
Peter Megens

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Australia



Peter Megens is an Australian lawyer and arbitrator who focuses on international energy, resources, engineering and construction disputes and domestic and international arbitration.

Peter has more than 37 years of experience in contentious matters of all kinds, whether involving arbitration, court litigation, mediation or negotiation. Peter also maintains an active practice advising clients on construction contracts and related disputes in the mining, energy and infrastructure sectors and other transactional matters relating to construction projects.

Peter is a former Adjunct Professor in Law at Murdoch University, a former Vice President of the Australian Centre for International Commercial Arbitration, a Chartered Arbitrator and an Accredited Mediator.

Peter has practiced in some of the leading law firms in the region including:-

Weigall & Crowther (Melbourne)(now part of Norton Rose Fulbright)-4 years-articled clerk, solicitor and senior associate

Wainwright Ryan-7 years-senior associate and partner

Minter Ellison-9 years-partner-head of Construction Group

Mallesons Stephen Jaques (and then **King & Wood Mallesons**)-14 years-partner-co-head of International Arbitration Group

King & Spalding-partner-Singapore office-2 years

Pinsent Masons (Australia)-partner-18 months

Practice Areas

- Construction & Infrastructure
- Energy & Natural Resources
- Global Disputes
- Domestic and International Arbitration
- Metals & Mining
- Insurance
- Real Estate

Representative Experience

- Represented Transfield Obayashi Joint Venture as builder of the Melbourne City Link Project on contract and regulatory matters and on dispute resolution arising out of the project, leading a team of 22 lawyers.
- Represented a major contractor on claims preparation and recovery on the Pluto LNG project in Western Australia.
- Represented a specialist contractor on the management of claims and disputes on the BassGas LNG Project in Victoria, Australia.
- Represented clients on various LNG pipeline and processing disputes in various locations throughout Australia.
- Advised an oil producer on FPSO issues arising out of projects in Western Australia and Western Africa.
- Advised a project sponsor on dispute resolution options and contract regime for resources project in Burkina Faso.
- Represented a specialist contractor consortium on the Ichthys LNG project in Darwin.
- Represented the contractor constructing the Roy Hill iron ore project in Western Australia.
- Represented the contractor constructing the Combined Cycle Power Plant for the Ichthys project in Darwin.
- Represented generators, contractors and project sponsors on various electricity generation and distribution disputes in Australia and the Asia Pacific region.
- Represented various industry bodies and their members including advice on *pro forma* contracts prepared for use in the construction and engineering industries.
- Represented an industry body and various contractors on matters before the Australian Royal Commission into the Building and Construction Industry.
- Represented a major Australian contractor in ICC arbitrations on a large-scale hydroelectric BOOT scheme in the Philippines and an infrastructure assets in Malaysia.
- Advised participants in the energy, oil & gas and resources sector on complex engineering projects and work including disputes over LNG processing plants, oil and gas platforms and FPSO conversion disputes, power plant disputes, pipeline disputes and complex processing plants and LNG re-pricing issues.
- Advised contractors and owners on various road, rail and rolling stock projects in Australia and Asia Pacific.
- Advised participants on various resources projects including infrastructure and commodity contract matters including project structuring and commodity disputes and resolution of the same.
- Represented engineering consultants and a regional contractor in SIAC arbitration on regional projects.
- Represented clients on a number of power station disputes in Australia and Southeast Asia.

- Arbitrator (sole, as chair and party appointed) in various arbitrations under various institutional and ad hoc rules and regulatory regimes.

Reported Cases Include

- *Aiton Australia Pty Ltd -v- Transfield Pty Ltd* (2000) 16 BCL 70.
- *State of Tasmania -v- Leighton Contractors Pty Ltd* (No 3) [2004] TASSC 132.
- *SMK Cabinets -v- Hili Modern Electrics Pty Ltd* (1984) VR 391.
- *Transfield Philippines Inc -v- Luzon Hydro Corporation* [2002] VSC 215.
- *IMC Aviation Solutions Pty Ltd -v- Altain Khuder LLC* [2011] VSCA 248.
- *CH2M Hill Australia Pty Limited & Anor v ABB Australia Pty Ltd & Anor (No 2)* [2016] NTSC 43
- *Transfield Philippines Inc & Others v Pacific Hydro Limited & Others* [2006] VSC 175
- *John Holland Construction & Engineering Pty Ltd v World Services & Construction Pty Ltd* (1993) (unreported, Supreme Court, Vic, Byrne J, No 4381 of 1993, 27 August 1993)
- *Ryde City Council v Transfield Pty Ltd* [2002] NSWSC 1037
- *Abigroup Contractors Pty Ltd v Transfield Ltd* [1998] VSC 103
- *Hyder Consulting (Victoria) Pty Ltd v Transfield Pty Ltd* [2000] VSC 361

