



## Construction and Engineering Predictions 2022

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### 1. Trading conditions will produce a recipe for claims

The UK has witnessed a resurgent construction industry in 2021, but for many trading conditions have been tough, with challenges arising in the delivery of projects on time and budget. A corollary has been an increasing number of sub-contractor administrations. The operational headwinds include a profound shortage of skilled and other labour, largely the product of Brexit and the pandemic (ONS - 38,000 vacancies in July 2021 alone). There is also poor supply and significant inflation in building materials, including timber costs up 82% and steel costs up 62% year on year. A shortage of cement and roofing products, global constraints at ports and a lack of HGV drivers to deliver supplies where they are available can be added to the mix. For an industry which exists on tight margins and strictly programmed deadlines, this combination is a recipe for unwise compromise on quality and the potential for additional claims across all construction classes.

### 2. Building for our future - time to engage in green climate-resilient construction

Climate-change literacy is now a fundamental discipline to all competent design. Consultants and D&B contractors must engage in green climate-resilient construction. This adds a plethora of factors for evaluation in the specification of new infrastructure and buildings. Projects must meet both client tender and planning criteria and also developing climate decarbonisation targets. Failure to account for these in the building process has consequences. Government and private tenders will place increasingly greater emphasis on procurement by reference to sustainable factors and fewer emissions. Brownfield development, the repurposing of existing buildings and adoption of new efficient technology are all factors which will differentiate our future buildings. These must also incorporate design life climate-resilience characteristics, accounting for flood risk, rising temperature, ground and coastal change and increased fire loading. The legal obligations to meet these new standards are developing fast. Insurers should ask additional pre-inception underwriting questions and survey larger risks to avoid additional future liabilities over a 15 year risk period.

### 3. The time for construction technology

The construction industry is set to embrace a brave new world, with the increasing and broader use of technology. Beyond BIM and CAD drawings, designers are now using virtual and augmented reality, enabling developers to walk around their future buildings in a 3D environment, so they may truly understand the space they have procured. Monitoring and auditing the progress of any development and the improvement of safety risks on site are improving construction risks through the use of machine learning and artificial intelligence. Developments in wearable technology are also gaining ground. Smart wear improves safety and performance by monitoring fitness and worker fatigue and supporting continued working in adverse weather conditions through heated jackets and temperature cooling vests. Insurers have much to gain from the support of modern construction businesses, with improved safety records and defect free buildings, built by a technology assisted workforce.



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### 4. Teething problems from most significant building regulation in a generation

The Building Safety Bill will become law during 2022 and will usher in the most significant change in residential development in a generation. The Bill, along with its raft of associated regulations and guidance, will drive the improvement of standards across the building construction and management sector. Organisations operating in architecture, construction, facilities management, fire safety and the supply chain will begin to review their systems and processes if they have not done so already. Many will struggle to achieve the new competency requirements and the existing skills gap will be amplified. New build projects will face delay through a combination of skills shortages, availability of compliant materials and the new gateway system through which all higher risk buildings will have to pass. The Building Safety Regulator will initially look to regulate by co-operation and significant enforcement action is not expected imminently. Some businesses with existing higher risk buildings will struggle to collate the golden thread of information and all those owning and managing buildings will have a significant training requirement to fulfil to ensure their new obligations are fully discharged.

### 5. Australian residential builders face multiple challenges

We expect to see emerging risks relating to exposures for residential builders, particularly with a focus on large developments. Floods in New South Wales, south east Queensland and Victoria early in 2021 put the spotlight on residential buildings in areas that are high risk flood areas. Another emerging issue surrounds the residential projects being built on reclaimed land in Western Sydney, which require significant earthworks to bring the sites to a standard sufficient to support residential homes without footings to bedrock. Due to the pandemic, Australia is also facing a critical shortage of building materials and many construction sites have languished through extended lockdown periods. These pressures will inevitably impact the future liability claims profile of construction participants.

*Contributed by our Australian Legalign partner, Wotton + Kearney.*

### 6. COVID-19 liability waivers likely to be tested in Australia

Many infection clusters in Australia have involved construction sites. This may lead to a rise in liability waivers in contractor arrangements regarding the risk of transmission to protect project parties from liability claims by a third party. The robustness of such waivers is likely to be challenged in the courts.

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