

DAMIAN CLOTHIER KC

YEAR OF CALL: 1995 | YEAR OF SILK: 2011

Damian has a broad ranging commercial practice, with particular emphasis on commercial litigation, arbitration and advisory work in the fields of resources, building and construction, corporations, insurance, insolvency, property and professional negligence.

He is listed as a ranked KC for Dispute Resolution by Chambers & Partners Asia Pacific 2017-2022, and Chambers & Partners Global 2017, 2019. He was selected for inclusion in the Australian Financial Review's *Best Lawyers@* in Australia 2019-24 for Alternative Dispute Resolution and Insolvency / Reorganization Law, 2017-2019 and 2023-24 for Bet-the Company Litigation, Commercial Law and Litigation. He was named the *Best Lawyers@* 2014-2015 Brisbane Commercial Law 'Lawyer of the Year' and 2023 Bet-the-Company Litigation 'Lawyer of the Year'. Damian is listed as a 'preeminent', 'leading' or 'recommended' KC by Doyle's Guide 2015-2019 in the areas of Commercial Litigation & Disputes, Construction, and Insolvency & Reconstruction. The Legal 500 Asia Pacific 2021 guide ranked him Band 1 for Commercial Disputes.

Damian is the Chair of the Bar Association of Queensland's Business and Consumer Law Committee, a Member of the Bar Association of Queensland's Professional Conduct Committee and a former Member of the Queensland Law Society's Commercial Litigation Specialist Accreditation Committee.

AREAS OF PRACTICE

Appellate, Arbitration, Banking, Building & Construction, Class Actions, Commercial Equity, Competition & Consumer, Contract, Corporate Insolvency & Bankruptcy, Corporations, Employment & Industrial, Insurance, Intellectual Property, Judicial Review & Administrative, Land Law & Property, Planning & Environment, Professional Negligence, Resources & Energy.

CASES

Nerang Subdivision Pty Ltd v Hutson[2024] QCA 174
September 2024, Contract, Land Law & Property, Tax

LEVEL

TWENTY
SEVEN

CHAMBERS



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Sparks, in the matter of IG Energy Holdings (Australia) Pty Ltd (Administrators Appointed) (No 2)[2024] FCA 648

June 2024, Corporations, Corporate Insolvency & Bankruptcy

Sparks, in the matter of IG Energy Holdings (Australia) Pty Ltd (Administrators Appointed)[2024] FCA 613

June 2024, Corporations, Corporate Insolvency & Bankruptcy

Merchant & Ors v Ernst & Young (a firm) & Anor[2023] QSC 259

November 2023, Tax

QNI Resources Pty Ltd & Anor v Vannin Capital Operations Limited & Ors[2023] QCA 216

November 2023, Contract

Sanders v Mount Isa Mines Ltd & Ors[2023] QSC 188

August 2023, Professional Negligence, Resources & Energy

Aircraft Structural Contractors Pty Ltd v Nauru Air Corporation[2023] FCA 993

August 2023, Contract, Intellectual Property

93 Fairfield Pty Ltd ACN 621 146 058 as Trustee for 93 Fairfield Unit Trust v Chief Executive, Department of Transport and Main Roads [2023] QLC 10

July 2023, Land Law & Property

Murphy Operator & Ors v Gladstone Ports Corporation (No 9)[2023] QSC 35

March 2023, Class Actions

EMClarity Pty Ltd v BSO Network Inc & Anor [No2][2023] QCA 11

February 2023, Contract

Allencon Pty Ltd v Palmgrove Holdings Pty Ltd trading as Carruthers Contracting[2023] QCA 6

February 2023, Contract, Building & Construction

Karam Group Pty Ltd as Trustee for Karam (No. 1) Family Trust v HCA Queensland Pty Ltd & Ors[2022] QSC 290

December 2022, Contract

Legat v Queensland Law Society Incorporated[2022] QCA 184

September 2022, Judicial Review & Administrative

EMClarity Pty Ltd v BSO Network Inc & Anor[2022] QCA 177

September 2022, Contract

Maller & Anor v Australia Pacific LNG CSG Transmissions Pty Ltd & Ors[2022] QLC 12

September 2022, Land Law & Property, Resources & Energy

Australian Golf Management Corporation Pty Limited v Logan City Council[2022] QCA 86
May 2022, Contract

Aronis v Aronis [2022] QSC 39
March 2022, Commercial Equity, Land Law & Property

Bluepoint Properties Pty Ltd & Anor v Zuri Properties Pty Ltd & Anor[2022] QSC 26
March 2022, Contract

