

Anna Elizabeth



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BRIEF BIOGRAPHY

Anna was called to the New South Wales Bar in 2021. She is also listed with the ACT Bar Association.

Anna accepts briefs in all types of commercial disputes where she has considerable experience in large and complex commercial matters, gained both at the bar and as a solicitor. She is adept at dealing with large volumes of documents, complex evidentiary matters and large teams. Anna is able to work seamlessly and collaboratively with solicitors including where teams are based interstate.

She is often relied upon in the context of contractual disputes including in supply chain, infrastructure and pricing matters where she has extensive experience. For example, Anna was briefed in the expedited hearing of *AHG WA (2015) Pty Ltd v Mercedes-Benz Australia/Pacific Pty Ltd* FCA (2021) before Beach J in the Federal Court of Australia (FCA) which ran for over 6 weeks. Acting for the applicants, Anna played a central role in assisting senior counsel prepare the financial evidence in that matter, brief the forensic accounting expert, and act as junior in court during the financial evidence. Anna's 7 years' experience in a global energy company undertaking business analysis and complex pricing work, together with her ability to work with spreadsheets, accounting records and complex financial matters, allows her to take the lead on financial evidence, witnesses and experts. She is also experienced in matters involving white-collar crime, ASIC investigations, shareholder disputes, environmental law, and class actions.

Anna has a particular interest in energy and resources and accepts briefs in all matters relating to those industries. Anna is familiar with complex energy pricing principles, transfer pricing and benchmarking, oil and gas pricing, take-or-pay contracts, the short term traded gas market and rules, offtake agreements, access arrangements and regulated infrastructure, among other things. In addition, she has experience working on ports, pipelines, terminals, including integrated supply chains. She has a keen interest in matters relating to the energy transition, renewable energy and associated issues.

As well as other memberships, Anna is a member of the Energy & Resources Law Association and contributes to policy submissions on behalf of the association. She is a reporter for the Thompson Reuters *Australian Resources Law Reports* and the *Banking and Finance Reports of Australia* and stays up to date with cases in those practice areas including current decisions on mining, energy, insolvency, banking, finance and insurance.

Prior to being called to the Bar, Anna was a litigator in the commercial disputes team at Arnold Bloch Leibler and served as an Associate to Foster J in the Federal Court of Australia. She has also worked at various firms as a solicitor including as an Associate at MinterEllison, where she successfully represented applicants in a significant class action alleging Misfeasance in Public Office before Rares J in the FCA (*Brett Cattle Company Pty Ltd v The Commonwealth of Australia and Anor* [2020] FCA 732), with Noel Hutley and Stephen Free SC.

Further details are set out in Anna's CV. Selected cases are set out at the end of the document.

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| Areas of Practice | <ul style="list-style-type: none"> ▪ Administrative Law ▪ Alternative Dispute Resolution (Incl Mediation & Arbitration) ▪ Appellate ▪ Banking, Securities and Insolvency ▪ Class Actions & Representative Proceedings ▪ Commercial Litigation ▪ Commissions and Inquiries ▪ Competition ▪ Constitutional Law ▪ Corporate ▪ Equity ▪ Insurance ▪ Regulatory ▪ Trade Practices ▪ Trusts ▪ Wills & Estates; Family Provision Act; Probate |
| Education | <p>University of Melbourne – Bachelor of Commerce 2007</p> <p>Subjects</p> <ul style="list-style-type: none"> ▪ Micro and macroeconomics, finance, quantitative methods, game theory, econometrics, managerial and organizational behaviour, and marketing subjects. <p>University of Western Australia – Master of Commercial and Resource Law 2012</p> <p>Awards</p> <ul style="list-style-type: none"> ▪ Clayton Utz Postgraduate Award for Energy and Resources Law, 2009. ▪ Johnson Winter and Slattery Prize in Law for the highest weighted average mark in MCRLaw, 2012 <p>Juris Doctor – Monash University 2015</p> <p>Awards</p> <ul style="list-style-type: none"> ▪ Contract B, Highest Mark, T2 2013. ▪ Mediation A&B, Highest Mark, 2014. ▪ Mediation B, Academic Prize, 2014. <p>Programs</p> <ul style="list-style-type: none"> ▪ Maddocks’ High Academic Achievers’ Program for the top 10 students in the course, 2013-2014. <p>Leadership</p> <ul style="list-style-type: none"> ▪ Competitions Officer, Juris Doctor Monash Law Students’ Society, 2013. <p>Activities</p> <ul style="list-style-type: none"> ▪ Willem C Vis International Commercial Arbitration Moot, Team Monash, Vienna 2013-14 (Speaker). ▪ International Chamber of Commerce Pre-Moot, Paris (Speaker). ▪ White & Case Pre-Moot, Paris (Speaker). |

Experience

Barrister, 5 Wentworth Chambers | 2021 – Present

Mid-level Associate, Arnold Bloch Leibler | August 2020 – May 2021

- Acting for an aged care home in relation to matters arising from COVID-19 deaths.
- Acting in relation to a WorkSafe investigation. Acting in relation to a coronial investigation.
- Acting for two corporations in respect of an ASIC investigation into serious fraud and other misconduct under the Australian Securities and Investments Commission Act 2001 (Cth), the Corporations Act 2001 (Cth), and the Crimes Act 1900 (NSW).
- Acting for a company in relation to international fund recovery, including considering freezing orders.
- Acting for a director in relation to long-running proceedings for winding up in the Supreme Court and Family Court, including leading settlement negotiations.

