

# Creevey Horrell Lawyers



Our commitment is to deliver service excellence to our clients. Our capacity to provide professional and supportive legal advice and services is what makes us unique. It drives our growth and development as a firm.

Creevey Horrell Lawyers acknowledges the Traditional Custodians of the land on which we meet today, the Bindal people, and all Traditional Custodians throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples today.



# ABOUT US

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Creevey Horrell is a full-service law firm with a reach extending throughout western Queensland with offices in Brisbane, Toowoomba, Roma and Townsville, putting us in the best position to deliver superior legal services to the people who need it most.



# LEGAL SERVICES

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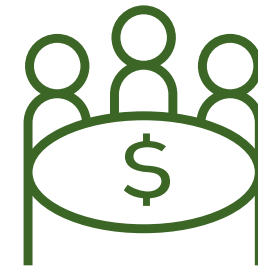
**Family Law**



**Litigation & Dispute Resolution**



**Wills and Estates**



**Commercial**



**Conveyancing**



**Crime and Misconduct**



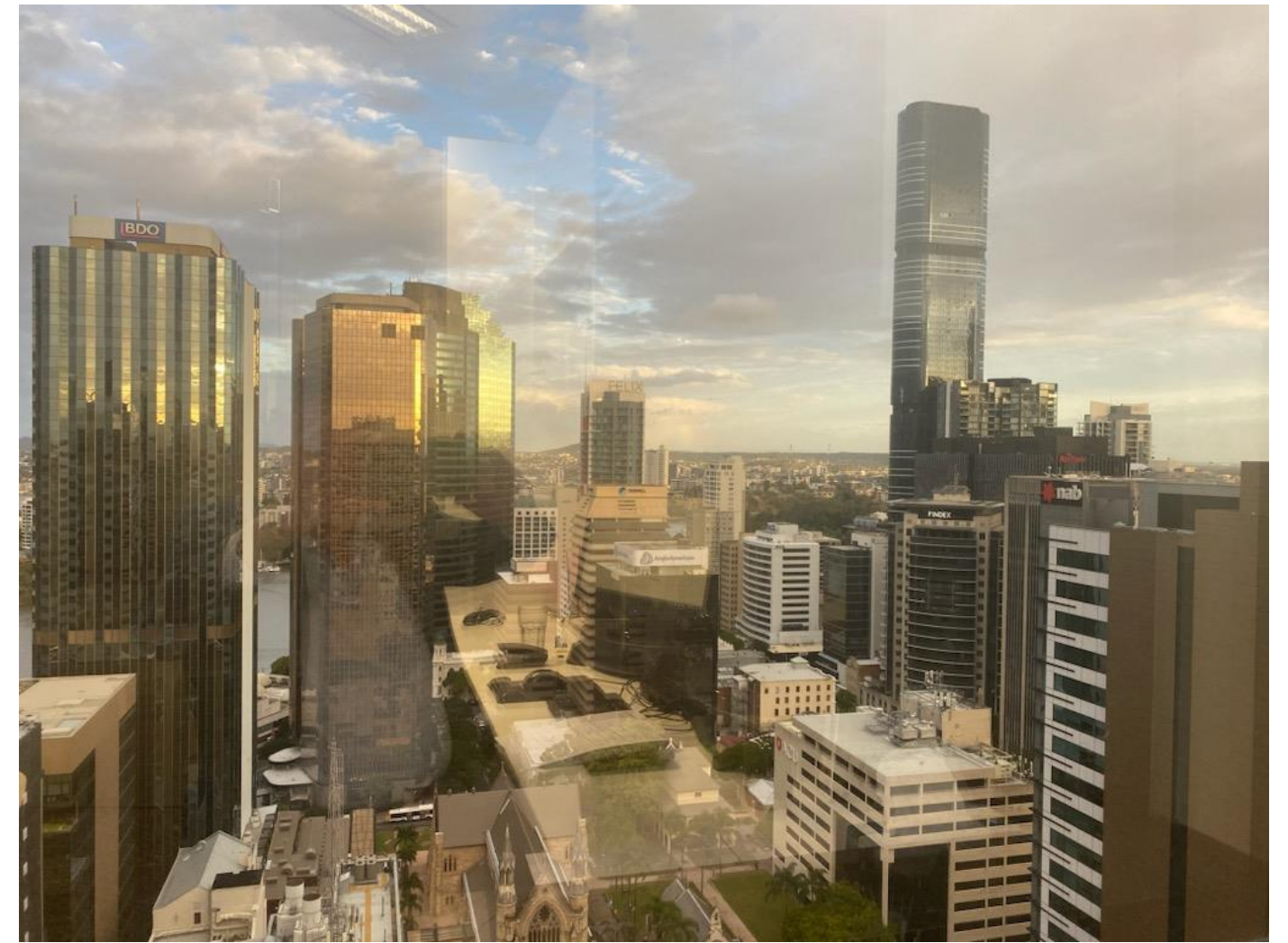


**Lucas Hickey**  
**Senior Associate**

## Expertise

- Property law - commercial land and building contracts, leases, assignments, extensions, rural conveyancing and inter-related farming transfers;
- Commercial law – business sales, shareholder agreements, franchising agreements, stamp duty exemptions, tax mitigation, deeds and agreements; and
- Wills, Estates and Succession Planning.





