



Present Positions

Solicitor and Attorney

Adjudicator, mediator, arbitrator, expert determiner.

Professional Qualifications

Attorney – South Africa

Notary Public – South Africa

Advocate of the Supreme Court of South Africa – South Africa

Admitted in New South Wales as a Lawyer - Australia

Admitted to practise as a Solicitor in Western Australia - Australia

Professional Standing

Fellow of the Chartered Institute of Arbitrators, London

Fellow of the Australian Centre of International Commercial Arbitration

Fellow of the Association of Arbitrators Southern Africa NPC

Member, Law Council of Australia and Law Society of Australia Joint Committee on Construction and Infrastructure

Registered Statutory Adjudicator (Construction Contracts Act (2004), Western Australia)

Registered Statutory Adjudicator (Construction Contracts (Security of Payments) Act, (2004) Northern Territory, Australia)

Senior Adjudicator, Adjudicate Today, Western Australia

Arbitrator and Mediator, Resolution Institute, Australia

Foundation Member, Dispute Resolution Board Foundation, Australia

Educational Qualifications

Bachelor of Commerce (Stellenbosch University)

Bachelor of Laws (Stellenbosch University)

Programme for Management Development (Harvard University Business School)

Executive Negotiation Programme (Harvard University)

Higher Diploma in Tax Law (University of Witwatersrand)

Past Memberships and Professional Appointments

- Society of Construction Law, Australia and London
 - Chair of the International Bar Association Subcommittee on Construction Project Management.
 - Swiss Society of Arbitrators
 - Foundation Member and Advisor to the South African Association of Shaft Sinking and Tunnelling Companies
 - Member of Panel of Mediators for the Settlement of Disputes – South African Institute of Civil Engineers
 - Member of Documentation Committee of South African Federation of Civil Engineering Contractors.
 - Consultant to South African National Committee of Tunnelling
 - Consultant to South African Association of Plate-Laying Contractors
 - Member, FIDIC Contract Document Review Panel 1999 Suite of Standard Contracts
 - Editor, Construction Law International, from the IBA International Construction Projects Committee
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Background Experience

After serving articles and admission as an attorney I gained on-site practical experience dealing with legal issues arising on a large construction project for a major general contractor. My duties included legal advice, contract administration, management and avoidance of disputes, insurance matters, claims, negotiations, interacting with subcontractors and suppliers, and dispute resolution. I was later appointed Group General Counsel for the same company and in that capacity gained considerable international experience in the management of risk in international construction contracts, in international joint ventures, in international litigation and in general commercial matters.

I was later appointed partner in charge of the Construction Law division of a large law firm and in 1988 founded his own multi-disciplinary firm, specialising in engineering and construction contract services. I succeeded in attracting work from some of the world's leading mining houses, (including shaft-sinking and underground construction), major oil companies and contractors. My clients were working in Africa, the Middle East, South America, and Australia which I visited frequently. Although most of my work has been in the private sector, I was appointed and retained for the duration of construction to advise government on all legal aspects of public-private partnership toll-roads, and on one of the largest dam and tunnelling projects of its time, introducing the use of dispute boards. I re-qualified as a Lawyer in New South Wales, Australia, and am enrolled as a Solicitor.

I have had considerable practical experience in developing and delivering mega-projects, including full-time involvement as in-house counsel in the negotiations and legal department

Philip Loots

for Chevron Australia on the construction of the USD\$54Bn Gorgon LNG project during the previous five years, and for four years more recently as in-house counsel for Bechtel on the construction of the US\$37Bn Wheatstone LNG project in Western Australia. Both projects included significant components of infrastructure, marine construction and dredging. I hold the position of Adjunct Professor at the Centre for Mining, Energy and Natural Resources, Faculty of Law, University of Western Australia.

Having practised exclusively as a construction lawyer for more than 40 years, I am a recognised authority on construction law; in addition to writing numerous articles in international publications in this field, I authored and co-authored a number of legal textbooks:

- “Engineering and Construction Law” (431p) published by Juta & Co, Cape Town, South Africa (1987) - author: Philip Loots.
- “Construction Law and Related Issues” (1213p) published by Juta & Co, Cape Town, South Africa (1995) - author: Philip Loots.
- “Practical Guide to Engineering and Construction Contracts” (458p) published by CCH Australia (2009) - co-authored with Dr Donald Charrett.
- “The Application of Contracts in Developing Offshore Oil and Gas Projects” (362 p) published by Informa law from Routledge, Oxford, UK – co-authored with Dr Donald Charrett.

Disputes in which I have been appointed as mediator or arbitrator have been exclusively in engineering and construction matters.

Arbitration, Adjudication and Mediation Experience

I have acted as arbitrator, adjudicator and mediator in numerous local and international disputes and in particular as Senior Statutory Adjudicator in more than 50 payment disputes under the Construction Contracts Act 2004 (WA), many of which relate to mining and oil and gas infrastructure, and general infrastructure, with amounts in dispute ranging from A\$200,000 to in excess of A\$180m.

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Personal Details

Languages: English, Afrikaans

Nationality: South African
Australian

Philip Loots

ATTACHMENT 1

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22 September 1998

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1998 -09- 23

mdw

Dear Mr. Loots;

Al Mathews suggested that I write and personally invite you to our Annual Meeting and Conference to be held in Chicago October 3 and 4. We are anticipating a great turnout and a good time to share concerns to make the DRB process even more productive.

We have several members coming from other countries and looking forward to Peter Chapman's panel on Worldwide Perspective and Issues. I'm sure you could add to this discussion.

If you need more information please contact the DRB office in Seattle or contact me.

Sincerely,


Douglas A. Johnson
President, Disputes Review Board Foundation

Fostering common-sense dispute resolution for the construction industry worldwide.

ATTACHMENT 2

The Dispute Review Board

Foundation Forum

VOLUME 3, ISSUE 3

JULY, 1999

ALTERNATIVE DISPUTE RESOLUTION IN PRACTICE IN SOUTH AFRICA

by
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 LL.B. Attorney
 FIDIC Mediator & Arbitrator
 Legal and Commercial Advisor, Phase
 1 Lesotho Highland Water Project
 and
ROB FRASER Pr Eng
 Chief Engineer Delivery Tunnel North,
 Lesotho Highlands Water Project

"A most important question is whether the recommendations of the DRB should be merely advisory or final and binding on both parties. Any tendency to give the DRB the power to make 'recommendations' which are final and binding on both of the parties should be resisted."

Large engineering contracts have shown themselves prone to complex contractual disputes not easily resolved in the conventional processes of arbitration or litigation. The introduction of alternative disputes review/resolution techniques to avoid such formal legal routes has been a welcome development over the last 12 to 15 years.

Prior to this, certain of the large infrastructure contracts in South Africa such as the Drakensberg Pumped Storage Scheme, the Richards Bay Line, the Sishen-Saldanha Railway Line, Koeberg Nuclear

Power Station and the Hex River Tunnel Contract and others had given rise to major disputes. In some cases these had become extremely acrimonious, been drawn out over many years at great cost to both parties and were eventually settled out of court to neither party's satisfaction. In addition, the growing international controversy surrounding the Engineer's role in adjudication of disputes and the need in civil law countries for a neutral adjudicator illustrated the need for radical revision in the approach to dispute resolution.

For any concerned and contractually involved professional in South Africa observing these events, it became imperative to investigate and apply appropriate alternative dispute resolution processes in the major projects being planned. More recently, the World Bank has adopted a policy requiring the appointment of Dispute Review Boards on its larger projects, and FIDIC¹ has adopted Dispute Adjudication Boards (DAB) with similar provisions for

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