

# MarkDempseySC

## Arbitrator

## Mediator

## ExpertDeterminer

Mark Dempsey SC  
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# M D SC

**Mark Dempsey SC practices  
as arbitrator, mediator  
and expert determiner  
in commercial and  
construction disputes in  
Australia and internationally.**



# Biography

Mark brings to his arbitral and dispute resolution practice the wealth of experience drawn from his 40 years of commercial practice including 20 years as a Senior Counsel at the NSW and Australian Bars extending across contractual, corporate, banking, financial, insurance and insolvency areas.

Mark has acted for and against governments, and major power, infrastructure and mining contractors. He has acted for against banks and financial institutions, and has advised major cultural, sporting and charitable institutions.

His practice as senior counsel in court and international and commercial arbitration specialised in disputes on major construction, engineering, infrastructure, mining and energy projects across Australia, Asia, and the Pacific.

Mark sits as party appointed arbitrator and chair in a number of arbitrations including under ACICA, ICC, UNCITRAL and

RI rules. Mark was awarded fellowship of the Chartered Institute of Arbitrators (FCIArb) through the Singapore branch in 2012. He is a Fellow, panel arbitrator and member of the Australian Centre for International Commercial Arbitration (ACICA); accredited as an Arbitrator – Grade 1 on the Resolution Institute’s panel, and a member of the HKIAC’s List of Arbitrators. He is also a panel arbitrator and mediator of the Asian International Arbitration Centre (AIAC), a Fellow of the Asian Institute for Alternate Dispute Resolution (AIADR), an arbitrator on the Dubai International Arbitration Court (DIAC) Arbitrator List, and a panel arbitrator appointed by both Commonwealth (NBN disputes) and NSW agencies (Mining Access Arbitrations). Mark is also a member of ICCA, ICC, LCIA, SIArb and SOCL (UK, Australia and Singapore).

Mark acts as expert to determine commercial and construction disputes and has been appointed privilege referee in connection with SIAC arbitrations.

Mark has been an accredited mediator for over 12 years and regularly mediates construction and other commercial disputes.

Accolades include: Mark is “Highly respected and experienced barrister who has a fine brain. Collaborative and hard-working with exceptional analytical and advocacy skills.” (Legal500 2023). Mark “is regularly acknowledged by sources to be one of the most experienced and accomplished senior counsel practicing in the construction space. Commentators testify extensively to his impressive track record of success and ability to master the most complex cases. Fully conversant with arbitration and mediation procedures as well as with those of the courtroom, his practice encompasses matters across Australia as well as the Asia-Pacific region more broadly”. (Chambers Asia Pacific 2023 and Global 2023 - Construction & Infrastructure: The Bar – Band 1 – 10 years ranked).

# Qualifications Overview

Mark is the Chair of the Australian Bar Association's International Committee, and Co-Chair of the NSW Bar Association's International Committee.

## Principal Areas of Expertise

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| ● Arbitration – International & commercial | ● Corporations and insolvency |
| ● Appellate                                | ● Banking Law                 |
| ● Commercial Law and Equity                | ● Insurance Law               |
| ● Construction and infrastructure Law      | ● Mediation                   |
| ● Competition and Consumer law             | ● Professional Liability      |
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## Professional Experience

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| ● Arbitrator, Mediator and Expert Determiner | 2012 – Present   |
| ● Barrister and Senior Counsel               | 1988 – 2004, 2004 – 2024<br>7th Floor Wentworth Selborne Chambers<br>Sydney, Australia   |
| ● Solicitor                                  | 1982 – 1988<br>Allen, Allen & Hemsley (now known as Allens<br>Linklaters) Corporate, Finance and Litigation<br>Departments Sydney, Australia |
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# Professional Qualifications and Admissions