Excellence in law

## Curriculum Vitae

- 2005: Commenced Bachelor of Laws at JCU after transferring from UQ
- 2008: Graduated with Bachelor of Laws
- 2009: Graduated with Masters in Alternative Dispute Resolution
- 2010: Achieved Graduate Diploma of Legal Practice
- 2010: Admitted to the Supreme Court of Queensland



wnsville



## Career

- Small Townsville firm - fired after 6 weeks (“lack of experience”)
- Engaged by Brad Robins Legal Centre
- 8 years in Commercial and Wills and Estates Law
- Inherited commercial department of 300+ files in first 6 months
- Learned that communication was key to survival





## Career

- 2018: new opportunity in the Whitsundays
- Change stressful but beneficial
- Within 6 months, went from \$2.5M transactions to \$16.5M
- After 3 years, partnership offered



## Career

- Brisbane - scary and unknown
- Worked on matters up to \$65M
- Work / life balance not ideal



## Career

- Townsville offered a solution
- Office opened 9 months ago
- Reach is as far as Mount Isa and districts



## Valuable skills and abilities

- Listen and clarify
- Identify interests
- Set expectations
- Empathise
- Be transparent
- Don't make promises you can't keep



## Learnings

- Adapt
- Precedents
- Client expectations
- Sometimes the “carrot” doesn’t eventuate
- Work, systems, people
- Love where you live and work
- Let go to grow



## Legal Profession

- Ethics - critical
  - Court
  - Law
  - Client
- Costs agreement for fees \$1,500+ (plus GST)



