LEADR's 12th international ADR conference

Welcome to ‘kon gres

‘kon gres 2013 continues LEADR’s innovative, responsive and inclusive approach: innovative because at 'kon gres your learning is interactive and reciprocal; responsive because ‘kon gres 2013 is designed from your compliments and comments on the successful 2011 ‘kon gres; inclusive because ‘kon gres 2013 is in a city near you!

You have told us that you want up-to-date research, to find out what other practitioners are doing, networking opportunities, reinvigoration and manageable costs. ‘kon gres 2013 delivers on each of these. Keynote speakers Bernie Mayer (USA) and Myrna Lewis (South Africa), have embraced the ‘kon gres style of learning as have the many excellent local presenters who will deliver concurrent sessions. And because ‘kon gres is being held locally for two days, we have been able to keep the fees very competitive.

The Board is very pleased that you are joining us at ‘kon gres 2013. We look forward to learning together and to growing our ADR community of practice.

Margaret Halsmith
Chair

In 2009 and 2011, LEADR reshaped its international conference

In 2013, LEADR is retaining these key features and extending the reach of ‘kon gres. Our international presenters are touring from one city to the next to make ‘kon gres as accessible as possible to more of our members. With our Call for Papers attracting more than 80 submissions, we have selected concurrent sessions that we are confident will engage you, stimulate your thinking, be the springboard for lively conversations with colleagues and will inspire you to sharpen your practice.

We are delighted to be connecting with you at ‘kon gres 2013.

Fiona Hollier
Chief Executive Officer, LEADR

The feedback from the 230 participants who attended ‘kon gres in both Melbourne and in Brisbane, was enthusiastic about the format, the friendly welcoming LEADR community, the collegiality, the experiential sessions and the high quality presentations.

In 2009 and 2011, LEADR reshaped its international conference
Day 1: 17 September, 2013

9:00 Welcome and introduction
To be opened by the Hon. Michael Mischin MLC, the Attorney General of Western Australia and Minister for Commerce

9.40 The conflict intervener’s challenge: encouraging constructive competition and powerful cooperation - Keynote workshop - Prof. Bernie Mayer

10.30 Morning Tea

11.00 The conflict intervener’s challenge - Keynote workshop - Prof. Bernie Mayer - session continues

12.30 Lunch

1.30 Growing the ADR business facilitated by Fiona Hollier, CEO - fast paced table discussion

2.30 Update from the National Alternative Dispute Resolution Advisory Council (NADRAC): making a difference in ADR - Margaret Halsmith, NADRAC Council Member

3.00 Afternoon tea

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<th>Westend 2</th>
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| 4.15 | Victor Konijn | Rigel Walshe |
| Richard Hickson | Growing a mediator business: by widening your services perspective | Self esteem, identity and conflict |
| Negotiated outcomes for family violence victims in care and protection & VROs |

5.00 Finish and drinks in bar

6.00 Link-up dinner
The George, 216 St Georges Terrace, Perth
## Day 2: 18 September, 2013

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<td>Prof. Robyn Carroll (Researcher) &amp; Margaret Halsmith (Practitioner): Apologies in mediation: from theory to practice</td>
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<td>Presentation of LEADR Practitioner Awards for Significant Contributions to ADR by ADR practitioners</td>
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<td>Closing ceremony</td>
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**CLOSE**
Venue layout
To maintain your accreditation under the National Mediator Accreditation Standards you are required to undertake 20 hours of continuing professional development (CPD) in each two year period.

Most Recognised Mediator Accreditation Bodies (RMABs), of which LEADR is one, ask mediators to maintain and present their own record of CPD, expecting that they will do so honestly. Some RMABs, or other membership organisations, also require some additional evidence of attendance at CPD such as a signature from the organiser.

To facilitate your record keeping, we have provided a list of the sessions at ‘kon gres below which will contribute. Of course you may wish to “taste-test” several sessions. For the integrity of the CPD system, as a guide, please only tick those sessions where you attended the whole session, arriving no later than 5 minutes from the start of the session and then staying until its conclusion. If you require a signature of attendance, please ask the presenter, the host or one of the delegates with a coloured name label attending that session.

When it is time for re-accreditation, refer to these pages to make submitting your CPD straightforward.

### 17 September 2013

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Welcome to LEADR, a vibrant community of mediators and other ADR practitioners. Formed in 1988, LEADR is a not-for-profit organisation with more than 2700 members in Australia, New Zealand and the Asia Pacific region.