New Acland Coal Pty Ltd v Oakey Coal Action Alliance Inc. & Ors (No 2)[2022] QLC 44
December 2021, Resources & Energy

DBCT Management Pty Ltd v Treasurer and Minister for Infrastructure and Planning (Qld) & Ors[2021]
QSC 335
December 2021, Contract, Resources & Energy

Australian Golf Management Corporation Pty Ltd v Logan City Council[2021] QSC 291
November 2021, Building & Construction

Yue v CN-AU Capital Pty Ltd [2021] QSC 248
October 2021, Contract, Land Law & Property, Commercial Equity

New Acland Coal Pty Ltd v Oakey Coal Action Alliance Inc. & Ors[2021] QLC 29
August 2021, Resources & Energy

RHG Construction Fitout and Maintenance Pty Ltd v Kangaroo Point Developments MP Property Pty Ltd & Ors [2021] QCA 117
May 2021, Building & Construction, Contract

Hail Creek Coal Holding Pty Limited & Ors v Michelmore[2021] QLC 19
May 2021, Land Law & Property

Aronis & Anor v Aronis [2021] QSC 87
April 2021, Contract, Land Law & Property

Murphy Operator & Ors v Gladstone Ports Corporation (No 8)[2021] QSC 57 15
March 2021, Class Actions

Quinlan v ERM Power Ltd & Ors[2021] QSC 35
February 2021, Corporations

Murphy Operator & Ors v Gladstone Ports Corporation (No 7)[2021] QSC 18
February 2021, Class Actions

Oakey Coal Action Alliance Inc v New Acland Coal Pty Ltd[2021] HCA 2
February 2021, Resources & Energy

***Equititrust Limited v Tucker* [2020] QSC 269**

September 2020, Corporations

***Glencore Coal Queensland Pty Limited v Aurizon Network Pty Ltd & Ors; Yarrabee Coal Company Pty Ltd & Ors v Aurizon Network Pty Ltd & Ors* [2020] QCA 182**

September 2020, Contract

***New Acland Coal Pty Ltd v Oakey Coal Action Alliance Inc* [2020] QSC 212**

July 2020, Corporations

***Murphy Operator & Ors v Gladstone Ports Corporation (No 6)* [2020] QSC 192**

June 2020, Class Actions

***Wellington & Ors v Huaxin Energy (Aust) Pty Ltd (formerly Cuesta Coal Limited) & Anor* [2020] QCA 114**

May 2020, Contract

***Oakey Coal Action Alliance Inc v New Acland Coal Pty Ltd & Ors* [2019] QCA 238**

November 2019, Appellate, Judicial Review & Administrative

***Lake v GBST Holdings Limited* [2019] QSC 253**

October 2019, Competition & Consumer, Contract, Employment & Industrial

***Equititrust Limited v Tucker and Others (No 2)* [2019] QSC 248**

October 2019, Commercial Equity, Corporations

***Sanrus Pty Ltd v Monto Coal 2 Pty Ltd (No 7)* [2019] QSC 241**

September 2019, Contract, Resources & Energy

***Oakey Coal Action Alliance Inc v New Acland Coal Pty Ltd & Ors* [2019] QCA 184**

September 2019, Judicial Review & Administrative, Resources & Energy

***Sanrus Pty Ltd v Monto Coal 2 Pty Ltd (No 5)* [2019] QSC 210**

August 2019, Resources & Energy, Contract

***Harro Group Pty Ltd v Aspire Pty Ltd* [2019] QSC 189**

August 2019, Contract

***Aurizon Network Pty Ltd v Glencore Coal Queensland Pty Ltd & Ors* [2019] QSC 163**

June 2019, Contract

***King v Australian Securities and Investments Commission* [2019] QCA 121**

June 2019, Corporations, Appellate

***Equititrust Limited v Tucker and Others* [2019] QSC 51**

March 2019, Contract, Corporations, Corporate Insolvency & Bankruptcy

***Wellington v Huaxin Energy (Aust) Pty Ltd (formerly Cuesta Coal Limited)* [2019] QSC 18**

February 2019, Contract, Resources & Energy, Land Law & Property

Suncorp-Metway Ltd ABN 66 010 831 722 v Nagatsuma & Anor[2019] QSC 16

February 2019, Land Law & Property, Banking

King & Ors v Australian Securities and Investments Commission[2018] QCA 352

December 2018, Appellate, Corporations

Byerwen Coal Pty Ltd v Colinta Holdings Pty Ltd (no.2)[2018] QCA 350

December 2018, Resources & Energy, Land Law & Property, Contract

Aurizon Network Pty Ltd v Queensland Competition Authority & Ors[2018] QSC 246

October 2018, Judicial Review & Administrative, Competition & Consumer

Port Ballidu Pty Ltd v Frews Lawyers[2018] QCA 110

June 2018, Competition & Consumer, Corporations

New Acland Coal Pty Ltd v Smith[2018] QSC 88

May 2018, Judicial Review & Administrative, Planning & Environment, Resources & Energy

