

Australia Predictions 2026

Brain injury claims in female Australian Football League pose escalating insurance risk

Insurers are facing growing exposure to legal claims arising from brain injuries in female Australian Football League (AFL) players, with significant implications for liability coverage and premium stability. Emerging medical research confirms that women are more susceptible to concussions, yet safety protocols in women's leagues lag behind their male counterparts. The post-mortem diagnoses of chronic traumatic encephalopathy in players like Heather Anderson and Jacinda Barclay underscore the seriousness of this risk. If the AFL men's class action succeeds, it could pave the way for similar claims from female AFL players, potentially triggering a surge in litigation and insurance costs. This may also impact the viability of grassroots clubs reliant on affordable coverage. Insurers must proactively engage with clubs and governing bodies to clarify policy terms, assess exposure, and implement risk mitigation strategies. Without intervention, this evolving issue could lead to premium blowouts and long-term financial strain across the sporting sector.

Cyber class actions and privacy tort will escalate liability exposure

In 2026, insurers face mounting exposure from cyber-related class actions, driven by high-profile breaches such as Medibank, Optus and Latitude. Plaintiffs are increasingly seeking damages for emotional distress, reputational harm, and costs incurred in mitigating identity theft. Quantifying loss remains complex, often relying on market-based causation (e.g. share price drops) or aggregated damages across affected groups. The introduction of a statutory tort for serious invasions of privacy adds a new layer of risk. Individuals can now sue for misuse of personal data or intrusion upon seclusion, with courts empowered to award damages, injunctions, and apologies. This tort broadens the pool of potential defendants and may trigger claims under cyber, D&O, and professional indemnity policies. Insurers must reassess coverage wording, exclusions, and aggregate limits, while preparing for increased litigation and regulatory scrutiny. Proactive client engagement and scenario modelling will be essential to manage this rapidly evolving liability landscape.

Insurers face rising exposure from class actions at the intersection of infrastructure disruption and environmental harm

The Sydney Light Rail litigation demonstrated how the effects of prolonged construction - dust, noise, and access restrictions - can trigger nuisance claims against public authorities. Simultaneously, PFAS contamination linked to infrastructure sites, including airports and defence facilities, is fuelling environmental class actions over groundwater pollution and health risks. These cases reflect a growing trend where infrastructure projects are scrutinised not only for operational disruption but also for long-term ecological damage. Insurers must prepare for complex, multi-dimensional claims spanning public liability, environmental impairment, and directors' duties. Policy wording around nuisance, pollution exclusions, and statutory authority defences will be critical. As regulatory oversight and community activism intensify, insurers will need to reassess underwriting strategies and engage proactively with insureds to manage emerging risks across Australia's infrastructure landscape.

Diversification of class actions will reshape the liability landscape in 2026

In 2026, Australian insurers will navigate a transformed class action environment. While the overall volume of filings remains steady, the nature of claims has shifted dramatically. Securities class actions - once comprising around 40% of all proceedings - have declined following a series of court rulings favouring defendants, prompting litigation funders to redirect capital. Emerging areas now include consumer protection, privacy breaches, employment disputes, and ESG-related claims such as greenwashing and climate risk misrepresentation. These new categories often involve broader affected groups, clearer causation, and reputational leverage, making them attractive to funders and plaintiffs alike. For insurers, this trend signals a need to reassess exposure across professional indemnity, directors & officers, and cyber liability lines. Policy wording, aggregate limits, and exclusions must be reviewed to ensure resilience against increasingly complex and socially driven litigation. Proactive engagement with insureds and scenario modelling will be key to managing this evolving risk landscape.

Regulatory pressure will drive claims surge across liability lines

We anticipate a sharp rise in claims as regulatory scrutiny intensifies across multiple fronts. Heightened focus by the Australian Securities and Investments Commission on general insurers' obligations as Australian Financial Services Licensees - particularly in response to severe weather events - may prompt businesses to seek recovery of compliance costs under professional indemnity and management liability policies. Concurrently, the Australian Taxation Office's pursuit of over A\$35 billion in unpaid taxes from small businesses is expected to trigger a wave of D&O claims, as directors face personal liability and legal action. The overhaul of the anti-money laundering regime by AUSTRAC (Australia's anti-money laundering and counter-terrorism financing regulator), with new obligations commencing in 2026, will likely lead to increased investigation-related claims as entities seek coverage for legal representation and regulatory response costs. Insurers must prepare for broader liability exposure and reassess policy wording, exclusions, and limits to ensure clarity and resilience in the face of evolving regulatory risk.

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