Associate to The Hon. Justice Lindsay Foster, Federal Court of Australia | January 2019 – July 2020

- Legal research, correspondence, preparing materials, and attendance in court.

Associate, Allen & Overy, Commercial Dispute Resolution | Sydney, 2018 – 2019

- An international arbitration under the ICC rules involving an LNG plant and associated infrastructure.
- ASIC v Rio Tinto Limited & Ors [2022] FCA 184.

Associate, Lawyer, MinterEllison, Commercial Dispute Resolution | Canberra, 2016 – 2018

- *Brett Cattle Company Pty Ltd v The Commonwealth of Australia and Anor* [2020] FCA 732, a class action alleging misfeasance in public office successfully brought in the Federal Court of Australia, per Rares J. Significant discovery issues arose in this matter resulting in a successful application for further and better discovery from the Minister's Department. Interesting questions around parliamentary and other privileges also arose. A summary is available [here](#).
- *The Citadel Group Ltd v Alexander* [2017] ACTSC 308, a dispute concerning confidential information in an employment relationship.
- Other matters, including acting in relation to a possible coronial inquest.

Lawyer, Graduate Trainee and Clerk, Corrs Chambers Westgarth | Melbourne, 2015 – 2016

- A contractual dispute in the Victoria Supreme Court.
- *Australian Energy Regulator v Australian Competition Tribunal (No 2)* [2017] FCAFC 79.

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| | <ul style="list-style-type: none"> ▪ <i>Australian Energy Regulator v Australian Competition Tribunal (No 3)</i> [2017] FCAFC 80. ▪ The Royal Commission into Family Violence. Corrs Chambers Westgarth was retained as Solicitor Instructing the Counsel Assisting the Commissioners. ▪ A matter considering existing uses under planning law. <p>BP Australia Melbourne and Perth, 2006 – 2014</p> <p>Role</p> <ul style="list-style-type: none"> ▪ Commercial Pricing Advisor (Melbourne, February 2012 – March 2014) ▪ Strategic Pricing Analyst (Melbourne, February 2011 – February 2012) ▪ Western Australia Gas Manager (Perth, January 2010 – December 2010) ▪ Other analyst roles (Melbourne and Perth, 2006-2014) <p>Experience</p> <ul style="list-style-type: none"> ▪ Anna has extensive knowledge of pricing principles, including concepts of transfer pricing, net-back pricing and assessing profit. ▪ Anna is also experienced in working with complex pricing models and assessing the costs and competitive effects of infrastructure and competitive forces. |
| Appointments | <p>Member of the Energy & Resources Law Association</p> <p>Member of the Commercial Law Association of Australia</p> <p>Member of the National Environmental Law Association</p> <p>Member of the Australian Capital Territory Bar Association</p> <p>Committee Member of the Women’s Barrister’s Forum</p> |
| Admissions | <p>Barrister, New South Wales 2021</p> <p>Admitted as a solicitor to the following jurisdictions and the High Court of Australia:</p> <ul style="list-style-type: none"> ▪ New South Wales, 2019 ▪ Australian Capital Territory, 2017 ▪ Victoria, 2015 |
| Pro Bono | <p>Anna has acted on a number of pro bono matters as both a solicitor and at the Bar, including:</p> <ul style="list-style-type: none"> ▪ Planning matters for a conservation society. ▪ Assisting homeless people with complex histories in dealing with significant fines. |

