

Notes on Contributors

Editors

Kanaga Dharmananda SC (BJuris (Hons); LLB (Hons) (UWA); BCL (Oxon); LLM (Harvard)) is a barrister at Francis Burt Chambers in Perth and a Fellow at the Faculty of Law of the University of Western Australia, where he teaches International Commercial Arbitration and International Investment in Mineral Resources. He is also on the editorial board of the *AMPLA* journal and the *Australian Resources Law Reports*.

Leon Firios (LLB (Hons) BCom (UWA)) is a solicitor at Ashurst in Perth and a tutor and part-time lecturer at the Faculty of Law of the University of Western Australia. Before commencing practice as a solicitor, Leon was the Associate to the Hon Justice Kenneth Martin of the Supreme Court of Western Australia. Leon is to undertake studies for the LLM at Harvard Law School as a Frank Knox Memorial Scholar in 2013-2014.

Contributors

Stephen Boyle has been a partner of national law firm Clayton Utz (previously Robinson Cox) since 1985 and practises in all areas of construction law. He is the head of the Perth Construction and Major Projects section. He is involved in up front engineering and construction work, with a particular emphasis on major infrastructure construction, mining, oil and gas, and processing projects. He acts for owners, financiers and contractors in drafting, negotiating and settling contract and project structuring and documentation. Stephen also handles construction and engineering disputes of all kinds. As counsel Stephen has appeared in numerous arbitrations and in court proceedings of all jurisdictions and has acted as instructor and counsel in international arbitrations. Stephen holds a Bachelor of Jurisprudence and a Bachelor of Laws from the University of Western Australia.

Professor David Campbell is the Chair of International Business Law in the School of Law, University of Leeds. He was educated at Cardiff University (BSc (Econ) 1980), the University of Michigan School of Law (LLM 1985), and the University of Edinburgh (PhD 1985), and is the author of several articles and books on contract law.

Michelle Cole is a partner and the practice area leader for commercial litigation in Herbert Smith Freehills' Perth office. Her practice primarily focuses on contractual disputes, including pricing arbitrations, for companies involved in the mining, oil and gas and industries. Michelle graduated from the University of Western Australia with a Bachelor of Jurisprudence and a Bachelor of Laws. She joined Parker and Parker in 1990 and was appointed a partner of Freehills in 1997, following the merger of the two firms.

Mark Darian-Smith is a senior Partner in King & Wood Mallesons' Energy, Resources and Projects group based in Perth. He specialises in advising on strategic and contentious issues on major infrastructure, construction, commercial contracts, trade practices, torts and disputes for clients operating in the mining, energy and resources sectors. With more than 27 years' experience in litigation and arbitration, Mark has successfully conducted major strategic commercial litigation for a wide variety of clients in the energy and resources, construction and financial services industries. Mark holds a Bachelor of Arts (Honours) and Bachelor of Laws (Honours) from the University of Melbourne and a Masters in Civil Law from Oxford University.

Brahma Dharmananda SC is a barrister who practises principally in the area of commercial and corporate law (including large commercial, mining and gas contractual disputes). He was awarded a Bachelor of Jurisprudence (First Class Honours) in 1986 and a Bachelor of Laws (First Class Honours) in 1987 from the University of Western Australia. He completed his Bachelor of Civil Law at Oxford in 1992. Before joining the Bar in 2006, Brahma practised for some 19 years, more than 12 of them as a partner, at Mallesons Stephen Jaques.

Francis Douglas QC has spent more than 35 years in practice at the New South Wales Bar and took silk in 1988. He is a graduate of the University of Queensland and the University of Cambridge. Throughout his career, Francis has been involved in many of the more significant commercial trials at first instance in New South Wales and elsewhere in Australia. He has also appeared regularly in private commercial arbitrations particularly in oil and gas and energy related matters including price setting in relation to the supply of gas and electricity.

