

# Offshore Construction Disputes

Gordon Smith

*FCI Arb, FSI Arb, AIAMA, FIE Aust, CPEng (Ret)*

*Barrister & Solicitor*

*Chartered Arbitrator, Independent Arbitrator*



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# Characteristics of Oil & Gas Construction

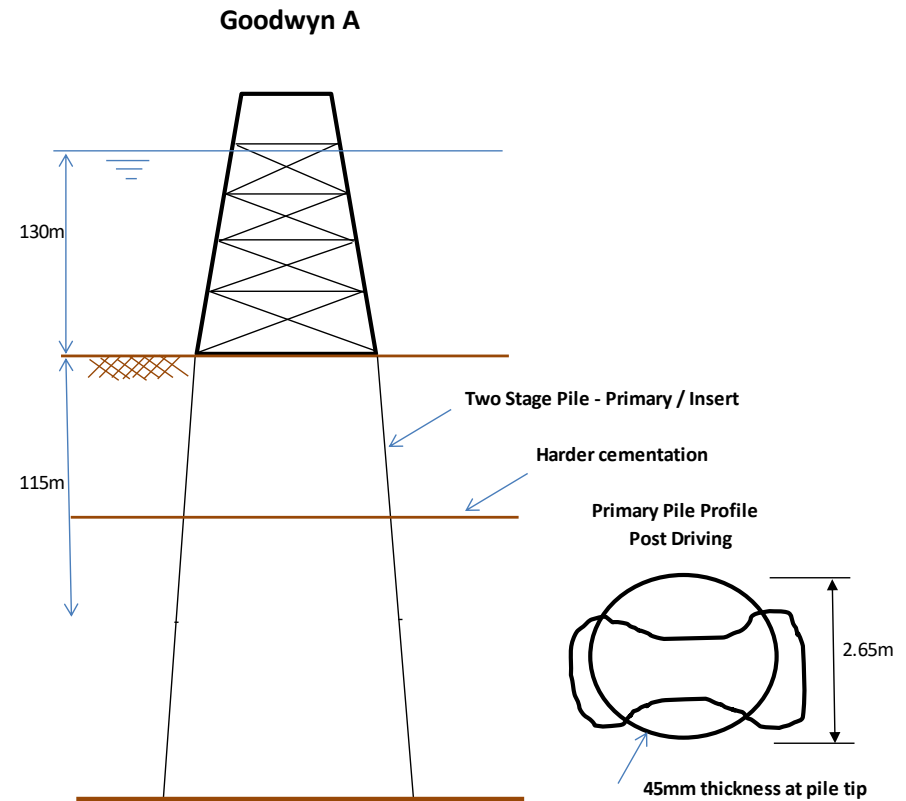
- \* Technically complex – occasionally untested technology
- \* Challenging environmental conditions – weather, sea, and ground conditions
- \* Design / construction interaction
- \* Marine / construction interaction
- \* Labour intensive
- \* Large number of one-off tasks
- \* High cost
- \* High standards – safety, environmental, quality, regulatory
- \* Document intensive
- \* Potential high loss events

# High Loss Events

## Goodwyn A Primary Pile Damage



A\$300m loss \$1992  
A\$400m loss \$2016



# High Loss Events

## Sleipner A Collapse



\$180m platform loss - \$1991 - economic loss \$1m+ per day  
\$360m platform loss - \$2016

# Types of Assets

- \* Fixed Platforms
- \* Floating Central Processing Facilities
- \* Pipelines
- \* Wharfs / jetties
- \* FPSOs
- \* Drilling Rigs

# Categories of Dispute

- \* Time
  - \* Extension of time for completion
  - \* Disruption
- \* Quality
  - \* Defects
  - \* Performance – eg process, physical
- \* Additional Work
- \* Changed Conditions
  - \* Unforeseen ground conditions
  - \* Environmental conditions
  - \* Well product specification
  - \* Force majeure
- \* Completion
- \* Termination

