and realistic'.

In the circumstances, if the Court permitted the Water Ingress Claim brought by the Owners after the expiry of the 10 Year Long Stop period, Ceerose would prejudiced as it would be unable to offset its liabity by way of cross-claims against those parties.

With respect to the Fire and BCA Claims, the Court accepted similar arguments as to the prejudice to Ceerose. Critically, the Court accepted the evidence of the Managing Director of Ceerose, Edward Doueihi, that he would have pursued those subcontractors and other parties had the amount of the claim been properly adduced prior to the expiry of the 10 Year Long Stop period.

OUT OF TIME?

Ceerose argued that the Water Ingress Claim was statute barred as it arose from a cause of action that expired after the end of the seven year period referred to in the then section18E of the HBA.

As noted above, the alleged Water Ingress Claim was different in location and mechanism to claims made in the District Court proceedings.

Albeit in obiter, his Honour did not accept this argument by Ceerose, on the basis that:

(a) the Owners' claims, including the Water Ingress Claim, arose from an alleged breach of statutory warranties under the HBA – the various alleged defects were arguably particulars of that breach;

(b) it was at least arguable that the addition of the Water Ingress Claim in the proceedings was not a new cause of action – such that his Honour would not have refused leave for the Owners to introduce the Water Ingress Claim on this basis – although the amendment date may only have been permitted from the date of the application to amend (i.e. after the expiry of the statutory warranty period.

Precluding a claim at an interlocutory stage is always a challenging argument. It is respectfully submitted that this is an issue which requires legislative amendments to the HBA. All claims should be properly investigated prior to the expiry of the statutory warranty period and prior to commencement of proceedings. Otherwise, for example, so long as an Owners Corporation commences proceedings in time for a cracked floor, it can raise unrelated claims in later years within the same proceedings – say for the roof – until the expiry of the 10 Year Long Stop period. For builders and the industry – this is unfair. Too often the head contractor is left without the ability to cross-claim due to such delays.

NEGLIGENCE

For completeness, albeit in obiter, the Court noted that amendments to the Owners' pleading in respect of negligence would be problematic. In this regard, we refer to our previous case note on the *Brookfield* decision by the High Court (www.bwl.com.au).

WAY FORWARD

The decision in *Ceerose* is a powerful reminder for Owners and their advisers to ensure that all claims in a proceedings are brought in the correct Court or Tribunal – consistent with various practice notes which require investigations of a claim prior to commencement of litigation.

For builders, certifiers, subcontractors and others involved in residential building works, the case provides certainty as to their exposure following the expiry of the 10 Year Long Stop. This was a win for the industry.