10 great reasons to belong to LEADR

- LEADR is a community of more than 2700 members with an influential presence across Australasia and in the Asia Pacific region
- LEADR is owned by its members
- LEADR members govern LEADR - the Board of Directors are members elected every two years by the LEADR membership
- LEADR members set the strategic direction of LEADR - the elected Board of Directors regularly engages in strategic planning processes
- LEADR members have a voice on LEADR’s future directions and on ADR issues - we regularly seek input and feedback from members
- LEADR reinvests any financial surplus to secure its future, to deliver services to members and to promote ADR in the community
- LEADR keeps members informed through monthly editions of our e-newsletter, Update, through regular news and issue specific communications and through the extensive range of relevant resources on the website
- LEADR delivers opportunities to connect with colleagues and engage in CPD through local Chapter events, training programs and our biennial conference ‘kon gres’
- LEADR provides quality accreditation services including national, LEADR and Advanced accreditation. LEADR is the only qualifying assessment program for international accreditation with the International Mediation Institute (IMI) in Australasia
- LEADR practitioner and advanced members have access to a very competitive Professional Indemnity and Public Liability Insurance package and the LEADR complaints handling service. LEADR handles complaints sensitively, respectfully and carefully

Contact LEADR for more information

**In Australia:**
Email: leadr@leadr.com.au
Phone: +61 2 9251 3366
Address: Level 1, 13-15 Bridge Street, SYDNEY 2000

www.leadr.com.au

**In New Zealand:**
Email: leadr@leadr.co.nz
Phone: +64 4 470 0110
Address: Level 6, Prime Property House, 2 Woodward Street, WELLINGTON

www.leadr.co.nz
Continuing professional development with LEADR Chapters

Life blood of LEADR

LEADR’s local Chapters are, in many ways, the life-blood of the organisation and a significant member service.

Chapter events provide important networking opportunities:

• to build collegiate relationships
• to run consultation sessions for eliciting feedback to submit to government inquiries and
• to offer continuing professional development to members and the broader ADR community.

The Chapter activities are implemented by a partnership between the local Chapter Executive and the LEADR office.

Local members organise a calendar of continuing professional events and handle all the logistics at the event; LEADR prepares the flyers and advertising and broadcasts this to members.

New Chapters

LEADR’s longest standing Chapters are located in major cities. We are keen to start more Chapters both in major cities and in regional areas.

If you are interested in initiating a Chapter, please speak with LEADR staff to find out how we can do it together.

Find out more about Chapter events on LEADR’s website: www.leadr.com.au

Current Chapters

and the Chair or local contact person:

New Zealand
Meetings in Auckland, Wellington & Waikato
Chair, Mark Beech

Queensland
Brisbane contacts, Carol Bowen

NSW
Sydney, Chair, Val Sinclair
Newcastle Chair, Lyn McLardy

South Australia
Chair, Amelia Taeuber

Tasmania
Chair, Greg Hince

Victoria
Chair, Jeanette Kinahan

Western Australia
Chair, Wendy Franklin
Keynote Speaker: Bernie Mayer

The conflict intervener’s challenge: encouraging constructive competition and powerful cooperation

Wellington 5 Sept, 9.40am | Sydney 9 Sept, 9.40am | Melbourne 12 Sept, 9.40am | Adelaide 16 Sept, 9.40am | Perth 17 Sept, 9.40am

The story of the human experience is defined by how we have handled the essential but contradictory challenges of competition and cooperation.

The origin of this challenge exists in the earliest stages of life’s evolution and continues to this day. Our future on this planet is dependent on how we learn to handle this challenge. Today’s public culture is not encouraging. We do not seem able to compete with respect or cooperate when essential.

As conflict specialists, we work on this issue every day of our professional lives. But we often fall into a dualistic trap, believing we have to choose between cooperation and competition. In fact, competition is an essential feature of cooperation and cooperation of competition.

I will address how we can understand what we do in terms of life’s most fundamental challenge and how in return we can offer the insights and skills of conflict intervention to changing the public culture so that our most serious conflicts are addressed in a wise and more courageous manner.

Bernie is a leader in the field of conflict resolution. Bernie has facilitated many complex environmental conflicts, commercial and organisational disputes, interpersonal conflicts, public decision-making processes, and also has an extensive background in family mediation.

Bernie is a founding partner of CDR Associates, a pioneering conflict intervention firm, located in Boulder, Colorado. He has provided consultation, mediation, facilitation and training for federal, state and local agencies throughout the US and Canada and has extensive international experience in setting up dispute resolution programs and working on complex issues such as ethnic relations, conflicts between governments, corporations and non-governmental organizations, and community disputes.

Bernie is the author of many books and articles including The Dynamics of Conflict: A Guide to Engagement and Intervention (2nd ed.); Beyond Neutrality: Confronting the Crisis in Conflict Resolution, and Staying With Conflict: A Strategic Approach to Ongoing Disputes. Both Beyond Neutrality and Staying With Conflict were named as the outstanding book of the year by the CPR International Institute for Conflict Prevention and Resolution. Bernie lives in Kingsville, Ontario, and Boulder, Colorado.
It's time to question the myth, which has been perpetuated through our socialisation process, that relationship tension is bad, as is conflict. Sadly, as a result of this view we tend to be conflict averse.

