

One size doesn't fit ANZ panel

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34 LEGAL AFFAIRS

Marcus Priest

Nearly 70 years ago, in the midst of the Great Depression, ANZ — then the Bank of Australasia — became John Wheatley's grandfather's first client when he established a small Perth firm with his two sons.

Three generations on, while the rest of the legal profession and the business world has radically changed, Wheatley & Sons still has only three lawyers and remains a family affair for John Wheatley, his wife Rosemary and son Ross.

Indeed, the grandchildren of many of Herbert Wheatley's clients in the farming and crayfishing industries are clients of the firm.

So is ANZ. The bank announced last week it had reappointed Wheatleys to its panel, because the small firm in West Perth was still offering a competitive alternative to the big national firms also on the panel.

"We are like the little corner store; we are still going strong," John Wheatley said this week.

"My colleagues at the big firms often scratch their heads and say 'how the hell do you do it?' and I simply say 'we have the expertise and we can do it quicker and cheaper'."

The decision by ANZ to increase the size of its panel by more than 300 per cent and appoint a wide mix of large, medium and small firms marks a major shift in corporate legal procurement strategy.

And it is firms like Wheatleys, which have long been out of favour in corporate Australia, that stand to benefit from the strategy to keep big firms in check by playing them off against smaller and cheaper firms.

If others adopt ANZ's strategy, it could be the lifeline that struggling small and regional firms have been looking for.

"In my father's time we had several major companies as clients — ANZ, Commercial Union, Dunlop Olympic and Mayne Nickless — but then McKinsey went through them and said you have to deal only with national firms," Mr Wheatley said.

"ANZ must be given credit for maintaining the relationship, where other national clients said, 'you are not a national so we can't deal with you, we can only deal with big firms'."

ANZ has appointed a firm like Wheatleys in each state to handle security and loan documentation along with big-name firms like Allens Arthur Robinson, Baker & McKenzie and Blake Dawson Waldron.

Similarly in employment law, tiny

Melbourne industrial relations specialist Justitia has been appointed to compete with the big firms in relation to equal employment opportunity law, workplace investigations and workplace training.

Each of the bank's main panels has been broken down into specialist areas with a mix of small and large firms.

"In each area there are various cost options in certain states," ANZ deputy counsel Margaret Harrison said.

Some would argue that the ANZ has not gone far in selecting small niche firms.

"This is a fairly safe set of panel appointments and I don't think they are taking any risks and leveraging any of the niche players as much as they could, especially in the areas of intellectual property and e-commerce," legal procurement specialist Linda Julian said.

"The real winners out of this are Blake Dawson Waldron, Lander & Rogers, who were appointed to the employment panel, and Maddocks, who were appointed to do private equity."

But the real winner from the ANZ decision was undoubtedly New Zealand firm Bell Gully, which was among four firms from across the Tasman asked to tender.

Bell Gully was appointed to compete with Blake Dawson Waldron and Allens in the lucrative areas of mergers and acquisitions and general commercial.

"We've thought through in great detail how we can successfully work with the ANZ in Australia and, given flight times and modern technology, the major difference between working from, say, Wellington or Brisbane is about 16 degrees," said Bell Gully's ANZ Australia relationship partner Peter Castle.

Not only does the appointment of Bell Gully offer the bank a cost-effective alternative, it also provides a solution to the conflicts of interest that

are arising with more frequency in large transactions, given the increasing number of involved parties.

"This is a first for a New Zealand-based firm and is all the more significant given we are the only non-Australian firm appointed to the panel," Bell Gully chief executive Stephen MacIver said.

"It acknowledges the calibre of our expertise, our ability to work across a number of locations on substantive transactions, lower likelihood of running into conflicts and price competitiveness."

The competitive pressure placed on big firms to provide cheaper services has had an immediate effect on those firms. During the tender process, ANZ suggested to firms that one way they might achieve this was by shifting work to cheaper cost centres in their national networks, such as Brisbane and Perth.

Deacons chief executive Don Boyd said the most likely beneficiary of this strategy was their Brisbane office, where it was easier to get staff.

"There is no difference in moving work to Brisbane than there is moving work to New Zealand," Mr Boyd said. "While people will talk about it, I don't think it is unreasonable if the firm's structure is appropriate."

The danger for Australian firms, though, is that this new corporate strategy may logically lead to more work being sent to much lower-cost locations than New Zealand.

Following ANZ's announcement of its new panel, it received inquiries from Indian law firms interested in picking up work.

Insurer QBE signalled its interest in offshoring in its recent tender documents.

The upside, though, is that offshoring can be a two-way street. "We have had an approach from an overseas client to investigate us doing UK work," Mr Boyd said.

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and we can do it
quicker and cheaper."**

PANEL FIRMS



**John Wheatley, his wife
Rosemary and son Ross.**

General commercial

Allens Arthur Robinson; Blake Dawson Waldron; Bell Gully; Corrs Chambers Westgarth; Deacons; Freehills; Gadens; Middletons; Minter Ellison; Pacific Legal Network; Sparke Helmore.

Employment law

Allens Arthur Robinson; Blake Dawson Waldron; Freehills; Justitia, Lander & Rogers; Maddocks; Sparke Helmore.

Dispute resolution

Allens Arthur Robinson; Arnold Bloch Leibler; Blake Dawson Waldron; Butler, McIntyre & Butler; Clayton Utz; Deacons; Dibbs Abbott Stillman; Freehills; Gadens; Hall & Wilcox; Henry Davis York; Home Wilkinson Lowry; Kemp Strang; MacDonnells; Maddocks; Middletons; Minter Ellison; Phillips Fox; Piper Alderman; Ward Keller.

Banking and finance

Allens Arthur Robinson; Arnold Bloch Leibler; Baker & McKenzie; Blake Dawson Waldron; Butler, McIntyre & Butler; Clayton Utz; Corrs Chambers Westgarth; Cosoff Cudmore Knox; Deacons; Freehills; Gadens; Kemp Strang; MacDonnells; Maddocks; Mallesons Stephen Jaques; Middletons; Minter Ellison; Nichol Hallett Robinson; Piper Alderman; Sparke Helmore; Ward Keller; Wheatley & Sons.