



**CURRICULUM VITAE**  
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## BRIEF SUMMARY

I have over 40 years' experience in construction and asset management, predominantly D&C and PPP projects industrial facilities; motorways & bridges; tunnelling; railways; hospitals, schools, prisons; shopping centres; multi-storey's, including offices, hotels & serviced apartments. My experience covers both general construction and structural steel fabrication and erection, with structural steel being the primary element of the industrial facilities and shopping centres that I worked on in the seventies and eighties. These included processing plants, a mining superstructure, a coal handling facility, 4 grain terminals, 2 container cranes, aircraft hangars, logistics buildings and 19 shopping centres in NSW, QLD and ACT. In Australia from 1974–86, in addition to supervising on-site general construction of projects, I also managed an in-house structural steel fabrication factory.

Since 2001, I have specialised in infrastructures, Public Private Partnerships (PFIs in the UK), including executive positions with Bilfinger Project Investments in the UK, Europe, Australia and Canada. In 2009–11, I was based in Germany as director of asset management of the Bilfinger Project Investments global portfolio, reporting to the Board on the design and construction, operational performance and risk management of more than 60 PPP facilities in 8 countries, with a value in excess of Euro 12 bn.; also participating in the management of disputes arising from these projects.

### **Currently (2019) I specialise in the following areas with infrastructure projects and PPPs.**

- **In dispute resolution**, as a member of Dispute Adjudication Boards; as an Arbitrator, Expert Witness and Neutral Negotiator. I have participated in more than 160 disputes in Europe, UK, Canada, Africa, Australia and New Zealand that have included a wide range of matters relating to D&C, PPP and property issues, as listed below.
- **Corporate and contractor advice on project assessment, due diligence and risk management methodologies for bidding and construction delivery**; conference speaking on these topics and university lecturing to Masters of Civil Engineering and Masters of Construction Law.

I have worked in Australia, NZ, Vietnam, Malaysia, Indonesia, Myanmar, Chile, UK, Germany, Norway and Canada, gaining an understanding of the cultural and business practices in these regions, and I have undertaken dispute resolution appointments in South Africa and Rwanda, as detailed below.

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## HIGHLIGHTS AND EXPERIENCE

- 2018 New Zealand – The Puhoi to Warkworth PPP Road Project – appointed as an Independent Expert to the Accelerated Dispute Panel for resolution of disputes by Expert Determination.
- **2016 Kingston University, UK** – guest lecturer with the Masters of Civil Engineering School, addressing risk management and dispute resolution in PPPs and infrastructures.

- **2016 Beijing Arbitration Commission** – speaker and panel member at the BAC London Summit, on “Implementing PPPs successfully – areas of risk and potential failure”.
- **2016 Melbourne University Law School** – guest lecturer on risk management for PPPs and infrastructures.
- **2016 Mersey Gateway Bridge UK** – appointed to the Construction Panel (DAB) to adjudicate on disputes arising on the project.
- **2015 Beijing Arbitration Commission** – appointed as a member of an international sub-committee to review and recommend revisions to the BAC DB rules.
- **2015 Stanford University California** – guest lecturer with the Masters of Civil Engineering School and Global Projects Centre, addressing complex issues arising in PPPs and infrastructure development, including risk management and dispute resolution.
- **2014 Gautrain Rapid Transit PPP Project South Africa** – appointed as an independent expert to undertake an analysis and interpretation of the terms of the PPP Agreement in respect of matters arising in a delay and disruption costs claim under arbitration.
- **2014 ResoLex Holdings UK** – appointed to the company Advisory Panel. ResoLex specialises in risk management and dispute resolution on construction projects.
- **2014 Port of Brisbane construction dispute** – represented a sub-contractor in successfully obtaining a disputed payment from a head contractor, invoking the “Queensland Building and Construction Industry Payments Act 2004”.
- **2014 CIARB Presidential Property Dispute Panel** – appointed to the UK Panel.
- **2012-13 East Africa** – appointed by an East African Government as an independent negotiator for the settlement of multiple construction disputes between the government and two foreign contractors. The contractual disputes consisted of range of construction claims and extension-of-time cost claims. The negotiations extended over 16 months.
- As part of this process, I wrote the following six expert Opinions on specific areas of interpretation and application of the amended FIDIC Contract, with these Opinions being reviewed by the international law firms representing the three parties to the negotiations. The Opinions formed the basis for settling many of the claims.
- An Opinion on the Interpretation and Application of the Contract Agreement in respect of the Rights and Obligations of the Parties on nominated issues.
- On the Meaning and Application of the Terms of Contract relating to Re-Design by the Contractor.
- On the Employer’s Entitlement to Reduce the Scope of Work of the Contractor and directly employ and manage subcontractors simultaneously with the Contractor’s Works and the cost implications thereof (covering Contract Works, Nominated Subcontractors and Provisional Sums).
- On the Contractor’s Entitlement to Loss of Profit and Overheads on Omitted Works.
- On the Employer’s Entitlement to Deduct Counter Claims from the Contractor’s Account under the terms of the Contract.
- On the Meaning and Application of Amended Terms of Contract relating to Claims for Extensions of Time and Applicable Costs and the respective Contractual Processes.
- **2013 Houston** – engaged as adviser on risk management processes for major projects by a company involved in EPC’s in the oil, gas and petrochemical industry.
- **2011 London Olympic Park** – engaged in a team of three to undertake an independent review of the design and construction of the district energy supply and distribution contract at Olympic Park, comprising 630 acres of redevelopment. The energy requirements were supplied through 79 sub-stations to the Olympic Venues and Village, the Westfield Stratford shopping centre and numerous new hotels, residential and commercial complexes. When we were appointed the contractor was 11 months behind programme; in dispute with 18 sub-contractors, who had largely withdrawn their workforces; and lacking necessary planning and building approvals. Our role was to advise the contractor on pragmatically resolving issues and claims with the sub-contractors; obtaining the approvals; and getting the project back on track in order to meet the deadline for the Olympics. This was achieved successfully.
- **2012-16 Sole Arbitrator** – Awards written on commercial matters, including renewable energy disputes.