Each one of us is unique. It is through our diversity and rubbing against one another that innovation, creativity and new pathways are forged. Our problem is not with the tension, but how to ensure the tension is properly surfaced and resolved to enable the flow of wisdom inherent in the tension to emerge. A core feature of the Deep Democracy approach is that it creates a safe space for deeper, often unconscious issues to arise in a conversation, and in doing so wisdom emerges. Myrna will share the Deep Democracy tool: Let's Talk which conflict interveners can use in a range of conflict contexts and as part of a broad set of conflict interventions.

Deep Democracy was born when South Africa’s national utility company asked Myrna Lewis and her late husband, Greg to help a large division make the leap into the New South Africa. Like most apartheid-era corporations, this was a racist, sexist workplace, where each employee filled a rigidly defined slot in the hierarchy. Now, virtually overnight workers were expected to become team players. They had to make cooperative decisions and support each other in implementing them—all in the crucible of deeply rooted racial, cultural and gender-based tensions.

The Lewises responded to these enormous challenges by adapting the complex science of Arnold Mindell’s Process Orientated Psychology and applying it to everyday demands of the new dispensation. With their help, their client’s 5,000 workers weathered the transition, and took the company forward in the new South Africa.

After Greg died in 2002, Myrna continued to refine the techniques. Over fifteen years Deep Democracy has been honed into a five-step methodology that is used in all sectors of society and in over 20 countries.

Co-founder of the Lewis Method of Deep Democracy, Myrna has a BA degree in Social Science, BA Hons degree in Psychology and a M.A. degree in Clinical Psychology. She completed further training in Process Orientated Psychology and Psycho Synthesis.

Myrna pioneered teaching methods with autistic children and worked with autistic and aphasic children as a special needs teacher. As a social worker, she worked in the fields of drug addiction, alcoholism and adoption counselling. She was one of the first social workers in South Africa to initiate a private practice as a social worker. Myrna founded and became head of the Talisman Foundation Half-way home for mentally ill people and as a psychologist she supervised M.A. Social Work and M.A. Clinical Psychology students and Psychiatric Registrars.

Myrna entered the corporate world in 1986 and has been involved as a consultant facilitating large-scale transformation processes within corporate, NGO, NPO and social activist organisations in South Africa and internationally.

Myrna is a mother of two and a grandmother of four. She lives in Johannesburg, South Africa, and facilitates Deep Democracy training and processes internationally.
Apologies in mediation: from theory to practice
Perth 18 Sept, 11.00am

Mediation is a future focused process which addresses conflicts arising from the past. Participants who reach agreement in mediation have opportunities to make decisions about future outcomes as well as to make agreements acknowledging the past, including retractions, corrections, statements of regret, apologies and other apologetic gestures.

There is scholarly support for the use of apologies in mediation as well as anecdotal evidence of their effectiveness in mediation. There is, however, little by way of empirical research regarding the use and effectiveness of apologies that is applicable and accessible to mediators when apologies are sought or given in mediation. Until recently there has been no comprehensive theory that is based on empirical research of lay people’s understanding of what they require of apologies. In this presentation we provide an overview of an emerging theory of apology based on lay people’s perceptions of apologies. We then raise some questions from the theory for mediators and participants in mediation.

The overall objective of the workshop is to provide the audience with an opportunity to put into practice the multidimensional theory of apology and to consider its implications for best practice, from the individual ‘first separate sessions’ to the successive stages of the mediation.

Prof. Robyn Carroll is a professor in the Faculty of Law at the University of Western Australia. She has been an accredited mediator since 1999. Robyn is also a senior sessional member of the Western Australian State Administrative Tribunal in the Human Rights stream where she conducts hearings and mediations in guardianship and administration matters. Robyn has published numerous articles on mediation and the role of apologies in the resolution of legal disputes.

Margaret is the Principal Mediator in her mediation practice of 18 years. Her practice areas are interpersonal and relationships; family and extended family; business and commercial. She holds national and international mediator accreditations (NMAS, LEADR Advanced, IMI) as well as registration as an FDRP. Her focus includes the experience of participants in ADR; best practice ADR and professionalization of ADR. Margaret is the Chair of LEADR Australasia and a Vice Chair of the Independent Standards Commission of the International Mediation Institute based in The Hague. She is also the Deputy Convenor of the Western Australian Dispute Resolution Association.
Neighbour disputes can be among the most difficult and entrenched conflicts to mediate. Difficulties emerge for a number of reasons including:

- The emotional content around the notion that ‘our home is our castle’;
- Increasing densities in inner city areas are bringing people into closer contact with each other;
- Residential Design Codes incorporate consultation processes which sometimes heighten, rather than calm tensions;
- Conflicts which begin with something quite petty can quickly escalate and erode trust.

Despite these difficulties, there are aspects of neighbour disputes which a mediator can work with to assist with resolution. Often, there is an earlier co-operative relationship which can be drawn on to work as a model for the future. In addition, there is generally a joint motivation to work things out as the parties will generally be faced with living in close proximity to each other for the foreseeable future, and other forms of dispute resolution are largely unsatisfactory.

