

# Robyn McKern

## Senior Consultant in Melbourne

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Robyn is a Founding Partner of McGrathNicol, a former partner of a 'Big 4' firm, and served as McGrathNicol's CEO from 2011-2016. Robyn's experience spans dispute resolution, forensic investigations, regulatory response, governance, restructuring and corporate insolvency over a long career in a range of roles, including Independent Expert, Consulting Expert, CEO, COO, Registered Liquidator and Board positions.

Robyn has extensive experience across a range of industries and her clients include corporate boards, c-suite, financiers, internal and external legal advisers for whom she delivers expert evidence including estimates of loss and damage and solvency assessments based on financial, commercial and strategic analysis. Robyn is experienced in the preparation of independent expert reports, investigations, financial and strategic analysis, operational management of businesses, governance principles, regulatory compliance reviews and risk assessments. She also has also worked on solvency assessments and formal insolvency appointments of large and small corporates.

Robyn has given written and oral evidence in courts across Australia concerning loss and damage, the timing and effect of insolvency, and the financial effect of actions and counter-factual propositions. She has acted as a formal facilitator in a matter involving multiple expert witnesses and was appointed as Referee to determine a matter referred by the Federal Court; when appealed by some parties, her determination was upheld by the Federal Court. Robyn was appointed by the Royal Commissions in both Victoria and Western Australia as an independent expert to investigate and deliver written and oral evidence in relation to anti-money laundering issues at the Crown Casinos. She was similarly appointed to deliver independent expert evidence to the Bell review into the Star Casino in Sydney.

Robyn served as a board member of ARITA for several years. She is currently a director of Transparency International Australia, United Way Australia and Camberwell Grammar School.

## Engagement Experience —

Forensic Expert, Investigation and Advisory Experience includes:

- Appointed by the solicitors acting for Mr Adam Bell QC for his review into Star Pty Ltd to provide independent expert evidence into certain matters in relation to the Star Casino, Sydney. Robyn appeared as a witness in the review hearings.
- Appointed by the Royal Commission into the Casino Licence and Operator (Vic) and also the Royal Commission into the Perth Casino in each case to prepare an independent report into certain aspects of interest to the

## Qualifications & Memberships —

- Fellow, CA ANZ
- Fellow and former National Vice-President and Board member, ARITA
- Graduate, AICD
- Registered Liquidator since 2001
- Bachelor of Economics, Monash University



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Commission, including the risk of money laundering at Crown Casino Melbourne and Perth. Robyn appeared as a witness in the Victorian hearings, but was not called in Perth.

- Engaged by the solicitors assisting the Inquiry commissioned by the Independent Liquor and Gaming to report of certain aspects of suitability of a proposed holder of a casino license (*the Bergin Inquiry*).
- Appointed as Referee under Federal Court Rules in relation to determination of the date of insolvency for the purpose of unfair preference proceedings. Robyn's determination was challenged but upheld by the Court. (*Said Jahani and John Mcnenrey as liquidators of Delta Coal Mining Pty Ltd (in liquidation) v Alfabs Mining Equipment Pty Ltd & Ors NSD577/2020*)
- Appointed as independent expert by the solicitors for the defendants in *Heavy Plant Leasing Pty Ltd (In Liquidation) v McConnell Dowell Constructors (Aust) Pty Ltd (no 2)* in which Robyn's view was preferred (at 389-398)
- Appointed to document methodology, trace funds, collate evidence and quantify significant alleged fraudulent activity and collusion between employee and supplier to NAB; output was relied upon in criminal proceedings (*R v Helen Mary Rosamund and Crown v Rosemary Rogers*); Rogers pleaded guilty, and Rosamund was found guilty on multiple counts.
- Appointed as independent expert concerning quantification of loss arising from a product recall event (*Tripod Farmers Pty Ltd and QBE Insurance (Australia) Limited and Lucia Calabro S ECI 2018 01945*). Prepared Independent Report and Joint Report of (3) Experts.
- Appointed as facilitator of a conclave of accounting experts for proceedings in the Supreme Court of Victoria involving reconstruction of accounts and assessment of loan balances with a group of entities. (*Carret Nominees Pty Ltd v John Terracall & Ors SECI 2018 01199*).
- Appointed as independent expert concerning quantification of liability based on an account of profits (*Vehicle Monitoring Systems Pty Ltd v Sarb Management Group Pty Ltd & City of Melbourne NSD200/2019*)
- Appointed as consulting expert to develop a financial model and report addressing the alleged loss of opportunity to develop a major multi-purpose development.
- Appointed as independent expert on solvency by solicitors acting for the defendant in insolvent trading proceedings; preparation of Independent Expert Report and Joint Expert Report (*In the matter of LGL Commodities Pty Ltd in Liquidation S CI 2017 02304*). Judgement favoured Robyn's evidence.
- Expert report and opinion as to loss arising in a construction dispute in relation to the Ararat Prison.
- Consulting expert opinion in regard to incurrence of costs and evidence of such incurrence in relation to an international arbitration matter (mining/construction).
- Independent Expert for major construction dispute requiring analysis of commercial effect of payment mechanism in contract and progress certificate information for major construction.
- Consulted to health insurer on a strategy and approach to identify and investigate potentially fraudulent activity involving providers of ancillary services.
- Independent and joint expert report for a dispute concerning a sale of business; involving opinion as to completion mechanisms, loss and damage and analysis and opinion as to effect of insolvency of vendor.
- Independent and joint expert report calculation of loss arising from dispute involving the termination of a building management agreement.
- Expert witness report regarding claim for loss as a result of unreasonable contract terms; matter involved assessment of terms and calculation of financial effect.
- Independent report into accounting for profits and related party loans in connection with a shareholder dispute.



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- Preparation of Expert Evidence for matters litigated in the Federal Court of Australia, the Supreme Courts of Victoria, Western Australia, New South Wales and Queensland and Regulatory reviews and Royal Commissions in NSW, Victoria and WA.
- Consulting roles on arbitration matters, including the International Court of Arbitration Singapore.
- Numerous matters involving investigation into employee misconduct, fraud and record manipulation including, variously, analysis of banking and financial records, property records, loan accounts, accounting reconstruction, large scale email review.

### Insolvency and Restructuring experience includes:

- Administrator of Deed of Company Arrangement and subsequent liquidation of listed gold and nickel miner, Centaur Mining Ltd. Prosecution of unfair preference and insolvent trading claims, funded by third party funders
- Liquidator of Penrice Limited, a listed soda ash miner and processor, involving prosecution of insolvent trading claim against directors (settled).
- Experience in conducting loan reviews for financial institutions across credit portfolios and individual credits to assess recoverable value.
- Conduct of numerous independent reviews and pre-lending assessments to assess the financial position and prospects of prospective borrowers.
- Extensive management role in liquidation of Linter Group of textile manufacturing companies including the sales of household brands, Speedo, Pelaco, King Gee and Formfit and working on a funds tracing exercise to support a successful constructive trust claim.
- Formal receivership or Voluntary Administrator appointments to listed automotive manufacturer, ION Limited, a chain of restaurants in WA, and retailer, Brashs Pty Ltd. Joyce Corporation Ltd,
- Extensive experience in the adjudication of claims against insolvent companies including but not limited to trading claims, breach of contract claims, employee entitlement claims.