Publications

- “Different Perspectives of Construction Risk - How Should It Be Allocated” (1996) 15 *AMPLA Bulletin* 179
- “Mediation in Australia: History, Policy and Application”, *Asian Dispute Review* (January 2006)
- “Compulsion of Evidence in International Commercial Arbitration: An Asia-Pacific Perspective” by Peter Megens, Paul Starr and Peter Chow, (2006) *Asian International Arbitration Journal*, 32
- “The Bakun dispute: Mandatory national laws in international arbitration” by Peter Megens and Max Bonnell, (2007) 81 *ALJ* 259
- “Arbitrators’ Perspective: The Evolving Face of International Arbitration – The Past, The Present and the Future” co-authored with Beth Cubitt,¹³ *International Arbitration Law Review* 1, February 2010
- “Privity and Promixity: the interaction of contract and tort in building and engineering cases”, MBA, Volume 15 Number 3, (1996) *Australian Construction Law Reporter Journal*
- “Assessment of Damages for Defective Work – Wheeler & Anor v Ecroplot Pty Ltd [2010] NSWCA 61”, co-authored with Bianca Friedman, *Australian Construction Law Newsletter*, Issue No. 133 July/August 2010
- “Meeting Disputants' Needs in the Current Climate: What Has Gone Wrong with Arbitration and How Can We Repair It?” by Peter Megens and Beth Cubitt, *The Arbitrator and Mediator*, Australia

- Case Note: “Interpretation of Construction Contracts - Floruit Holdings Pty Ltd & Anor v. Sebastian - Builders & Developers Pty Ltd” [2009] NSWCA 303 by Peter Megens and Tim Hall, *Australian Construction Law Newsletter* #129 November/December 2009
- Case Note: “Latent Conditions - BMD Major Projects Pty Ltd v. Victorian Urban Development Authority [2009] VSCA 221”, by Peter Megens and Derek Finch, *Australian Construction Law Newsletter* #130 January/February 2010
- “Singapore Arbitration and the Courts”, *Arbitration*, the International Journal of the Chartered Institute of Arbitrators, February 2012
- "Recent Trends in the Enforcement of Awards in the South-East-Asian Region" with Andrea Stauber- (2015) 18 International Trade and Business Law Review 204
- "Arbitral Law Reform in Australia: What are the Signs of Progress to Date" in the book "Arbitration and Dispute Resolution in the Resources Sector-an Australian Perspective" (2015) published by Gabriel Moens and Philip Evans.
- "The Commercial Arbitration Act 1984 and Offers of Compromise" with Brian Gallagher (1992) Law Institute Journal
- "The Liability of Professional Advisers in Tort for Economic Loss" with Craig Doherty (1992) Law Institute Journal.
- "The new Domestic Building Tribunal" with Eveline Strecker, (1996) Law Institute Journal
- "The future of International Arbitration in Australia" (2011) seminar for Law Institute of Victoria with Justice Clyde Croft and Albert Monichino
- "Emerging Trends in Judicial Approach to International Arbitration in Australia: the Winds of Change" with Beth Cubitt (2011) 77 *Arbitration: The International Journal of Arbitration, mediation and Dispute Management* 33
- "The Continuing Role of the State Supreme Courts in Domestic and International Arbitration in Australia" with Beth Cubitt (2010) 21 *Australasian Dispute Resolution Journal* 124.
- "Australian Case Report: Comondate Marine Corp v Pan Australia Shipping Pty Ltd" with Beth Cubitt (2009) *Asian International Arbitration Journal* 95.
- "Arbitration procedures and practice in Australia: an overview" with Max Bonnell, Mark Darian- Smith and Beth Cubitt (2012) *PLC*
- "International Arbitration Amendment Act 2010 (Cth)-Towards a New Brand of Australian International Arbitration" with Adam Peters (2011) *The Western Australian Jurist* 149.
- "Assignment, Novation and Subcontracting -who cares what you call it" with Bernard Ang, 10 *Building and Construction Law Reports* 319
- "The Building and Construction Industry Improvement Act: a new regime" with Meri Talevska (2006) 22 *BCL* 182

- "Contract or Conflict? An overview of the proportionate liability regime and its difficulties" with Beth Cubitt (2009) Commercial Law Quarterly Journal.
- "International Arbitral Awards and the Enforcement in Australia" (2011) ACICA News 13
- "Singapore Arbitration and the Courts-Quo Vadis?" (2012)78 International Journal of Arbitration, Mediation and Dispute Management 26.