Examples of typical neighbour disputes include the following contexts:

- Dividing fence/retaining wall issues;
- Overlooking/privacy impacts;
- Strata title common property concerns;
- Noise and other amenity issues

This session will explore some of the unique aspects of neighbour disputes and how mediation can be used as a valuable conflict resolution and management approach in this area.

Graham was admitted as a practitioner of the Supreme Court of Western Australia in 1987. Since then, he has advised and represented clients in a variety of areas including the specialist areas referred to above.

His experience includes appearing for clients in the High Court, Federal Court, Supreme Court of WA, the Native Title Tribunal, Administrative Appeals Tribunal and State Administrative Tribunal.

Graham has represented parties in a variety of mediations, and has conducted numerous successful mediations since becoming a LEADR accredited mediator in 2005. He is a member of the committee of the WA State Chapter of LEADR and the ADR committee of the Law Society, and has experience as a co presenter of the UWA Law School short intensive course on negotiation and mediation. Graham is also accredited under the newly established National Mediator Accreditation System.
In depth exploration of trauma as an underlying issue in mediation practice

Perth 18 Sept, 9.00am

How many times have we heard mediators mention that the clients they are now working with seem to have more complex issues and higher conflict than before?

From commencement of mediation service delivery at Relationships Australia WA we have been analysing client presenting needs; client feedback, as well as practitioner observation/feedback.

Over the past two years particular attention has been given to factors that may contribute to conflict leading up to, during and after mediation. We have found complex trauma traits experienced by one or both clients is a prevailing issue that if left undetected by the mediator can reduce the effectiveness and outcome of mediation, not to mention the impact upon the client(s). Clients may present with anxiety, depression, post traumatic stress disorder, risky alcohol and drug use; together with difficulties with relationships, work or study.

Our interactive workshop will provide a theoretical background to build a platform for mediator skills extension of:

- Exploration of complex trauma, during the pre-mediation assessment phase;
- Engagement of client(s) who are ‘triggered’ during mediation;
- Containment and intervention strategies throughout the mediation process.

In addition it is anticipated through engagement in activities and discussion participants will gain a greater understanding of what defines trauma; what is the difference between complex v’s ‘single incident’ traumas; how a mediator can bring the client to a ‘safe place’.

Mandy is the Senior Manager of Family Dispute Resolution at Relationships Australia WA, with over thirteen years’ experience in the field of mediation. Mandy is an accredited trainer and assessor for the Vocational Graduate Diploma in FDR.

Mandy has overall management responsibility of Perth Family Relationship Centre, Bunbury Family Relationship Centre and Relationships Australia WA Mediation Service.

Mandy is a steering committee member of WA Family Pathways Network, and SCRAM, a member of the Family Court WA reference group, Department of Human Services Stakeholder Engagement group, Multicultural Consultative Forum and South East Metropolitan Reference Group.

Mandy is committed to exploring what works well for the clients in a FDR setting, along with opportunities for future FDRP growth.

Irina is a Nationally Accredited Mediator, a Practitioner Member of LEADR and LEADR Accredited, and an Accredited Family Dispute Resolution Practitioner.

Irina has assisted clients in mediation for commercial, personal, workplace and family disputes since 2007. She has worked both in private practice and with Relationships Australia. Irina is tertiary qualified in Industrial Relations (Major), Psychology (Minor) and Business Management (Post Graduate).

In addition to her mediation experience, Irina has 25 years’ experience in business in Australia, South Africa and Botswana. She has worked in the corporate, small business and tertiary education sectors. Her experience includes mediation, facilitation, small business ownership, telecommunications, corporate training, market planning, business development, research, account management, strategic business management and staff development.
Flexibility with inflexible personalities

Perth 18 Sept, 11.45am

This research is about understanding how inflexible personality patterns / disorders manifest in workplace mediation. The results of the quantitative study for my PHD provided partial support for the hypothesis that participants with an inflexible personality structure are more likely to have lower levels of satisfaction with mediation. Specific findings indicated that participants who scored higher in the dramatic cluster (narcissistic, histrionic, borderline, sadistic, and anti-social personality styles) were significantly more likely to achieve lower satisfaction with mediation process and outcome. More specifically, higher scores in the borderline personality scale were significantly predictive of lower levels of satisfaction with mediation process and outcome scales. Finally, participants who used denial as a defence during mediation were more likely to indicate lower satisfaction with mediation process and outcome. These results provide mediators with evidence that may help them to tailor mediation strategies that take account of inflexible personality patterns.

Over the last 20 years, Jenny has specialised in a range of private and corporate psychological and counselling services. These include long term and brief therapy frameworks, mediation, training and group facilitation. She has a private practice where many of her clients have workplace conflict. Her consulting in organisations is based on customised consultations that result in a range of interventions such as counselling, training, mediation, coaching and fitness for work assessments.

