

### **Lessons from Success & Failure in Major European Construction Projects**

Adrian Hughes QC is a barrister and arbitrator practicing construction and commercial law from 39 Essex Street chambers in London, with offices in Singapore and Kuala Lumpur.

For most of his career he has worked on disputes arising from major construction projects in the road, rail, education, health and defence sectors. Much of his work is international arbitration arising from energy and infrastructure projects in North Africa, the Middle East and all parts of Asia.

Adrian has a particular interest in arbitration in Asia and is on the Advisory Board of the Oxford University One Belt One Road Institute.

Adrian is a recent Chairman of the UK Society of Construction Law and is a staunch supporter of the Australian SCL.

Adrian spoke at a function organized by the Society of Construction Law and Consult Australia in Perth on 1 November. In reviewing experiences from a range of high profile, difficult construction projects, these were some of the lessons Adrian shared with his audience, including MBA Director, Michael McLean.

Problems and construction disputes often arose due to:

- Inadequate client skills
- Unrealistic cost estimates and expectations
- Inadequate management of changes to the scope of works
- No tiered dispute resolution processes
- No performance incentives being included
- Inadequate designs and poor documentation
- Inadequate planning of the project

The London 2012 Olympics project was highlighted as a success because:

- There were lump sum contracts for lower priced contracts
- The consultation program was regularly updated
- Early warning notices were issued by the client and contractors (21,000 over the 8 year project)
- The client was properly educated and trained
- Managerial procedures were clearly prescribed
- The (NEC) contract was well written with a fair allocation of risk
- The client provided clear and decisive direction
- There was an obligation to refer disputes to senior executives prior to going to adjudication/arbitration
- An Independent Dispute Avoidance Panel (comprising 11 members) was set up to deal with disputes prior to adjudication.

Interestingly, performance bonds and project bank accounts were used on this project.