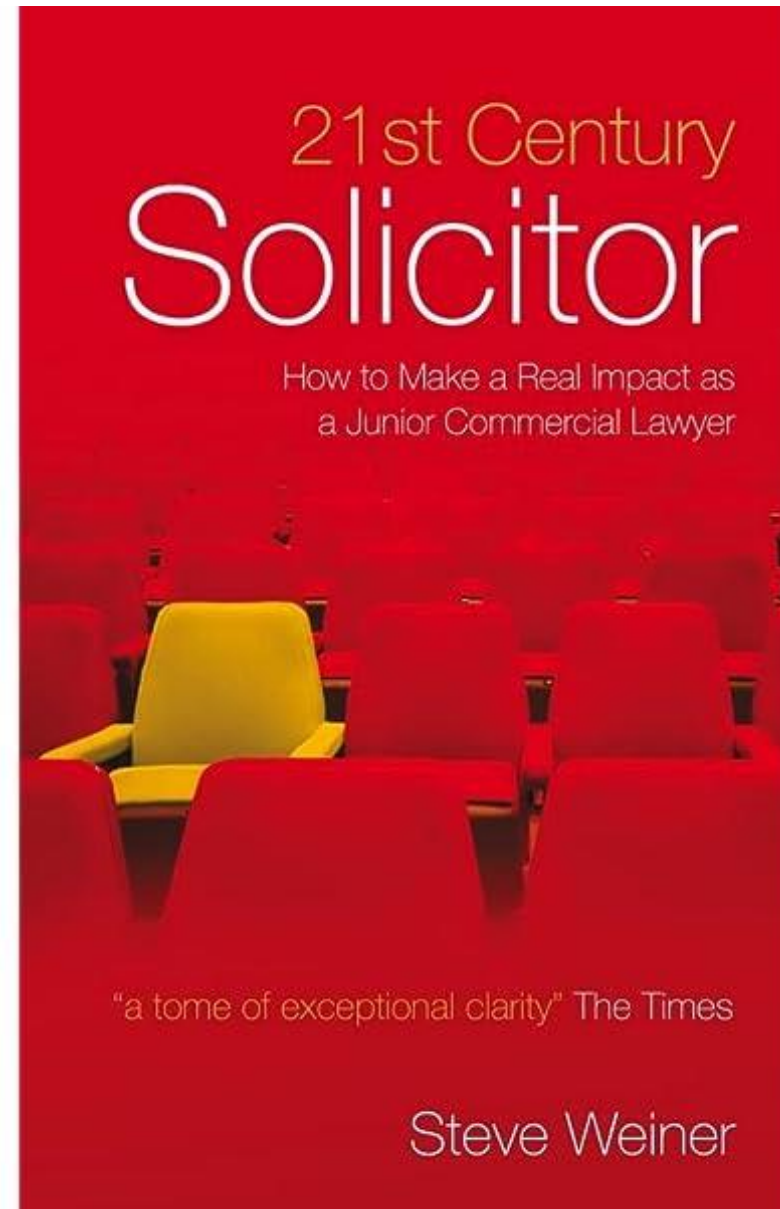
## Courtesy and conduct

Commercial negotiations should be

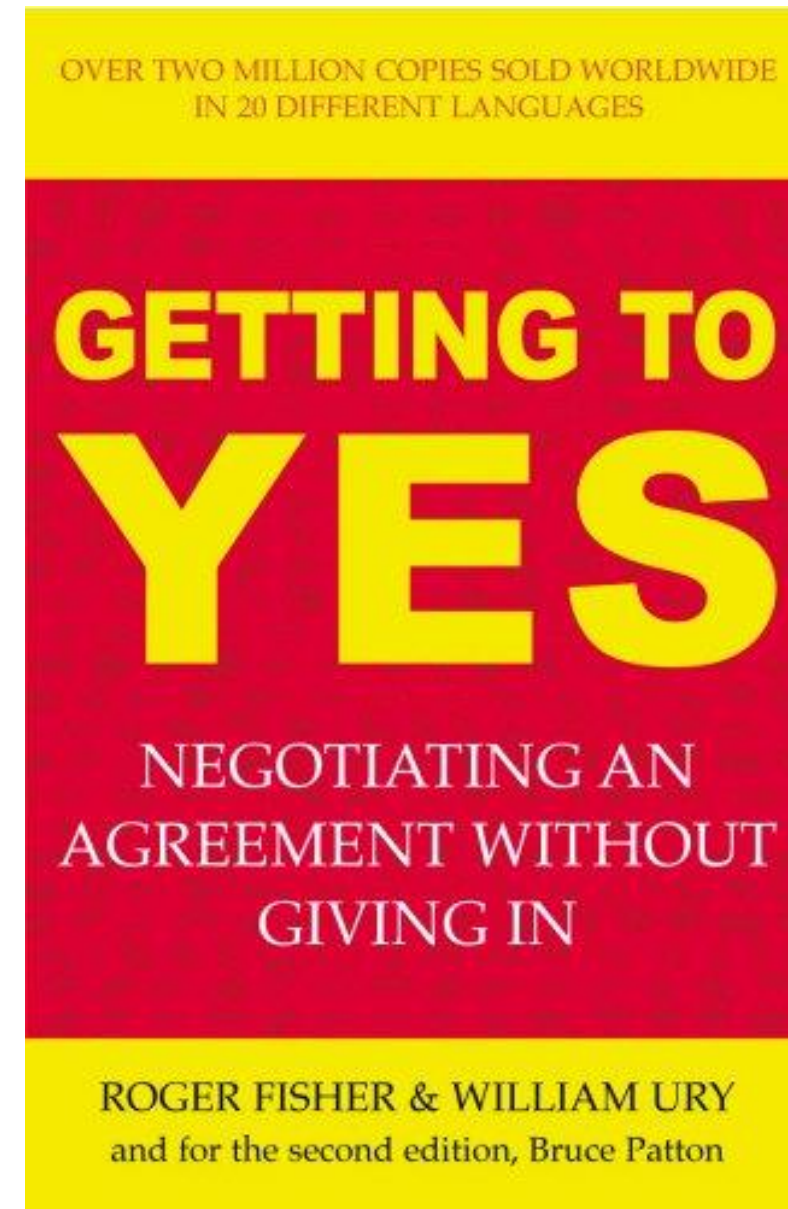
- Hard not hostile
- Soft not weak
- Respectful to all parties