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| | <ul style="list-style-type: none"> ▪ Acting on behalf of an elderly woman with Alzheimer's in relation to a dispute affecting ▪ her aged care home. ▪ Acting on behalf of an individual in a VCAT contractual dispute. ▪ Acting in relation to a coronial investigation of a death of a person suffering mental illness ▪ in an assisted care facility. |
| Selected Publications | <p>Anna Elizabeth and Lee J (ed), 'Limitations on the Scope of a Court's Power to Make Any Order it thinks Appropriate Under s 33ZF or s 183: The High Court's Decision in the Brewster and Lenthall Cases' (2020) 94 <i>Australian Law Journal</i> 591.</p> <p>Anna Elizabeth et al, "The Expanding Enforcement Armory of Australia's Financial Regulators" (2018) <i>Allen & Overy</i>.</p> <p>Anna is also a reporter for the following Thomson Reuters report series in which all jurisdictions are covered:</p> <ol style="list-style-type: none"> <i>Australian Resources Law Reports</i> (ARLR): the ARLR is the only specialist report series in Australia dealing with mining, energy and resources law. In this publication, carefully selected judgments are accompanied by catchwords and authored headnotes that summarise the decision and highlight the key issues. <i>Banking and Finance Reports of Australia</i> (BFRR): It is part of the subscription to the product <i>Weaver and Craigie, The Law Relating to Banking & Finance in Australia</i>. The series takes a broad view of what constitutes a banking and finance case and offers a compilation of cases which raise important issues which are covered within the commentary of the service. |
| Recent Experience | <p>Superannuation</p> <ul style="list-style-type: none"> ▪ Drafting advice for superannuation trustees. ▪ Considering trustees' rights of remuneration and indemnity. ▪ Considering covenants under the Superannuation Industry (Supervision) Act 1993 (Cth). ▪ Considering "Your Future, Your Super" amendments. <p>Contract</p> <ul style="list-style-type: none"> ▪ Advising on termination of contract. ▪ Considering alleged repudiation. ▪ Considering claims of quantum meruit. ▪ Preparing pleadings where acceptance was in issue, conditions subsequent where payment by cheque, breach of contract, repudiation and estoppel. |

Equity

- Advising on trustees' rights to remuneration.
- Preparing pleadings alleging constructive trusts, resulting trusts, proprietary estoppel, and liens.

Energy

- Advising on downstream fuel supply contracts.
- Advising a manufacture on a connection service to the NSW electricity and gas networks under the National Gas Rules and National Electricity Rules and the Electricity Supply Act 1995 (NSW).

Environmental

- Applying the *Environmental Planning and Assessment Act 1979* (NSW).
- Advising on existing use rights and permitted uses.
- Advising on adverse possession.

Land

- Considering adverse possession and other possessory land claims, actions for trespass and the *Crown Land Management Act 2016* (NSW).
- Advising on existing use claims and permissible uses under LEPs.

Advocacy

- Appearing in applications to set aside default judgments.
- Appearing in full day commercial trials in the Local Court, unled.
- Appearing in a two-day trial in the equity division in the Supreme Court of NSW involving substantial cross examination of witnesses including by way of translator, unled.
- Appearing in directions hearings in NCAT and the Local Court.

Appeals

- Drafting submissions to the AAT, seeking to stay a decision imposing disqualification under the *Corporations Act 2001* (Cth).
- Appearing in *Ali v Insurance Australia Limited* [2022] NSWSCA 369, in the NSW Supreme Court of Appeal, led by Tim Castle SC

Selected Cases

Energy and Resources

Trafigura Pty Ltd v Park Pty Ltd NSWSC (2021), previously led by Elisabeth Peden SC (now Peden J in the Supreme Court of NSW).

Acting for the plaintiff in a contractual dispute.

Competition and Consumer

AHG WA (2015) Pty Ltd v Mercedes-Benz Australia/Pacific Pty Ltd FCA (2021), led by Tim Castle SC (judgment reserved).

Proceedings brought by Mercedes Benz franchise owners under the Franchising Code of the *Australian Competition and Consumer Act 2010* (Cth), seeking damages and other remedies for breach of good faith obligations and

other matters regarding the franchisor's decision to move to an agency business model.

Flip Out Thornton v Flip Out Arena Franchises NSWSC (2019), led by Jason Lazarus SC.

Acting for the fourth to fifth and sixth defendants in proceedings brought under the Franchising Code of the *Australian Competition and Consumer Act 2010* (Cth), alleging various breaches of the Code.

Commercial

Budget Renovators and Granny Flats Pty Ltd v Yasir Malik, trial Local Court (2021), unled.

Residential building dispute involving claims of breach of contract and quantum meruit heard over a full day in the Local Court.

Hoper v Popovic, Local Court (2020), unled.

A contractual dispute heard over a full day in the Local Court, acting for the defendant. Judgment in favour of the defendant.

Equity

Talatala v Esguerra (2019/00392825), NSWSC (2019), unled.

Acting for the defendant resisting a claim to recognise an alleged trust. Appearing in the New South Wales Court of Appeal in a two day hearing.

Intellectual Property

An application under s 36(1) of the *Patents Act 1990* (Cth) seeking a declaration that the applicant is an Eligible Person for the purposes of that section. Led by Cynthia Cochrane SC.

Appeals

Ali v Insurance Australia Limited [2022] NSWSCA 369,, led by Tim Castle SC.

An appeal considering the Court's decision in *Globe Church Incorporated v Allianz Australia Insurance Ltd* and its application to the respondent's standard form Home and Contents Insurance Policy. Considering, in particular, when a cause of action accrues for the purposes of s 14 of the *Limitation Act 1969* (NSW) in the context of a consumer home insurance policy. The appeal was successful and set an important precedent. A summary of the decision by Mitchelmore JA, Ward P and Leeming JA agreeing, can be accessed [here](#).