



**The 26<sup>th</sup> Annual Banking and Financial Services  
Law and Practice Conference**

Sheraton Mirage Resort, Gold Coast

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**PPS: Specific Issues -  
Chaos In The Making.....**

**Steve Flynn**  
Special Counsel  
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**PPSA in Australia – Chaos in the Making,  
or Brave New World?**

**PPSA Implementation Issues –  
Some New Zealand Experiences**

Steve Flynn  
Simpson Grierson  
Wellington  
1 August 2009



**Simpson  
Grierson**

*On 2 July 2009, the Council of Australian Government (COAG) agreed that PPS reform should be implemented in May 2011 ... COAG has agreed that legislation supporting the reform should be in place in 2009 and that the IT framework should be in place by May 2010 ... These measures mean that business and consumers will have **twelve months** to prepare for the reform.*

Hon Robert McClelland

Attorney-General

Canberra

8 July 2009



**Simpson Grierson**

# Some Numbers....

	New Zealand	Australia
Population	4.4 million	21.8 million
Banks*	19	~ 57
Bank* loans	NZ\$294 billion	A\$1,451 billion
Political divisions	1	Federal plus 8
PPSA	32,600 words	69,200 words
Implementation period	30 months	12 to 18 months

\* Not including other forms of lender

# Implications – Education and Systems

- a new way of thinking about “secured” transactions
- extensive education and training implications for advisers, lenders and other participants
- marketing opportunities/threats for advisers
- review and rewriting of policies, procedures, manuals – industry examples
- systems implications – design, registration, searching, storage

# Implications - Documentation

- review and revision of all lending/security/ancillary documents
- collateral advantages
- breadth of review – examples of ancillary documents
  - deeds of priority/subordination
  - negative pledges
  - swaps and repos
- other participants' documents

# Implications - Transitional

- adequacy of pre-NZPPS documents
- portability of existing registrations
- newly-registrable transactions
- transitional period – co-existent regimes

# Conclusion

It's been worth it.