Jenny has consulted in a range of government, private and educational organisations. Jenny is currently writing up her PHD on “The impact of personality structure on satisfaction with mediation process and outcomes” and has presented papers on her research at the LEADR conference in 2009 and 2011 as well as at the National Mediation Conference in 2008.
Islamic finance operates on different assumptions to those regularly found in conventional finance, resulting in a range of transactions and financial structures specific to the industry. Drawing on my PhD research, this paper will present the methods and resources available when disputes arise around Shari’a-compliant transactions in Islamic finance. With regards to ADR specific to Islamic finance, I will present the discussions and initiatives including those of the Dubai Center for Islamic Finance Arbitration and Arbitration Centers in Malaysia and Singapore that are exploring alternative dispute resolution possibilities for the Islamic finance industry.

Anne-Sophie is a PhD candidate at the Ecole Normale Supérieure (France), working on an analysis of systems of authority in Islamic finance between three regional / geographical centres. She is Founding Director of Grapes – a young startup specializing in emerging markets and Islamic finance. Anne-Sophie has an MPhil (2010) in international relations on Islamic finance from the Australian National University during which she was awarded the National Australia Bank Sheikh Fehmi El Imam scholarship.

Founding member of CIRID and on the scientific committee of the 2014 Singer-Polignac/CIRID conference on economic justice, her research interests include predatory lending practices.
Margaret Halsmith

Update from the National Alternative Dispute Resolution Advisory Council (NADRAC): making a difference in ADR

Perth 17 September, 2.30 pm

Did you know that Australia has National ADR principles? This is one among many of the outputs of NADRAC. The National Alternative Dispute Resolution Advisory Council is an independent group which provides policy advice to the Australian Attorney General regarding the development of ADR. NADRAC also promotes the use and raises the profile of ADR.

In this short presentation I will describe how NADRAC works and the broad range of outcomes of the Council as well as providing an overview of current projects. NADRAC flagships include ‘Your Guide to Dispute Resolution’ which has proved very popular Australia wide and beyond; contribution to the Civil Dispute Resolution Act and the development of Dispute Management Plans for Federal government agencies. Each of these and many other initiatives have been in response to the current NADRAC Reference which is to develop a culture of dispute resolution in Australia.

Margaret was appointed by the then Attorney General, the Hon Robert McClelland, to the National Alternative Dispute Resolution Advisory Council (NADRAC) in 2008 and has been a NADRAC Council Member since that time. Margaret is the Principal Mediator in her mediation practice of 18 years. Her practice areas are interpersonal and relationships; family and extended family; community and government; business and commercial. She holds national and international mediator accreditations (NMAS, LEADR Advanced, IMI) as well as registration as an FDRP. Her focus includes the experience of participants in ADR; best practice ADR and professionalization of ADR.
In mediation, interests are sometimes so implicit, so deeply held, that it is hard for participants to recognise or articulate them. These interests are frequently driven by values of which the person may be only dimly aware.

Moral psychology studies how humans develop and respond to their values. In recent work, psychologist Jonathan Haidt separates values into six main clusters that he calls Moral Foundations. We will use this framework to explore our own values, and how these could distort our neutrality during mediation.

We will also consider how to help mediation participants find and work with their own values-based interests. We will approach this challenge in three stages:

- Diagnose: using a case study, we will see clues that help identify values-based interests
- Analyse: drawing on Moral Foundation Theory, we will use a structured approach to understanding these interests
- Apply: we will develop and share ideas for helping mediation participants address these interests.

As ‘kongres 2013 progresses across New Zealand and Australia, we will collate the ideas and strategies from these sessions, to help you incorporate them into your practice.

Phillip is Principal of a Sydney-based consultancy specialising in mediation, facilitation and skills development. He has more than 15 years’ experience in a wide range of contexts in the private, public and non-government sectors.

He is an active contributor to the profession; his previous conference presentations include such topics as: “Conflict Specialists and Public Confrontations”, “Connecting with a Hostile Audience” and “Riding the Tiger: Resolving Complex Many-party Issues”.

Phillip is driven by the desire to help people make progress where it seems most difficult, the recognition of his own limitations, and the wisdom of trying to learn from those whom he least understands.
Victims of family violence face a number of legal challenges. They are often required to recall the “story” of their attack(s) to ten or more people. When combined with poverty, homelessness, mental illness, drug and alcohol issues and isolation these victims are often poorly placed to seek assistance in the legal system. Access to alternative dispute resolution and negotiated outcomes of violence restraining orders, care and protection issues, family law, criminal prosecution and criminal injuries compensation can assist these most vulnerable of victims. Most see outcomes that can be obtained without having to face their attacker or re-live the experiences as beneficial. It is intended to describe and give examples of existing ADR systems and non-adversarial procedures that exist and identify some improvements that may be made.

Case studies of typical domestic violence victims and the number of legal challenges they face will be examined. Examples and an explanation of the various non-adversarial avenues that are being developed to allow access to justice without re-traumatising the victim will also be discussed.

Richard Hickson

Negotiated outcomes for family violence victims in care and protection

Perth 17 Sept, 4.15pm

Richard is Principal Solicitor at the Family Violence Prevention Legal Service, Albany WA, where he is involved in ADR of Care and Protection matters, Violence Restraining Orders and Family Law cases.