Selwyn D'Souza (MBA with Distinction (1995), Melbourne Business School, Chief Engineer Marine (1987), Marine Engineering with Distinction, India (1982)) is a Senior Partner in Deloitte's Strategy and Operations Practice in Sydney. Selwyn has 20 years of experience as a strategy consultant, consulting to a wide variety of businesses in finance, manufacturing, property, mining and professional services. For the last six years he has consulted exclusively to the mining sectors and has deep expertise in the iron ore

sector. He is also a qualified marine engineer and worked in shipping and logistics for 10 years. Selwyn is also a Principal Fellow at Melbourne Business School and teaches the MBA elective 'Managing New Ventures/ Integrative Projects'.

Paul Finn was appointed as a judge of the Federal Court of Australia in 1995 and retired in 2012. He heard a number of long term contract cases including *Hughes Aircraft Systems International v Airservices Australia* (1997) 76 FCR 151, *South Sydney District Rugby League Football Club Ltd v News Ltd* (2000) 177 ALR 611, *GEC Marconi Systems Pty Ltd v BHP Information Technology Pty Ltd* (2003) 201 ALR 55 and *Australian Medic-Care Co Ltd v Hamilton Pharmaceutical Pty Ltd* (2010) 261 ALR 501. He was previously a Professor of Law in the Research School of Social Sciences at the Australian National University. He is currently a Professorial Fellow of the University of Melbourne and was the Arthur Goodhart Professor of Legal Science at the University of Cambridge in 2010/2011. Paul is a graduate of the Universities of Queensland, London and Cambridge. He is also the author and editor of a number of books including *Fiduciary Obligations* and was a member of the Second and Third Working Groups for Unidroit's *Principles of International Commercial Contracts* 2004 and 2010.

Barry Irwin is a corporate partner based in Allen & Overy's Sydney office with a wide range of experience in the energy and resources sector, with a focus on mining, oil and gas, renewables and related infrastructure projects. The Asia Pacific Legal 500 legal directory includes him as a leading practitioner recognised for his experience in the energy and resources sector, and he is named as one of the leaders of the field amongst the world's mining lawyers in the International Who's Who Legal. Barry holds a Bachelor of Laws and a Bachelor of Arts from the Australian National University.

John Kelly is a partner in the Brisbane office of Corrs Chambers Westgarth and is the leader of the national Energy and Resources Industry Division. John has over 30 years of practice experience in the energy and resources sector and major projects and infrastructure. He has dealt with projects in the mining industry, particularly in the coal sector in Queensland and New South Wales, and the oil and gas sector, most recently in the CSG/LNG space in Queensland. His experience in relation to long term contracts extends to domestic and export coal sales contracts, gas sale and transportation agreements, power purchase agreements and long term contracts for port and rail capacity. John is a life member and past President of the Australian Mining and Petroleum Association.

Rupert Lewi (BJuris; LLB (UWA)) is a partner in the energy and resources group at Ashurst's Perth office. Rupert's practice focuses on energy and resources project finance and other types of international finance, construction and corporate transactional work. He specialises in oil and gas projects

and has acted on some of the world's leading LNG projects. He has also advised on a range of mining development projects and in relation to mergers and acquisitions in the mining sector. Before joining the firm, Rupert spent 12 years working as a foreign lawyer in Japan. After his return to Perth, he has been very active in advising North East Asian clients for their investments in the resources sector in Australia.

Colin Lockhart is counsel at Corrs Chambers Westgarth in Perth. He is a graduate of the University of Western Australia Law School (LLB) and Yale Law School (LLM). Colin is the author of *The Law of Misleading or Deceptive Conduct* (LexisNexis), now in its third edition, and has lectured at UWA on the topic. He has also taught competition law, contract law, intellectual property and international business law at UWA Law School, and has also taught in the UWA Graduate School of Management and the Australian Graduate School of Management. In his practice, Colin has advised, and appeared in the Western Australian and Federal Courts and in international arbitrations, in relation to a wide range of disputes, principally in the energy and resources sector, including gas and electricity supply agreement disputes, joint venture disputes, disputes arising from the construction of oil and gas facilities, such as FPSOs and deepwater wells, and from the calling of performance bonds and disputes concerning the acquisition of oil and gas assets. Colin has also provided advice to mining and energy clients on a variety of competition, access and regulatory matters, such as access to the WA electricity grid and to port and rail facilities and issues arising from the restructure of the WA electricity market.