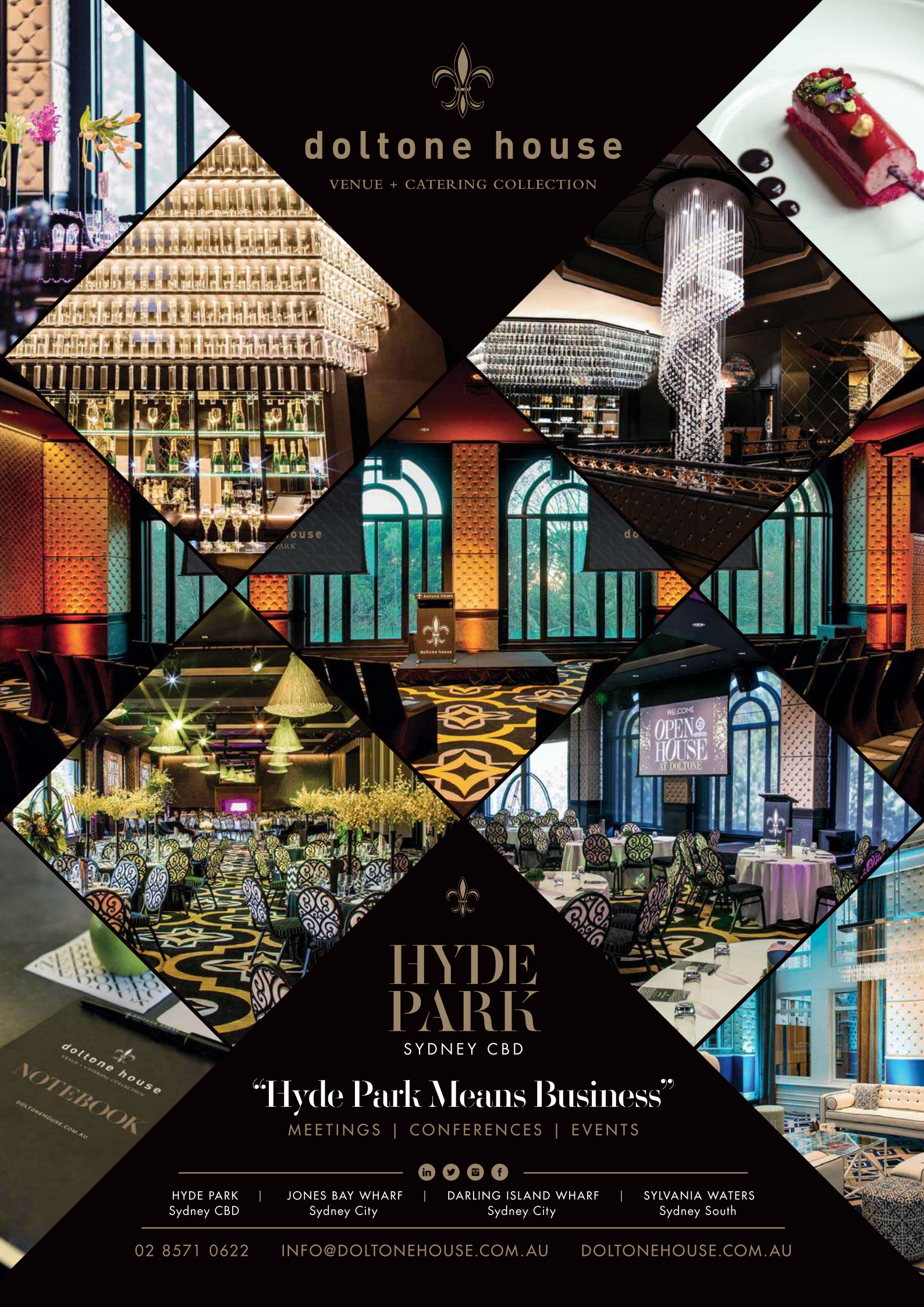
10 years is long enough!

Blackstone Waterhouse acts for Developers and Builders involved in residential building claims in some of the largest developments in Australia. If you have any queries about this decision, please contact one of our Construction & Major Projects Team.

BLACKSTONE WATERHOUSE

Blackstone Waterhouse Lawyers are happy to provide you with legal advice on the matters or comments contained in this article.

If you have any queries in relation to any aspect of this article please contact Danny Arraj (Managing Partner), or Veno Panicker (Partner) on +612 9279 0288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THE ALCC OVERSEES THE ESTABLISHMENT OF THE LARGEST AUSTRALIAN HEALTH PROJECT IN LEBANON

Over the last couple of years we have been working on very special Australian healthcare projects for the Zahle region in Lebanon. It's now my pleasure to inform our Members, Sponsors and supporters that an agreement has now been signed by the two parties involved and they are party one - the mutranieh of Zahle headed by Archbishop Issam Darwish and party two - team 5 Australia health group, represented by Dr. Mohamed Hammoud...

The projects are:

1) Oncology hospital as cancer care centre of excellence-Australian standard

2) Bio pharmaceuticals plant

3) Fluids (vaccines and Insulin) plant

The hospital will be built near the existing hospital of Talshiha the plants to manufacture the bio pharmaceuticals and the fluids will also be built in the Zahle area and they will be the first such plants in the middle east region. In addition to the local market, team 5 will target the whole middle east region and beyond it is fair to note that these projects will be the largest ever undertaken by an Australian company in Lebanon the Australian Lebanese chamber of commerce is proud of the fact that it has been the main driving force behind these projects.

This achievement is a clear result of what we have believed in and worked for over the last 31 years in promoting Australian products and services in Lebanon and beyond.

Michael Rizk
Head of Trade Relations
Beirut

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GLOBAL FINANCE GRADES THE WORLD'S CENTRAL BANKERS IN 2016

The Governor of the Central Bank of Lebanon, H.E. Riad Salameh, has been featured amongst the top central bankers globally who have earned the top "A" rating in the Global Finance Central Banker Report Card. Although Lebanon has faced many challenges, His Excellency has demonstrated excellent results in maintaining the standards of an "A" rating, and has been the driving force within the Central Bank of Lebanon.