Representing victims of family violence and sexual assault, Richard has become aware that vulnerable victims are usually intimidated by the legal system and their rights are usually only protected if they can resolve their legal issues with negotiated outcomes and often benefit if these outcomes are part of a holistic approach to their problems.

Richard previously worked in Native Title for an Aboriginal Representative Body and led a number of Native Title Future Act negotiations.

He was Assistant Attorney General for 4 years and then a Judge for 4 years in the Marshall Islands during which time he undertook studies at the United States Judicial College at the University of Nevada Reno.

He has also worked for ASIC enforcement in insurance litigation for Parker and Parker and in-house for GIO.
The role of decision making in dispute resolution in the workplace
Perth 18 Sept, 9.00am

Decision making is fundamental to the conditions that lead to and result from workplace dispute resolution. This workshop focuses on an often overlooked aspect of workplace competence: good decision making ensuring the alignment of decision making with organisational outcomes.

An analysis of decision making and identification of good decision making steps integrates the perspectives of an experienced lawyer and an experienced conflict management consultant to provide breadth and depth to the issues of decision making in the context of workplace conflict. Decision making is integral to all phases of dispute management including for example complaints handling.

The ideas presented in this workshop originate from anecdotal experience as a workplace mediator. Despite situational factors, most conflict originates from the proverbial “personality clash”. When there is a clash it is more likely to be generated by a person with an “inflexible” personality. Most mediators will recognise the personality styles of the parties in this interactive workshop. You will get an opportunity to consider how to tailor the “first separate session” to maximise rapport with the client, and prepare him/her for a constructive mediation process and outcome.

Bernard has been an adviser to the Chief of the Defence Force, the Abbot of a Benedictine Monastery, the Archbishop of a Diocese, the Vice Chancellor of a University and the Director of Catholic Education. He has managed a town, a start-up company, the legal training of the Defence Force, allegations of clergy abuse, and investigations into corruption. Bernard has studied and applied the disciplines of Law, Defence Strategy and Leadership.

Bernard is a full time husband and father of two girls, a part time legal counsel, consultant and Squadron Leader. He has advised many leaders on their decisions, has made a few of his own and learned from what happened next. A conversation with a 12 year old girl remains the best explanation of leadership that Bernard has ever heard.

Liz is the Conflict Resolution and Strategies Consultant for Curtin University. She advises on and provides complaint handling and workplace dispute resolution services including mediation, conflict coaching, conflict analysis and workplace conferencing. Liz also provides complaint handling and conflict management training to staff and students. Liz has a Masters of Conflict Resolution and Mediation from La Trobe University and through LEADR, Liz is accredited under the National Mediator Accreditation System.

Before her appointment at Curtin University in January 2011, Liz was the Dispute Resolution Practitioner for Western Australia and South Australia for the Department of Defence, and before that Liz was a Family Dispute Resolution Practitioner for Centrecare WA. She is particularly interested in conflict prevention and management in complaints handling, workplace mediation, unreasonable complainant conduct and conflict analysis.
Jill Howieson & Camilla Baasch Anderson

Pre-contractual mediation in contract negotiation – transplanting techniques from mediation and introducing a neutral contract facilitator

Perth 18 Sept, 11.45am

Inspired by the Scandinavian Pro-Active Law movement, the authors will be suggesting ideas for “out of the box” thinking on the utility of techniques from mediation and dispute negotiation.

The Scandinavian Pro-Active movement is built partially on the Preventive Law ideals of Louis Brown from the 1950s, encouraging the prevention of disputes rather than their resolution once arisen. The Pro-Active law movement takes this further by encouraging the lawyer to not only be preventive, but also to redefine the possibilities for law in business – asking the law to be less partisan and more creative in encouraging new forms of contracts.

The presentation will specifically examine the introduction of mediators as neutral contract facilitators in the drafting of commercial contracts, and the alternative use of mediators and mediator skills.

Camilla is a Professor at University of Western Australia. She was previously a Senior Lecturer at the University of Leicester in the UK, lecturer at the CCLS at Queen Mary in London, and before that she was a PhD research and teaching fellow at University of Copenhagen in her native Denmark.

Camilla was the founding co-editor of The Journal of Comparative Law and is a Fellow at the Institute of International Commercial Law at Pace Law School. Best known for her extensive scholarship on International Commercial Sales and Harmonisation of law, she has also written on uniformity and methodology of international law, comparative method in law, and pro-active applications of law and mediation.

Jill is an Associate Professor in the Faculty of Law at UWA and the coordinator of the Negotiation and Mediation, and Alternative Dispute Resolution (ADR) courses. She was an inaugural board member of the National Mediator Standards Board and is a nationally accredited mediator and family dispute resolution practitioner. Jill holds degrees in English, Psychology (Hons) and an LLB (Hons) and a PhD in Law from UWA. Jill’s research areas include procedural justice, alternative dispute resolution and legal education. Jill works from an inter-disciplinary socio-legal perspective and conducts empirical research.