Memberships (current and former)

- SIAC Panel of Arbitrators
- KLRCA Panel of Arbitrators
- HKIAC List of Arbitrators
- ACICA Panel of Arbitrators
- Former Director and Vice President of the Australian Centre for International Commercial Arbitration and member of the ACICA Council
- Former Vice President, Chartered Institute of Arbitrators (Australian Chapter)
- Chartered Arbitrator, Chartered Institute of Arbitrators
- Fellow, Institute of Arbitrators and Mediators Australia and Graded Arbitrator and Accredited Mediator
- Fellow, Australian Centre for International Commercial Arbitration
- Fellow of the Chartered Institute of Arbitrators
- Member of Building Disputes Practitioners Society, and former Secretary and Editor
- Member of Law Council of Australia, Construction and Infrastructure Law Committee and former National Chairman of the committee
- Society of Construction Law – Australian and Singapore Branches
- Law Institute of Victoria
- London Court of International Arbitration Users Group
- Law Society of New South Wales
- International Law Briefing Group and ADR Committee, Law Institute of Victoria
- Fellow, Singapore Institute of Arbitrators
- Member of the International Bar Association, member of IBA Arbitration and International Construction Projects Committee
- Former Panel Member Chartered Institute of Arbitrators' Panel Certificate Scheme
- Registered Foreign Lawyer with Singapore International Commercial Court.

- Member of the Complaints Committee for disciplinary proceedings of the Singapore International Commercial Court and Registered Foreign Counsel with SICC

Awards & Recognitions

2015

- *Who's Who Legal*, Construction 2015, listed in top 25 construction lawyers internationally

2014

- *Who's Who Legal*, Construction 2014

2013

- *Chambers Asia Pacific*, Construction 2013: Band 1
- *Chambers Global*, Dispute Resolution: Arbitration 2013: Band 2
- *Legal 500 Asia Pacific*, Construction 2013: Leading Individual
- *Global Arbitration Review* 2013
- *Who's Who Legal Arbitration and Construction* 2013

2012

- *Chambers Asia Pacific*, Construction 2012: Band 1
- *Chambers Global*, Dispute Resolution: Arbitration 2012: Band 2

2011

- *Chambers Asia Pacific*, Construction 2011: Band 2
- *Chambers Global*, Dispute Resolution: Arbitration 2011: Band 2
- *Legal 500 Asia Pacific*, Construction 2011: Leading Individual

2010

- *Chambers Global*, Construction 2010: Band 2
- *Legal 500 Asia Pacific*, Construction 2010: Leading Individual
- *Best Lawyers 2010*, Alternative Dispute Resolution, Construction/Infrastructure

2009

- *Legal 500 Asia Pacific*, Construction: Leading Individual
- *Best Lawyers 2009*, Alternative Dispute Resolution, Construction/Infrastructure

Quotes in Directories

- “A hugely respected figure in construction arbitration.” – *Global Arbitration Review* 2014
- “A key player in the arbitration team and particularly highly regarded for his expertise in construction disputes.” – *Chambers Global* 2012

- “Excellent litigator” and “respected as much for his extensive knowledge and experience in construction matters as he is for his determination and tenacity for contentious issues.” – *Chambers Asia Pacific* 2012
- “One of the country’s leading lawyers in international arbitration and construction law.” – *Chambers Asia Pacific* 2011
- “In addition to his extensive arbitration expertise, Megens is sought after for his construction, energy, natural resources and projects know-how.” – *Chambers Global* 2013
- “Peter Megens impressed observers on a string of construction matters.” – *Chambers Global* 2010

Court Admissions

- 1980: Victoria and Federal and High Courts of Australia
- 1990: New South Wales, Queensland, South Australia, Western Australia, Tasmania
- 2015: Registered Foreign Lawyer, Singapore International Commercial Court
- 2015: Registered Foreign Lawyer, England and Wales

Education

- 1997: Graduate Diploma in Finance Law, University of Melbourne
- 1979: Bachelor of Law (*First Class Honours*), University of Melbourne
- 1978: Bachelor of Commerce, University of Melbourne
- 1995: Harvard Negotiating Course at Conflict Management Centre, Melbourne
- 1996: Accredited Specialist in Alternative Dispute Resolution (Arbitration) Law Institute of Victoria
- 1996: Graded Arbitrator and Mediator with Institute of Arbitrators and Mediators Australia
- 2007: Chartered Arbitrator, Chartered Institute of Arbitrators.
- 2009: Adjunct Professor of Law, Murdoch University
- 2009: Accredited Mediator with Institute of Arbitrators and Mediators Australia and National Accreditation Scheme

Assistant

Kimberley -fluent in Mandarin ,Cantonese and Taiwanese
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