# Management of Disputes Varies within Contractual Chain

- \* Oil Major – Design Consultant, Contractor (EPCM, EPC, construction only)
- \* Contractor (EPCM, EPC, construction only) – Design Consultant, Subcontractor / Supplier
- \* Subcontractor – Sub-subcontractor / Sub-sub-supplier
- \* Operator / Contractor eg FPSO, Drill Rigs

# Methods of Dispute Resolution

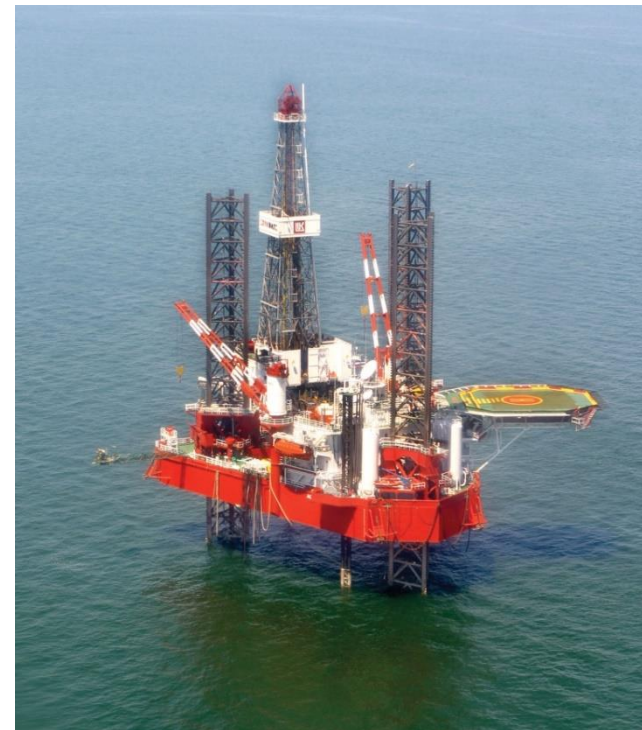
- \* Limited litigation of offshore construction disputes
- \* Statutory Adjudication – jurisdiction dependent
- \* Multi-tiered clauses – negotiation, mediation, arbitration
- \* Domestic / International Arbitration



# Case Study – International Arbitration

## Jack Up Rig

- \* Dispute between Operator and Contractor
- \* Cross-border and cross-cultural
- \* EPC Contract - total value \$200m
- \* English substantive law
- \* Claim value \$500m+
- \* Claim Categories
  - \* Wrongful termination
  - \* Misrepresentation – as to complexity of the rig
  - \* Extension of time / Liquidated Damages
  - \* Disruption
  - \* Multiple Variations
  - \* Defect counterclaims
- \* London seated arbitration
- \* LCIA Rules
- \* Three member tribunal – London marine / construction arbitrators



Example Jack-Up

# Case Study – International Arbitration

## Jack Up Rig

- \* Changes in Scope
  - \* Multi discipline – structural, mechanical, electrical, piping, controls/automation, and instrumentation
  - \* 200+ Change Orders
  - \* 2,000+ Owner’s instructions on design
  - \* 20,000+ Owner’s instructions during construction / completion
  - \* Multiple effects of owner’s right to purchase drilling equipment
- \* Extension of Time / Liquidated Damages
  - \* Rig – 24 month completion period
  - \* Rig – 16 months late – LDs US\$80,000 per day, capped at 10% of contract sum
- \* Disruption
  - \* Multiple disruptive events eg work out of sequence, re-work, work in open, learning and unlearning curves, late changes involving multiple trades
  - \* Design man hours – 2.5 x budgeted manpower
  - \* Total man hours - over 3 X budgeted manpower
  - \* 600 design drawings for approval - 50% of drawings took over 200 days for final approval

# Case Study – International Arbitration Jack Up Rig

- \* Defect Claims – 200+
- \* Experts
  - \* Team of 8 technical experts
  - \* Team of 4 delay / disruption experts
- \* Legal Teams – in contractor's yard and in London
- \* Extensive Disclosure

# Questions