King v Gunthorpe[2018] QSC 1

January 2018, Contract, Corporations, Professional Negligence

Australian Conservation Foundation Incorporated v Minister for the Environment and Energy (2017) 251 FCR 359; [2017] FCAFC 134

August 2017, Appellate, Judicial Review & Administrative, Resources & Energy

Burrabungba v Minister for Natural Resources and Mines[2017] QCA 179

August 2017, Appellate, Resources & Energy, Judicial Review & Administrative

Hancock Galilee Pty Ltd v Currie[2017] QLC 35

July 2017, Resources & Energy, Planning & Environment

Whitsunday Residents Against Dumping Ltd v Chief Executive, Department of Environment and Heritage Protection[2017] QSC 121

June 2017, Judicial Review & Administrative, Resources & Energy

Port Ballidu Pty Ltd v Frews Lawyers[2017] QSC 19

February 2017, Commercial Equity

Australian Securities and Investments Commission v Drake (no2)[2016] FCA 1552

December 2016, Commercial Equity, Corporations

Burrabungba v Minister for Natural Resources and Mines(2016) 222 LGERA 13; [2016] QSC 273

November 2016, Judicial Review & Administrative, Resources & Energy

Land Services of Coast and Country Inc v Chief Executive, Department of Environment and Heritage Protection (2016) 222 LGERA 122; [2016] QSC 272

November 2016, Judicial Review & Administrative, Resources & Energy

***Annie Street JV Pty Ltd v MCC Pty Ltd & Ors* [2016] QSC 268**

November 2016, Building & Construction, Judicial Review & Administrative

***Coast & Country of Queensland Inc v Smith* [2016] QCA 242**

September 2016, Appellate, Judicial Review & Administrative, Planning & Environment, Resources & Energy

***Callide Power Management Pty Ltd v Callide Coalfields (Sales) Pty Ltd; CS Energy Ltd v Callide Coalfields (Sales) Pty Ltd (No5)* [2016] QSC 199**

August 2016, Contract, Resources & Energy

***Australian Conservation Foundation Incorporated v Minister for Environment* [2016] FCA 1042**

August 2016, Judicial Review & Administrative, Resources & Energy

***RCR O'Donnell Griffin Pty Ltd v Forge Group Power Ltd (Receivers & Managers Appointed) (in liq)* [2016] QCA 214**

August 2016, Appellate, Building & Construction, Contract, Resources & Energy

***Pointon & Ors v Oaks Hotels & Resorts Limited & Ors* [2016] QSC 152**

July 2016, Contract

***Lee v Abedian* [2017] 1 Qd R 549; [2016] QSC 92**

April 2016, Professional Negligence

***Comgroup Supplies Pty Ltd v Products for Industry Pty Ltd* [2016] QCA 88**

April 2016, Appellate, Commercial Equity

***Bradshaw v Griffiths* [2016] QCA 20**

February 2016, Appellate, Land Law & Property

***Callide Power Management Pty Ltd v Callide Coalfields (Sales) Pty Ltd (No 3)* [2015] QSC 295**

October 2015, Contract, Resources & Energy

***Coast and Country Association of Queensland Inc v Smith* [2015] QSC 260**

September 2015, Judicial Review & Administrative, Resources & Energy

***LPD Holdings (Aust) Pty Ltd v Russells (a firm)* [2015] QCA 122**

June 2015, Appellate, Contract

***RCR O'Donnell Griffin Pty Ltd v Forge Group Power Pty Ltd* [2015] QSC 186**

June 2015, Building & Construction, Contract

***Witherspoon v Hutson* [2015] QCA 109**

June 2015, Banking, Land Law & Property, Appellate

***BDO Group Holdings (Qld) Limited & Anor v Sully* [2015] QSC 166**

June 2015, Competition & Consumer, Contract, Employment & Industrial

Samimi v Queensland Building & Construction Commission[2015] QCA 106

June 2015, Building & Construction, Insurance, Appellate

Endocoal Limited v Glencore Coal Queensland Pty Ltd and Department of Environment and Heritage Protection [2014] QLC 54