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● 2024	Arbitrator on the Hong Kong International Arbitration Centre's List of Arbitrators (HKIAC)
● 2024	Accredited as Arbitrator – Grade 1 with the Resolution Institute (RI)
● 2020	Member and Expert Determiner with the Resolution Institute
● 2014	Accredited Mediator, National Mediator Accreditation System (NMAS)
● 2013	Panelist, Asian International Arbitration Centre (AIAC)
● 2012	Fellow, Australian Centre for International Commercial Arbitration (ACICA)
● 2012	Fellow, Chartered Institute of Arbitrators Australia (FCIArb) – Arbitrator
● 2004	Appointed as Senior Counsel (SC) New South Wales
● 1988	Admitted to the Bar of New South Wales
● 1983	Admitted as a Solicitor of the Supreme Court of NSW and ACT
● 1982	Bachelor of Laws (Honours) and Bachelor of Arts: Australian National University, Canberra

## Sectors

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● Construction and Infrastructure	● Resources and Mining Construction and Infrastructure
● Energy and Utilities	● Energy and Utilities
● Joint Ventures	

## Recent Accolates

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- “Mark Dempsey is regarded as one of the most experienced construction counsel in the country. He is regularly appointed as counsel, and arbitrator, in complex infrastructure disputes”

**Chambers Asia Pacific 2024**  
**Band 1 Construction & Infrastructure:**  
**The Bar - 10 yrs ranked**

- “Highly respected and experienced barrister who has a fine brain. Collaborative and hard-working with exceptional analytical and advocacy skills.”

**Legal500 2023**

- 
- “A brilliant expert and a very clever man”

**WWL Thought Leaders Construction 2023**

- Arbitration Lawyer of the Year

**Best Lawyers in Australia 2023**

- 
- “... regularly acknowledged by sources to be one of the most experienced and accomplished senior counsel practicing in the construction space. Commentators testify extensively to his impressive track record of success and ability to master the most complex cases. Fully conversant with arbitration and mediation procedures as well as with those of the courtroom, his practice encompasses matters across Australia as well as the Asia-Pacific region more broadly.”

**Chambers Asia Pacific 2023**  
**and - Construction & Infrastructure:**  
**The Bar – Band 1 – 9 years ranked**

- “... very considered” “his maturity and experience of litigation come through,” “an excellent advocate and a pleasure to work with” “as comfortable down in the technical detail as he is up high advising on strategy” and “notable for his delicacy and diplomacy”

**2020 Chambers & Partners Asia-Pacific:**  
**Construction & Infrastructure:**  
**The Bar – Australia – Band 1**

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- “A thorough and tenacious senior counsel with an ability to master difficult forensic issues and large amounts of material”

**2021 Legal 500 – Band 1 Leading Silks**

- Construction & Infrastructure Senior Counsel, Australia and NSW.

**2023 – 2020 Doyles Guide**

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- Leading senior counsel in each of Construction/ Infrastructure Law, International Arbitration and Litigation

**Best Lawyers in Australia 2024-2021**

# Professional Appointments, Memberships & Associations

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- Hong Kong International Arbitration Centre (HKIAC) List of Arbitrators - 2024
- Resolution Institute – accredited as Arbitrator – Grade 1 – 2024
- Member of the Dispute Resolution Board Foundation – 2013-2015, 2024
- ICC Australia – since 2024
- Member of ACICA Professional Advisory Board – since 2024
- Arbitrator on the Dubai International Arbitration Court (DIAC) Arbitrator List – since 2023
- Co-Chair of NSW Bar Association International Committee from 2023, and member since 2021
- Resolution Institute – Expert Determination Panel – since 2021
- London Court of International Arbitration (LCIA) – since 2023
- Director of the Australian Centre for International Commercial Arbitration (ACICA) – 2019 to 2024
- Head of Chambers – 7 Wentworth Selborne Chambers, Sydney – 2020 - 2022
- International Council for Commercial Arbitration (ICCA) – since 2019
- Chair of the International Committee of the Australian Bar Association (ABA) – since 2019
- Panel Arbitrator & Mediator of the Asian International Arbitration Centre (AIAC) – since 2013
- Accredited Mediator (NMAS) – since 2014
- Fellow of the Chartered Institute of Arbitrators (FCI Arb) – since 2012
- Fellow of the Australian Centre for International Commercial Arbitration (ACICA) – since 2012
- Society of Construction Law (UK, Australia and Singapore) (SoCL) – since 2015, 2018 and 2020
- Director of Counsels Chambers Limited – 1993 to 2002
- New South Wales Bar Association, ACT Bar Association, Victorian Bar Association – since 1988, 1988 and 2020
- Australian Bar Association – since 1988