## **GENERAL DISPUTE RESOLUTION EXPERIENCE**

- I have participated in more than 160 commercial disputes in Asia, Europe, UK, Canada, Africa and Australia, including disputes relating to standard D&C and PPP contracts and construction insurance matters. My involvement has included being a party representative, as arbitrator, mediator (neutral negotiator), in expert determination, adjudication, litigation and as an independent expert. I have specialised in negotiated commercial settlements.

### **PPP Concession Contracts**

- Extensive experience since 2001; participating in more than 40 PPP disputes. Generally there are four primary contracts; the Project Agreement, Finance Agreement, D&C Contract and FM Services Contract. The disputes involved a wide range of issues including contractual obligations, financing arrangements, scope of works, functionality and risk pass-through, extensions of time and FM/services terms; with the disputes involving issues in all the primary contracts.

### **Property and Construction Disputes**

- A professional liability claim against a Consulting Engineer, resulting in a \$1.0m settlement (claimant's representative).
- A sub-contractors claim under the NSW Security of Payments Act 1999, in which the builder missed the procedural time limits, resulting in having to pay the claim and then resort to adjudication on the merits (strategy adviser to the builder, who recovered 80% of the amount).
- Payment for variations claimed against a qualifying statement in a construction Bid proposal which were contested by the client (managed the builder's successful claim).
- Legal dispute over the copyright ownership of engineering design drawings for a Government contract. The private contractor successfully claimed ownership of the innovative structural design in an out-of-court settlement (private contractor's representative).
- Advice on drafting penalty/bonus terms of contract in lieu of liquidated damages in an Asian cross-border construction contract (investor client's representative).
- A Supreme Court litigation in which an insurance company asserted that the claimant builder was not insured for an industrial building collapse during an engineered dismantling process because they were in fact undertaking demolition, which was not covered under the insurance policy. Settled in favour of the builder after four days in Court (I managed the case on behalf of the builder).

## **ARBITRATION EXPERIENCE**

- 2012-16 – commercial arbitration Awards, acting as sole arbitrator.
- Managing two arbitrations between an international infrastructure company and an Australian State Government. The governing law was Australian law and the sums in dispute were \$7.5m and \$1.7m. The proceedings were placed on hold by mutual agreement after 12 months and prior to the Hearing, with resultant settlements.
- Specialist advisor to an investment fund involved in a \$10.0m insurance dispute going to arbitration. I provided independent analysis of the case merits and advice on strategy. Settled prior to the appointment of the arbitration tribunal.
- Follow-up research and client advice on strategies for enforcing an international arbitration Award for USD\$155m which had been set aside by a local court in South East Asia, with particular reference to the New York Convention 1958.

## **ADR EXPERIENCE**

### **Commercial Dispute Management and Negotiated Settlements**

- I have specialised in this area, providing government authorities and senior corporate management with independent contractual and strategic advice to achieve expeditious resolution and cost containment of disputes through negotiated settlements.