Before entering academia, Jill practised law in the dispute resolution team of one of Australia’s top tier international law firms, King & Wood Mallesons. She has published widely internationally and nationally and is the co-author (with Nadja Alexander) of Negotiation: Strategy Style Skills (2010) Lexis Nexis.
Growing a mediator business, by widening your services perspective

Wellington 6 Sept, 11.45am | Melbourne 13 Sept, 11.15am | Adelaide 16 Sept, 4.30pm | Perth 17 Sept, 4.15pm

This presentation is for mediators that consider themselves not busy enough, and discusses widening the services perspective as an opportunity. I will share how I have deployed mediator skills for 12 years in my dispute prevention consultancy. Professional dispute prevention is faster, cheaper, and less stressful for the parties involved than dispute resolution.

The presentation will use commercial business project examples of how I successfully marketed and handled professional dispute prevention, wrapped in services to manage business processes including strategic alignment, project planning, issuing a tender, supplier selection, project governance, and change of management. These services prove to greatly enhance parties' mutual understanding and respect, and develop parties' appreciation of diversity of perspectives. This opens up opportunities for early intervention in case of issues, preventing escalations, and reducing the chance of disputes arising. Skills required to provide these services greatly overlap with mediator skills.

This perspective sees professional dispute prevention and ADR, and even litigation, as dealing with the same process in different phases of escalation.

As an attendee you will be offered practical tips to identify your own niche and opportunities to develop your dispute prevention consulting capacity. An exercise to practise finding your credible personal consulting niche to grow your business will follow the presentation. Each person attending is eligible for a free half hour consultation in person or by phone to discuss any challenges faced in implementing the ideas presented.

Victor is an Australian nationally accredited mediator. He applies his skills also as an international conciliator, facilitator, coach, mentor, and consultant focusing on business interactions throughout the life cycle of business initiatives, through his company Plutonic Zoo since 2001.

Prior to setting up Plutonic Zoo Victor worked in international technical and commercial corporate management roles in Australia, China, India, USA, and across Europe for a total of 15 years.

Victor is passionate about facilitating useful connections between individuals and/or organisations for accelerated success, based on deep understanding of parties' interests and needs. He works with his clients to clarify complex circumstances, connect perspectives, and create practical resolutions for issues as early as possible, to pave the way towards intended outcomes.

Victor holds a Master of Science degree in Electrical and Electronic Engineering (MSEE) from Eindhoven University of Technology, The Netherlands. He is a nationally accredited mediator (NMAS) and Cinergy conflict coach. Victor is a graduate member of the Australian Institute of Company Directors (GAICD) and a practitioner member of LEADR.

Originally from The Netherlands, Victor lives in Sydney with his Australian born wife and 3 school-going children.

He is fascinated by the diversity of people's interests and needs at any age, and their resulting motivations to behave and interact. When he is not working he enjoys interacting with family and friends, and people in the community.
In the recent past training of new FDRPs has involved reference to one main model of mediation. Although the classic diamond mediation model that has been widely taught and is relevant to much mediation, it does not accurately represent the process followed in FDR.

My thinking about this issue started when I was teaching students how to facilitate FDR meetings. I realised at that point that when the 'standard' model for conducting mediation was applied to FDR it had too many exceptions, i.e. "This is how we do FDR mediation - except that we don't do X, Y and Z!"

In this presentation I will present my suggested variations to the classic mediation model for application to FDR. The variations will actually be more about refinements than challenges to the classic diamond model but these changes are significant in the context of FDR, where the task of the FDRP is to advocate for children and the parties need quick, practical solutions for their parenting issues.
Assessing the benefits of combining arbitration and mediation in an international commercial context

Perth 18 Sept, 11.00am

International commercial arbitration nowadays has become as complex, slow and expensive as judicial proceedings, if not more so. In response to this, alternative forms of dispute resolution are increasingly being used in conjunction with arbitration. The combined use of mediation and arbitration is emerging as a useful way of resolving international commercial disputes.

The combination of these two processes raises a lot of discussion among practitioners and academics globally. Considerable disagreement might stem from differences in legal cultures: mediation and arbitration are approached as fundamentally distinct institutions in the Western world, whereas in the Asian cultures and the Arab world the processes are traditionally integrated. The views of specialists in the field vary as to the appropriateness of a single neutral being in charge of both processes, the sequence of combining mediation and arbitration, conduct of caucuses, among other issues.

This presentation will provide an overview of the existing literature regarding the use of mediation in international commercial arbitration for the purposes of reaching a dispute’s settlement. It will focus on the above-mentioned and other problematic areas, and the diversity of opinions with the aim of identifying questions that require further research.

The workshop will focus on the possible ways of avoiding or overcoming problems while combining both methods so that mediation can be used efficiently in reaching settlement in international commercial arbitration. Following the presentation, the audience will be invited to participate in a discussion of issues raised by the speaker and share their experiences. In addition, participants will have the opportunity to analyse and make suggestions for improving a sample multi-tiered dispute resolution clause.