December 2014, Planning & Environment, Resources & Energy

Londy v Van Nieuwburg [2014] QSC 290

December 2014, Commercial Equity

Canehire Pty Ltd v Themis Holdings Pty Ltd[2014] QCA 296

November 2014, Commercial Equity, Appellate

J M Kelly (Project Builders) Pty Ltd v Toga Development No. 31 Pty Ltd (No 6)[2014] QSC 262

October 2014, Building & Construction, Contract

Caltex Refineries (Qld) Pty Ltd v Allstate Access (Australia) Pty Ltd[2014] QSC 223

September 2014, Building & Construction, Judicial Review & Administrative, Contract

Callide Power Management P/L v Callide Coalfields (Sales) P/L[2014] QSC 205

August 2014, Contract, Resources & Energy

Markan v Bar Association of Queensland (No 3)[2014] QSC 225

July 2014, Judicial Review & Administrative

LM Investment Management Ltd (in liq) (re cs and mgrs apptd) as responsible entity of the LM First Mortgage Income Fund) v Bruce[2014] QCA 136

June 2014, Corporations, Appellate, Corporate Insolvency & Bankruptcy

Glencore Coal Queensland Pty Ltd v Keys[2014] QLAC 2

May 2014, Resources & Energy, Planning & Environment

Hancock Coal Pty Ltd v Kelly and Ors and Department of Environment and Heritage Protection (No. 4) [2014] QLC 12

October 2013, Resources & Energy, Planning & Environment

Clout v Andi-Co Australia Pty Ltd & Ors[2013] QSC 278

October 2013, Corporations, Corporate Insolvency & Bankruptcy

Modi and Clements v SDW Projects Pty Ltd and Ors[2013] QCA 221

August 2013, Land Law & Property, Professional Negligence, Appellate

Xstrata Coal Qld Pty Ltd & Ors v Keys & Anor; Xstrata Coal Qld Pty Ltd & Ors v Sky Grove Pty Ltd; Xstrata Coal Qld Pty Ltd & Ors v Erbacher; Xstrata Coal Qld Pty Ltd & Ors v Edmonds & Anor [2013] QLC 34

June 2013, Planning & Environment, Land Law & Property, Resources & Energy

***Shaft Drillers International LLC v Australian Shaft Drilling P/L* [2013] QSC 79**

March 2013

***Australian Securities and Investments Commission v. Managed Investments Limited & Ors No.4* [2013] QSC 15**

January 2013, Corporations, Corporate Insolvency & Bankruptcy

***Buckby v Wharton* [2012] QSC 416**

December 2012, Land Law & Property, Corporate Insolvency & Bankruptcy, Banking

***Anderson v ASIC* [2012] QCA 301**

December 2012, Corporations, Appellate, Corporate Insolvency & Bankruptcy

***Bradshaw v Bar Association of Queensland* [2012] QCA 322**

November 2012, Judicial Review & Administrative, Appellate

***Gough v South Sky Investments Pty Ltd* [2012] QCA 161**

June 2012, Contract, Appellate, Land Law & Property

***Sucrogen Australia Pty Ltd v. Westpac Banking Corporation & Anor* [2011] QSC 393**

December 2011, Land Law & Property, Banking

***Cassels & Anor v Brisbane City Council* [2009] QSC 124**

May 2009, Land Law & Property, Judicial Review & Administrative

***Octaviar Ltd, Re; Re Octaviar Administration P/L* [2009] QSC 37**

March 2009, Corporations, Corporate Insolvency & Bankruptcy

***Westfield Management Ltd v Brisbane Airport Corporation Ltd* [2005] FCA 32**

February 2005, Land Law & Property, Judicial Review & Administrative

RECOMMENDATIONS

Chambers & Partners Asia Pacific – Selected as a leading KC for Dispute Resolution

- 2024 “*We seek his advice for difficult matters*”.
- 2023 “*clever and outstanding in court and good for anything complex commercial, or resources or infrastructure-related*”.
- 2022 “*practitioner who is right at the top of his game, takes no backward step and is known in Brisbane as the barrister you brief for the hardest cases*”.
- 2021 “*widely regarded as an exceptional advocate*” and “*known in Brisbane as the barrister you brief for the hardest cases*”.
- 2020 “*leader of the future*”, “*ability to get on top of his material very quickly and to cut to the core of an issue*”

” and “*advocacy which is extremely clear, intellectually rigorous and forceful*”.