### **Mediation**

- Joint mediator in a complex construction extension of time dispute on a major health infrastructure project, which successfully resulted in the EOT terms of contract being re-written by mutual agreement of the parties, which comprised the client, head contractor and subcontract builder. Opinions were also received from three international experts. The re-drafted terms of contract were subsequently adopted by the State as the standard terms for PPP projects.
- Independent negotiator in the settlement of a dispute between more than 100 markets stall-holders with long term leases and a property developer seeking to re-develop the markets site and construct a multi-storey building on top of it. The dispute was over the terms of a temporary relocation; the building design and the lease-back terms for the new development. The development had been held up for 18 months by court injunctions and three separate litigations were in process. Over a 6 month period, I assisted the parties to negotiate a re-design and full settlement of the commercial terms.
- Mediator in a case in which a client claimed against a legal firm for excessive charges in a long-running litigation. The legal firm refunded \$400,000 fees.
- Successful mediation in Sydney in 2013 to resolve a four year dispute between a developer and a builder over defects and outstanding works retention sums being held by the developer and the consequent non-release by the builder of contractor certifications required for the issue of the occupancy certificate.

### **Expert Determination**

- I have acted as party representative in six expert determinations in the UK and Australia, all of which related to disputes arising in PPP contracts.

### **Expert Witness**

- 2014 Gautrain PPP Project South Africa – see above
- Engaged as an expert by an insurance company to investigate the structural integrity of an owner-built private home that was showing substantial cracking in the walls, with the owner claimed the cracking was caused by blasting on a nearby motorway construction. The investigation showed the clay soil foundations were substantially under-built compared to the engineering design.

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## **INDUSTRY INVOLVEMENT**

- Arbitrator on ABTA Panel (CEDR).
- Arbitrator on Renewable Energy Panel (IDRS).
- Past member of the RICS Mechanical and Electrical Group.
- Publication of pricing guide for Mechanical installations in South Africa.
- Contributor to the “Mechanical and Electrical Procurement Guide” published by RICS Books.
- Presentation at RICS seminar on Engineering Services Procurement.
- Presentation at Australian Institute of Quantity Surveyors seminar on M&E Quantity Surveying.
- Preparation of legal analysis on various topics including sums paid in settlement of Third Party Claims.
- Co-author of Human Dynamics in Construction Risk and Management (published in 2014).

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## **EDUCATION AND PROFESSIONAL MEMBERSHIPS**

- NSW Australia – Licenced Builder and Construction Supervisor 1975

- Postgraduate Diploma in Arbitration, Reading University, UK
  - Chartered Arbitrator – The Chartered Institute of Arbitrators, UK (CIARB)
  - Fellow – The Chartered Institute of Arbitrators, UK
  - Fellow – Australian Centre for International Commercial Arbitration (ACICA)
  - Accredited Mediator – CIARB UK
  - The Chartered Institute of Arbitrators UK (CIARB) – Arbitration Panel Appointee 2017-2020
  - Australian Centre for International Commercial Arbitration (ACICA) – Arbitration Panel Member
  - The Centre for Effective Dispute Resolution, London (CEDR)
  - The Dispute Resolution Board Foundation (DRBF)
  - Kuala Lumpur Regional Centre for Arbitration (KLRCA)
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## PUBLICATIONS

- **“Techniques for Negotiating Settlements”** – published in The Construction Law Journal (UK), Issue 2, 2016.
  - **“Human Dynamics in Construction Risk management – the key to success or failure”** – by Charles O’Neil, with specialist articles by 12 industry leaders – published November 2014  
[www.human-dynamics-in-construction-risk-management.com](http://www.human-dynamics-in-construction-risk-management.com)
  - **“The Need for a New Approach to Construction Risk Management”** – published in Feb 2014 in the Driver Trett Global Newsletter.
  - **“London 2012 Olympic & Paralympic Games – Securing Regeneration for East London”** by Charles O’Neil FCI Arb & Ian Williams MSc, CEng, FICE, FCI Arb – Head of Projects for the Government Olympic Executive, London 2012 – published in ACICA Journal Dec 2011.
  - **“60 Day Expert Determination – Structured to Meet the Commercial Expectations of Business Management”** by Charles O’Neil FCI Arb & Michael Hammes, Director of Forensic Services, PricewaterhouseCoopers AG, Frankfurt – published in CI Arb Arbitration Journal April 2011 and The Construction Law Journal April 2012.
  - **“Arbitration from a Commercial Client’s Perspective”** – speech to NSW Law Society in Sept, 2008 – published in CI Arb Arbitration Journal Feb 2009.
  - **“Checklist for Development Managers”** – by Charles O’Neil 1998.
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## REFERENCES

These can be provided on request.

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