For over two decades now, the country has placed its trust in His Excellency to steer the Central Bank ship, as he has been reappointed for three successive terms (in 1999, 2005, and 2011). During his tenure as Governor of the Central Bank, His Excellency has had to face national and international adversity to maintain the stability of Lebanon's currency, the lira. Through internal conflicts, political paralysis, regional instability, all the way up to international market crises, he has somehow managed to maintain and increase investor confidence in the Lebanese Central Bank. This is reflected in a steady increase in the Central Bank's foreign reserves over the years, and the continued stability of the national currency. Additionally, under his tenure as Central Bank Governor, the banking system in the country has thrived to become, as His Excellency puts it, "the cornerstone of stability in the country."

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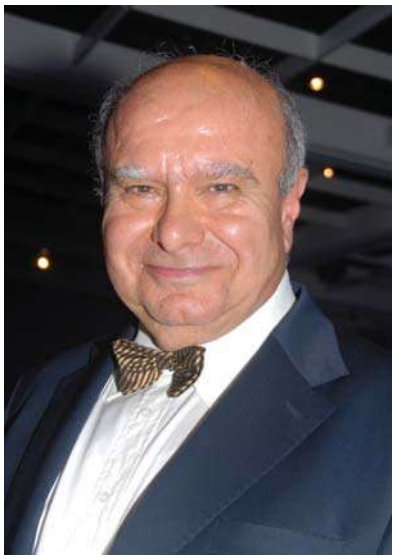
DYLDAM'S JOE KHATTAR IS THE URBAN TASKFORCE'S PROPERTY PERSON OF THE YEAR



Joe Khattar AM, Founder & CEO, Dyldam Developments

Joe Khattar AM, Chief Executive Officer and founder of Parramatta based development group Dyldam has been named Property Person of the Year says the Urban Taskforce.

"Joe has led Dyldam from a small operation 47 years ago into one of the main providers of apartments in Sydney with a special focus in Western Sydney," says Urban Taskforce CEO, Chris Johnson. "Joe Khattar seems to be everywhere in Western Sydney with Dyldam as sponsors of the GWS Giants AFL team, the Sydney Kings national basketball team, junior rugby, football and AFL sporting teams along with charities and community organisations."

"Dyldam are making a major commitment to Sydney's growth with the award winning Koi project, as well as a destination development planned for 142 Macquarie Street featuring 60, 35 and 25 storey towers, plus a game-changing precinct proposed at Gateway South in Parramatta. With 2,000 apartments and 50,000 sqm of commercial space in the planning approval stage in Parramatta alone, Dyldam are certainly focussing on their home town."

"On top of their Parramatta projects, Dyldam have developments across Western Sydney at Parklea Markets, the former Bonds spinning mills, the Bull n Bush Hotel site in Baulkham Hills and a re-zone and major redevelopment of the 21 hectare Carlingford precinct. These landmark projects are set to shape the streetscapes of the future."

Urban Taskforce Chair, Peter Daley said "It is impressive to see the number of projects that Joe Khattar's Dyldam are developing across Western Sydney. Joe has worked his way up through the building and development industry to becoming one of the major developers in NSW. I am very impressed with Joe's commitment to the community through sporting bodies, medical research and the Australian Lebanese Chamber of Commerce of which he is President."

Urban Taskforce CEO, Chris Johnson says, "Joe Khattar's life is a fascinating example of a migrant working his way up in Australia. Joe arrived from Tripoli in 1967 at the age of 17. Just two years later, having studied at Arthur Phillip High School, Joe became the third generation of the Khattar family to work in the construction industry." "In 1969, he joined forces with his father Naim Khattar to build a humble red brick six unit walk-up – establishing what was to become one of Australia's leading high density residential developers."

"Joe always credits his broader Dyldam team in the organisation's success. He particularly acknowledges Managing Director Sam Fayad as a driver of the firm's growing business. The broader Khattar and Fayad families are strongly committed to the culture of Dyldam and the quest to provide housing that is affordable and aspirational across Western Sydney."

Here is a list of Joe Khattar's achievements and roles include:

- President of the Australian Lebanese Chamber of Commerce
- President of The George Naim Khattar Foundation
- Long term Board Member of the Westmead Medical Research Foundation
- Founding member of the Australian Lebanese Foundation - Sydney University

In a career spanning close to 5 decades, Joe has seen every aspect of the property market. He has steered Dyldam through the highs and lows of economic cycles and maintained an unwavering focus to build an Australian business success.

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