## Links

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Mark Dempsey SC at [markdempsey.com](http://markdempsey.com)

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**Mark is a fellow of CIArb, ACICA and AIAC and sits as party appointed arbitrator and chair in a number of arbitration proceedings. Mark has very extensive experience in arbitration having, over the last 3 decades, appeared in complex domestic and international commercial arbitrations in Australia and Asia as counsel including enforcement actions in the State and Federal Courts.**

## Select Arbitrations

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- Sitting as Sole Arbitrator under ICC Rules (2024) – dispute between Consortium members in relation to Battery Energy Storage facility in NSW
- Chair of a Tribunal ACICA arbitration for a joint venture dispute (2024)
- Sitting as Arbitrator in a commercial dispute under UNCITRAL rules (2024) – dispute under supply contract for upgrade of utility plant
- Privilege Referee appointed by SIAC Tribunal (2024) – dispute in relation to major housing development in Brunei
- Sat as Arbitrator of several access agreement arbitrations under the Mining Act NSW (2022 – 2023, ongoing)
- Sitting as Arbitrator of a construction dispute concerning a health facility (2023, ongoing)
- Acted as counsel in Gemcan Constructions Pty Ltd v \* Westbourne Grammar School (Enforcement of Arbitral Award) [2022] VSC 6 in a case recognising issue estoppel as a ground within the public policy exemption for recognition and enforcement. (2022)
- Sat as Arbitrator for a dispute between the principal and contractor under an EPC Contract in relation to a power plant concerning claims competing claims for delay, delay damages and variations and liquidated damages. (2021 – 2023, settled)
- Acted as privilege expert determiner appointed by SIAC panel in significant international construction dispute (2021)
- Sat as arbitrator in a commercial dispute under ACICA rules (2021)
- Acted as counsel in a successful SIAC Arbitration concerning the design and construction of a polymetallic processing plant in Vietnam and an international engineering consultant involving claims more than AUD \$165 million, and enforcement proceedings in the Federal Court of Australia



## Mark has been involved in various capacities in relation to expert determination and expert determination clauses for many years:

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- As expert determiner of disputes
  - As privilege expert determiner as an adjunct to ongoing arbitration proceedings
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- As counsel advising and conducting expert determinations
  - As counsel, in court proceedings challenging expert determinations and expert determination clauses.
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Mark is also available for appointment as facilitator of joint expert conferences. As counsel in construction, infrastructure, and mining cases Mark has vast experience in the presentation and cross examination of experts in a broad array of disciplines including time and delay analysis, the quantification of loss and damage, all aspects of engineering (including structural, geotechnical, chemical, metallurgical, finite element analysis, power station operation, the design and rectification of refractory linings in furnaces in power station boilers, tunnelling and mining), architectural, valuation, and other experts.

## Recent Expert Determinations

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- Privilege Referee appointed by SIAC Tribunal (2024)
  - Privilege expert determiner appointed by SIAC panel in a significant international construction dispute (2021)
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- Determination of dispute between developer and contractor on major hotel development in Sydney on contractual and technical issues (2021)
  - Determination of dispute between a State Government Department and a leading contractor on a significant public infrastructure project (2019)
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- The Illawarra Community Housing Trust Limited v MP Park Lane Pty Ltd [2020] NSWSC 751 and related proceedings – the Court considered the proper approach to the construction of expert determination clauses. Related proceedings which settled prior to judgment considered question whether a court should enforce an expert determination procedure if it was not reasonably capable of providing a just determination of the dispute.
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