Chris Lockwood attended Durham University, where he read Law, and was formally admitted as a Solicitor in England and Wales in 1982 and in Hong Kong in 1985. He worked as a solicitor for Lovell White Durrant (now Hogan Lovells) in their London and Hong Kong offices for more than 10 years prior to joining Holman Fenwick Willan in 1995 as a litigation partner. Chris opened the Shanghai Office of Holman Fenwick Willan and was the firm's Chief Representative in China before returning to the firm's London office in January 2003. He re-located to the firm's office in Melbourne in October 2007 where he currently heads the Trade and Energy Group. Chris has had published articles upon a number of Chinese law related issues. He has also written articles appearing in *Lloyds List*, *Tradewinds*, *Asian Legal Business*, the *China Britain Business Council Trade Review* and the *British Australian Review* on shipping and related international trade topics.

The Hon Justice Carmel McLure was appointed as a judge of the Supreme Court of Western Australia in 2001 and President of the Court of Appeal in 2009. Her career began at the University of Western Australia where she obtained a Bachelor of Jurisprudence with Honours in 1976 and a Bachelor of Laws with Honours in 1979. During her studies, she took on the role of

assistant private secretary to Senator Durack, the former Commonwealth Attorney General, from 1977-78. She later became the private secretary to Senator Durack before departing for Oxford University where she obtained her Bachelor of Civil Law in 1983. Upon her return to Western Australia in 1984, Carmel joined a corporate law firm and became a partner there in 1987 and head of the firm's litigation division in 1993. She went on to join the Bar and in 1997 was appointed Queen's Counsel.

The Hon Chief Justice Wayne Martin AC was appointed to the Supreme Court of Western Australia on 1 May 2006. He was appointed as a Judge of the Court, a Judge of the Court of Appeal and as the Chief Justice of Western Australia. Chief Justice Martin was appointed a Companion in the General Division of the Order of Australia on 11 June 2012. He graduated with a Bachelor of Laws (First Class Honours) in 1973 from the University of Western Australia and was an articled clerk with Lavan & Walsh, Perth. He completed a Master of Laws from the University of London in 1975 and was admitted to practice in Western Australia in 1977. After practising as a Senior Litigation Partner with Keall Brinsden, Perth he joined the Independent Bar in 1988 and was appointed a Queen's Counsel 1993. From 2001-2003, he was Counsel assisting the HHH Royal Commission in Sydney.

Anthony Patten is a partner at Allens (Perth) specialising in corporate and project development work in the energy industry, with a particular focus on oil and gas. Anthony is responsible for the co-ordination of Allens' oil and gas practice. He is experienced in advising national oil companies, major international oil companies, trading houses, utilities and independents on all aspects of their businesses. Anthony has worked on a wide range of upstream, midstream and downstream oil and gas projects and transactions. In the course of those roles, Anthony has drafted and negotiated numerous long term natural gas sale and purchase agreements (including feedstock gas supply agreements for liquefaction projects) and numerous long term LNG sale and purchase agreements. Anthony has worked on natural gas projects in many jurisdictions, including, from an upstream perspective, Iran, Iraq, Nigeria, Oman, Qatar, Russia, Trinidad and Australia and, from a downstream perspective, India, Indonesia, Italy, the Netherlands, the UAE and the UK. Before joining Allens in November 2011, Anthony was a partner in London with another international law firm. He also spent six years as a senior in-house counsel of Royal Dutch Shell plc, based in London and in the UAE.

