



Construction and Engineering Predictions 2021

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From building reform to digital platforms, we offer our international experts' predictions on the opportunities and challenges that the construction and engineering market may face in the coming year and beyond.

1. Insurers should review cover for new building safety obligations

In July 2020 the government published a draft Building Safety Bill. The legislation is set to introduce a new regime of direct accountability for developments throughout the life of a building, at stages of design, construction and occupation. The proposed changes will be felt throughout the construction sector. They include provision for the appointment of a new Building Safety Regulator to oversee building standards and industry competence. The use of products and materials will also be regulated. These duties and obligations will be accompanied by a regime of sanctions. A non-delegable responsibility will fall heavily on an accountable person applying for a Building Assurance certificate. These duties will create potentially significant additional liabilities which insurers will need to duly consider and assess in the future cover they offer.

2. The future appetite for construction insurance – cover at a premium

Before the pandemic, multiple classes of construction insurance experienced premium hardening. That trend has continued and has the potential to significantly impact on construction contractors and professionals. The placement of appropriate insurance is a basic contractual prerequisite to financing, designing and constructing any development. Insurers have been stung by COVID-19 and by the poor claims experience in the recent past. Construction insurance capacity has drastically reduced and is said to be at a 15 year low in virtually all classes, with a receding appetite from insurers to underwriting these risks and a tightening of cover. All key classes of cover are now more expensive. In a sector where margins are thin, insurance costs will add to an increasingly tough environment.

3. Protection of electronic data in modern construction needs fresh focus

2020 has of necessity been a voyage of electronic discovery for many businesses, using resource over multiple protected electronic platforms. Through Building Information Modelling (BIM), the past five years has seen the construction sector moving inexorably towards an all-encompassing common data environment. Electronic design data-sharing is ordinary but the intervention of malicious actors in a BIM based cyber-attack has the potential to affect multiple design disciplines and to ground a time sensitive project at potentially enormous cost. While this spectre is real, a 2019 government cyber security breach survey found the construction sector among the least likely to invest in cyber security, to update managers on cyber issues or to be aware of data regulation. This is a risk that warrants re-focused attention in the construction sector.



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4. Modern methods of construction and the imperative for best practice

In October 2020, Housing secretary Robert Jenrick announced that at least one-fifth of all homes planned through the government's £12bn affordable homes programme will be built using modern methods of construction (MMC). These homes are intended to be largely constructed in controlled prefabricated factory conditions, improving consistency and the unpredictability of disruption caused by the outside elements. The increased productivity promises many more homes delivered over a shorter period. However, for construction insurers, claims trends continue to emerge from prefabricated buildings where repeated errors have been made in buildings that have been defectively assembled, contain incompatible specifications or materials, or which present additional fire loading. MMC is here to stay, but further emphasis on best practice must form a central part of the road ahead.

5. An Australian perspective: infrastructure boom around Australia is likely to contribute to a rise in nuisance-based economic loss claims

Businesses impacted by construction, including prevention of access, are looking to recover losses caused by construction works. The Sydney and Newcastle Light Rail class actions seek damages for economic loss, as well as for psychiatric suffering due to private and public nuisance allegedly caused by unreasonable and avoidable acts or omissions in construction. With a strong pipeline of construction activity, and plaintiff firms and litigation funders looking for class action opportunities, underwriters need to ensure their insureds have taken all reasonable steps to mitigate any potential impact on surrounding businesses from both a property damage and/or a business interruption perspective.

6. An Australian perspective: digital reform initiatives reboot New South Wales building industry

The New South Wales (NSW) Government is implementing a building reform agenda with the aim of changing the culture and capability of the NSW building industry. The deep, wide-ranging reforms are being implemented in stages from 1 July 2020. The reform is being driven by the capabilities within NSW's new digital platform, which will create 'digital twins' of both buildings and practitioners. These initiatives will give insurers a transparent and accessible way to rate buildings and professionals. This information, combined with other reform initiatives, should result in the building and construction industry being a much better insurance risk in the long run. The projected infrastructure spend and wider building reform agenda throughout Australia should allow insurers to dramatically adjust products and pricing with sophisticated customers.



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