Dilyara works at the Association for International Arbitration (AIA) involved in the organisation and conduct of international conferences, trainings and university courses in the field of international arbitration and mediation. While working in Brussels, Dilyara regularly represented AIA at international events and published in English and Russian on ADR matters. Her publications include chapters on mediation and arbitration in Belgium, prepared together with Johan Billiet, for GAR’s editions of Arbitration (2012, 2013), European and Middle Eastern Arbitration Review (2012, 2013) and Mediation (2013). Dilyara is registered as a mediator in civil and commercial matters at the Belgian Federal Mediation Commission.

Outside work, Dilyara is keen on learning foreign languages and running. Upon arrival to Perth she became a member of the Western Australian Marathon Club and attends the club’s training regularly.
The State Administrative Tribunal of Western Australia (commonly known as SAT) is a so-called “super tribunal” exercising broad civil and administrative review jurisdiction in areas often involving expert evidence. SAT has adopted innovative practices to maximise the value and minimise the cost of expert evidence in matters requiring adjudication, including requirements for pre-hearing conferral of expert witnesses and concurrent expert evidence at hearings (sometimes referred to as “hot-tubbing”).

SAT has also adopted innovative practices in relation to mediation and other forms of facilitative dispute resolution which it uses to resolve a high proportion of cases in most areas of its jurisdiction and to narrow contested issues in matters requiring determination.

This presentation provides an overview of SAT’s practices in relation to expert evidence developed for adjudication and the incorporation and application of these practices in facilitative dispute resolution. The infusion of innovations from adjudicative to facilitative dispute resolution has occurred organically in SAT and has led to improved mediation outcomes and ongoing further innovation in relation to experts involved in mediation.

Judge Parry and Senior Member Spillane have both been involved in the development of SAT’s practices and procedures in relation to expert evidence and facilitative dispute resolution, including mediation, since the establishment of the Tribunal in 2005.
This presentation will explore the psychology of self esteem and identity with a specific focus on how commonly held beliefs about our place in the world and the social groups we belong to influence the prevalence of defensiveness and conflict.

How do peers and those around us influence the view of self? Why are some people more affected by the opinions of others and have a greater need for approval? What underlying psychological needs are those who engage in interpersonal conflict trying to meet through their actions? Why do seemingly superficial issues threaten their identity and trigger entrenched positions and defensive behaviour?

With deeper insights into the issues that threaten the sense of self and impact on the propensity to defensiveness and conflict we can recognise some of the behavioural cues and develop effective strategies in response.

This presentation will give participants a greater understanding of the "root of the roots of conflict" by presenting a framework by which we can understand these processes. ADR practitioners are then better able to recognise the aspects of personality and behaviour that trigger conflict. We can then assist parties to develop agreements that not only better meet their underlying needs but are also more durable.

Rigel is no stranger to conflict. His decade with the New Zealand Police has exposed him to many facets of conflict and dispute resolution—such as mediating in street assaults, managing prisoners at one of New Zealand’s busiest courts, and dealing with political protest at the prime minister’s residence.

His interest in attitudes and responses to anxiety consolidated over this period. Observing over 150 defendants facing the judge on a daily basis provided a rich resource for studying this facet of human behaviour. Insights on the propensity of individuals for violence, awareness of the subtle social cues of behavioural tendencies, and models of self-concept have led to fresh insights on how people use conflict to resolve their issues.

Rigel’s next career step was university study for a Graduate Diploma in Conflict Resolution along with accreditation as a LEADR mediator. During the period of his studies he has also worked with the New Zealand Peace Foundation in their Cool Schools Peer Mediation Project at one of Auckland’s most ethnically diverse secondary schools.

Now as a consultant with Davidson Kemp Consultancy he is also applying his insights, expertise and skills to the business sector through facilitation, training, programme development and coaching.
Native title disputes? Hold the line please!

Perth 17 Sept, 3.30pm

Mediation by the National Native Title Tribunal focuses on future land uses affecting native title. Conducting mediation in a cross-cultural environment is made even more challenging by the use of telephone mediation, necessary because of the geographically diverse locations of participants. The paper will explore those challenges, highlighting the need for mediation training which specifically includes techniques for telephone mediation.

Exploring those dual challenges through practical examples will provoke participants’ thinking and highlight the need for specialist training in telephone mediation which can be adapted to accommodate cross-cultural interactions.

Raelene holds a Bachelor of Science (Honours) in Physics from the University of Adelaide and a Bachelor of Laws from the University of Queensland. She was admitted to the Supreme Court of the Northern Territory and the High Court of Australia in 1992. In 1994, she was appointed Queens Counsel. Prior to her appointment as President of the National Native Title Tribunal on 1 April 2013, Ms Webb was named as one of the leading native title silks in Australia. She has appeared as lead counsel in many native title and Aboriginal land matters and has advised upon and appeared in the High Court in most land-mark cases on the judicial interpretation and development of native title/Aboriginal land law since the decision of Mabo v Queensland (No 2).