## Resources



Steve Weiner, *21st Century Solicitor* (Bloomsbury Publishing, 2011).



Ronald Fisher, Bruce Patton and William Ury, *Getting to Yes : Negotiating an Agreement Without Giving In*. (Random House Business Books, 2011).





## Commercial Law

Includes:

- Leases
- Commercial land and building sales
- Share sale agreements
- Business sales
- Corporate restructures
- Franchise agreements.



## Interests

### 1. Legal interests

- Duties/Tax
- Risk
- Responsibility
- Rights
- Requirements

### 2. Non-legal interests

- Expectations
- Time
- Goodwill
- Plans
- Family
- Retirement
- Customer base
- Concerns
- Staff



## Legal and practical interests are equally critical

- 1970s and 80s: piracy cost Microsoft and Macintosh millions in lost revenue.



## Negotiations

Interests that dictate your negotiations:

1. Distributive negotiation
  2. Interest based negotiation
- Identify client's best alternative to a negotiated agreement
  - The stronger your best alternative, the better your position in negotiations.



## Examples in the profession

### Big players:

- Sale of commercial land and buildings
- Buyer a related entity of the tenant, being sued for unpaid rent
- Seller is also the Lessor
- Seller client is high wealth and not risk averse
- No risk of vacancy to the premises
- Current tenant also high wealth so no risk of voluntary administration

Distributive negotiation: pay the asking price or we sue you and you still pay rent.



## Examples in the profession

### High stakes:

- Sale of business
- Seller, our client, keen to sell, retire, and minimise expenses
- Agreed to lower price for quick sale
- Finance kept getting extended, initially agreed to by us while other aspects of the transaction progressed
- Buyer's solicitor wasn't constructively helping the process
- Buyer's solicitor refused to progress the matter until finance approved
- Our client frustrated after agreeing to lower price for quick sale



## Examples in the profession

### We identified:

- Costs charged as extension fee to buyer (to be deducted from price on successful transaction but otherwise forfeit)
- Buyer paid \$15,000 in fees
- Buyer finance rejected
- Our client \$5,000 in fees
- Buyer \$20,000.00 for lawyer's fees, \$15,000 to our client
- BATNA is to minimise costs, WATNA is to come away with no sale and high costs.



## Lessons

- Don't be aggressive (don't be submissive, either)
- Hold the party to their offer
- Consider your client's money and costs as your own
- How do you move the transaction forward on an assurance?
- Be respectful of the other side's solicitor regardless of their conduct





## Ethics (identifying duties)

- Selling client
- Operations made a lot of money through a 3rd party service agreement;
- Purchase Price is based on these operations;
- Found out during the contract (unconditional) that the 3rd party service agreement would not be renewed months after the expected settlement;

### What would you do?

You act for the seller:

- Is there a duty to the Court or Law?
- What then is in the Seller's interest/Duties to the Client?



# Summary

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- Let go to grow
- Opportunity follows disappointment
- Communication and transparency will help you through
- Duties, expectations, and professional conduct are critical
- Identify your client's interests
- Determine how you will negotiate
- Rely on your team's experience.



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