- 2019 “*very insightful in his case preparation and identification of issues*” and “*an outstanding advocate.*”
- 2018 “*outstanding analytical and advocacy skills, including a devastatingly effective cross-examination capability*”
- 2017 “*an exceptional advocate with a remarkable skill for articulating a case with the content and style that best convinces the judge and gives the client the best chance of success*”

Chambers & Partners Global – Selected as a leading KC for Dispute Resolution

- 2024
- 2022 “*unbelievably smart and diligent, clever and outstanding in court and good for anything complex commercial, or resources or infrastructure-related*”.
- 2021 “*known in Brisbane as the barrister you brief for the hardest cases*”.
- 2020
- 2018
- 2017

The Legal 500 Asia Pacific – Listed in Band 1 for Commercial Disputes

- 2024 “*Damian is excellent*”.
- 2023 “*Elegant and concise in expression, and deft in managing clients and assisting them in making decisions*”.
- 2022
- 2021 “*He is particularly skilled at articulating complex issues where the content and style that gives the client the best chance of success*”.

Australian Financial Review’s Best Lawyers Best Lawyers

2017-2025(Alternative Dispute Resolution, Bet-the Company Litigation, Commercial Law, Insolvency and Reorganisation Law, Litigation, Oil & Gas Law)

2023 he was named Brisbane Bet-the-Company Litigation ‘Lawyer of the Year’.

2014-2015named Brisbane Commercial Law ‘Lawyer of the Year’

Doyle’s Guide to the Australian Legal Profession 2024 –Preeminent KC for Commercial Litigation & Disputes (Queensland), Leading KC for Construction & Infrastructure (Queensland).

Doyle’s Guide to the Australian Legal Profession 2015-2024– Leading KC for Insolvency & Reconstruction (Queensland and Australia).

Doyle’s Guide to the Australian Legal Profession 2015-2023– Leading KC for Commercial Litigation & Disputes (Queensland and Australia).

Doyle’s Guide to the Australian Legal Profession 2015, 2017-2023– Leading KC for Construction & Infrastructure (Queensland).

Doyle's Guide to the Australian Legal Profession 2020 – 'Recommended' QC for Professional Indemnity (Queensland).

Doyle's Guide to the Australian Legal Profession 2016 – Nominated as a 'recommended' QC for Insurance (Queensland).

APPOINTMENTS

Chair of the Bar Association of Queensland's Business and Consumer Law Committee

Member of the Bar Association of Queensland's Professional Conduct Committee

Member of the Bar Association of Queensland's Queen's Counsel Consultation Group

Member of the Queensland Law Society's Commercial Litigation Specialist Accreditation Committee

MEMBER

Member of the Bar Association of Queensland

Sometime Instructor, Leading Evidence and Cross-Examination, Bar Practice Course

CAREER

2013 Appointed Queen's Counsel

2011 Appointed Senior Counsel

1996-present Practising Barrister

1996 Admitted, Barrister of the High Court of Australia

1995 Admitted, Barrister of the Supreme Court of Queensland

1994-1995 Associate to the Honourable Mr Justice Lee, Supreme Court of Queensland

1991-1995 Part-Time Tutor, Queensland University of Technology

1993 Research Assistant, the Honourable Mr Justice Spender and the Honourable Mr Justice Drummond, Federal Court of Australia

1993 Admitted, Solicitor of the Supreme Court of Queensland

1992 Associate to the Honourable JM Macrossan, Chief Justice of Queensland

1991 Article Clerk, Corrs Chambers Westgarth, Solicitors

EDUCATION

LLB (QUT) (1st Class Hons)

AWARDS

1992 Inaugural recipient of the TE Cain Moot Trophy

1990 Queensland Law Society Prize (awarded to the graduating Bachelor of Laws student with the highest aggregate marks in the subjects of Commercial Law, Conveyancing & Drafting, Company Law and Partnership and Taxation Law)

1990 Power & Power Company Law and Partnership Prize

1990 Clarke & Kann Taxation Law Prize

1990 Law Book Co Pty Ltd Professional Conduct Prize

1989 Butterworths Pty Ltd Equity Prize

PUBLICATIONS

Building Industry Fairness (Security of Payment) Act 2017 - An Issue of Competing Payment Schedules
June 2021, Building & Construction, Contract

Queensland's Human Rights Act: turning up the heat for Australian climate change litigation and development approvals?
June 2020, International, Class Actions, Land Law & Property, Native Title & Cultural Heritage, Planning & Environment

Timing is Everything
July 2019, Insurance

Objections to Resource Projects in the Land Court
March 2015, Planning & Environment

Liability limited by a scheme approved under professional standards legislation