Lucy Reed is co-head of the Freshfields Bruckhaus Deringer global international arbitration group, based in Hong Kong. She advises private and public clients, and occasionally sits as arbitrator, in commercial and treaty arbitrations under the main institutional and ad hoc rules. A specialist in energy sector arbitrations, Lucy has represented ConocoPhillips, CMS

Energy and other energy majors in multi-billion dollar commercial and treaty arbitrations. She is ranked Band 1 in international arbitration by Chambers Global (2012), among other league tables. Lucy received her BA magna cum laude from Brown University in 1974 and her JD from the University of Chicago Law School in 1977. Lucy is a member of the ICC Commission on Arbitration, the new ICC Court Governing Body and the LCIA Court, and chairs the Dallas-based Institute for Transnational Arbitration (ITA). Lucy is a member of various institutional arbitrator panels, including the ICSID Panel of Arbitrators (designated by ICSID in 2011). While with Freshfields, she has served as an arbitrator on the Eritrea-Ethiopia Claims Commission (an international humanitarian law tribunal) and as a co-director of the Claims Resolution Tribunal for Dormant Accounts in Switzerland (the Holocaust tribunal). Lucy is co-author of the *Guide to ICSID Arbitration* and *The Freshfields Guide to Arbitration Clauses in International Contracts* (both published by Kluwer).

Gavin Ryan is General Counsel of PTTEP Australasia and Company Secretary to all of the group's companies in Australia. He began his industry career with BP plc in London in 1989, taking increasingly senior legal positions in BP, then BHP Petroleum and finally Shell, where his appointments included Associate General Counsel - Global Business for Shell Gas & Power in The Hague. He has worked on oil and gas matters in more than 30 countries, with an emphasis on trading and shipping, upstream joint ventures, LNG, major projects and corporate acquisitions and divestments. Gavin holds a Bachelor of Laws (Hons) from the University of East Anglia, UK and undertook post-graduate studies at the University of Melbourne.

John Southalan is an Australian lawyer who has practised in commercial and human rights areas since the early 1990s. He writes on various topics including resource taxation and management, indigenous land rights law, the common law, and combatting impunity. In addition to a commercial legal practice, John's current work and voluntary positions include: In House Counsel (Yamatji Marlpa Aboriginal Corporation), President (Australian Lawyers for Human Rights), Global Faculty (Centre for Energy, Petroleum and Mineral Law and Policy), Board Member (Centre for Native Title Anthropology), Honorary Fellow (Faculty of Law, University of Western Australia) and Contributing Author (LexisNexis).

Owain Stone FCA, is a forensic accountant who manages the KordaMentha Forensics team and has over 25 years' experience in a wide range of forensic accounting projects. He was previously the Oceania Head of Fraud Investigation and Dispute Services for Ernst & Young. Before that Owain worked for Andersen in Melbourne (1997-2002), Singapore (1990-1997) and London (1984-1990). His recent experience includes expert witness related forensic accounting services (including preparation of expert reports

and/or giving oral testimony) in the Australian Federal Court, the Supreme Court and County Court of Victoria, the Supreme Court and High Court of Singapore, the Supreme Court of Vanuatu and he has given evidence in arbitrations in Australia, Hong Kong and USA.

Professor George Triantis (JSD 1989) is the Associate Dean for Strategic Planning and James and Patricia Kowal Professor of Law at Stanford Law School. Professor Triantis is an expert in the fields of contracts, commercial law, business law, and bankruptcy. Prior to joining the Stanford Law School faculty in 2011, he was the Eli Goldston Professor of Law at Harvard Law School. Among his contributions to legal scholarship, Professor Triantis pioneered the application of options theory to the study of contracts and commercial law, and authored path breaking articles developing principles of contract design. His recent work concerns the techniques and process of innovative transactions, with particular focus on the link between contract design and litigation. He has published several articles and books on contract law, including 'Evolution of Contract Remedies (And Why Do Contracts Professors Teach Remedies First?)' (*University of Toronto Law Journal*, 2010) and 'Strategic Vagueness in Contracts: The Case of Corporate Acquisitions' (*Yale Law Journal*, 2010).

Sharon Wilson is a partner in Herbert Smith Freehills' Perth office and advises participants in the oil and gas, power and mining sectors in Australia and Asia. Sharon holds a Bachelor of Commerce and a Bachelor of Laws (with Honours) from the University of Adelaide. Sharon has published and presented papers for AMPLA and the International Bar Association. She is also the author of a chapter on buying and selling upstream assets in *Oil and Gas – A Practical Handbook* (Globe Law and Business).