



Construction and Engineering

As the cost and complexity of construction continue to dramatically increase, success depends on strategic advice that supports our clients' plans and mitigates risk.

The successful completion of any construction project depends on the quality of the project documents and ensuring that the project is delivered to the required standard, on budget and on time. We are experienced in all sectors of the construction and engineering industry including energy, infrastructure and development. We advise on all manner of procurement methods, from commercial developments to major international, domestic, civil and process engineering and energy projects.

We assist clients in analysing the risk profile of their projects and selecting the best type of delivery method for the project. After selection of the desired construction method, we assist clients in negotiating the contracts.

Disputes are a fact of life in the construction and engineering industry and we help clients avoid them by advising on potential issues at the earliest stages of projects. If a dispute does arise, we have skilled construction lawyers who can manage all of the litigation, arbitration, adjudication and alternative dispute resolution processes.

Find out more about our contentious capabilities.

CAPABILITIES

Contracts and advisory

Well-crafted contracts are key to legal risk management, minimizing the likelihood of disputes arising later in the project. Our contracts advisory service covers all aspects of contract drafting and negotiation, transaction due diligence and risk analysis and management. We have experience in the contracts used across all sectors including all the major standard forms of contract (including JCT, NEC, ICE, FIDIC and IChemE), adapting these to our clients' specific needs – controlling risk while maximizing profit.

Procurement

Procurement, tendering and competition procedures are vital components of construction and engineering projects. We assist clients in a wide range of sectors on the procurement, drafting, negotiation and management of alliancing and partnering arrangements and frameworks.

KEY CONTACTS

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RELATED SERVICES

- Litigation, Arbitration and Investigations
- Projects, Energy and Infrastructure

RELATED SECTORS

- Energy and Natural Resources

Litigation and alternative dispute resolution

Disputes frequently arise in the construction industry. When our clients face a dispute situation that cannot be avoided, we help them develop the appropriate course of action. We advise and explore the wide range of alternative dispute resolution (ADR) methods with our clients before litigation becomes necessary. ADR is a cost-effective method of avoiding protracted and costly litigation proceedings, and many countries require parties to attempt ADR or mediation before taking a dispute to court. Should litigation be the only course of action, we guide our clients through the process.

International arbitration

International arbitrations are often the preferred route for large, complex, cross-border construction disputes and we are familiar with all of the major institutions including the ICC, AAA and LCIA and in conducting UNCITRAL arbitrations. Using our extensive international network we work seamlessly with other jurisdictions and overcome barriers such as the need to work in two or more languages.

Adjudication

Adjudication is a legally binding tribunal process. It is a fast, 28-day form of dispute resolution, but also one where both sides will incur legal and expert witness fees. There is also only one opportunity to present your case to the tribunal, with no opportunity to appeal decisions. Our contentious construction team includes lawyers with extensive experience of adjudication who can advise whether this is the right option for you, and navigate you through the complexities and nuance of the adjudication process.

EXPERIENCE

- One of the principal legal advisers for the Olympic Delivery Authority for the London 2012 Olympic Games and Paralympic Games, including procurement and construction advice on the numerous venues and many of the infrastructure and transport projects undertaken on and around the Olympic Park.
- Advising Leonhard Nilsen & Sønner AS, one of Norway's largest construction companies, in a final settlement dispute against The Royal Norwegian Ministry of Transportation and Communications in respect of outstanding claims for tunnel and road construction contract work.
- Advising Jack Hills Iron Ore Mine, Western Australia on an iron ore mine expansion in Western Australia, in relation to the contracting and procurement strategy and drafting the EPCM Contract, mining contract and preparation of a suite of standard construction and procurement contracts.
- Advising Standard Bank of South Africa on the Nungua desalination plant in Ghana, the first desalination plant in western Africa.
- Advising Petroleo Brasileiro SA (Petrobras) on four large offshore oil field development projects in Angola.
- Acting for BP as the operator on the US\$4 billion Tangguh LNG project, including drafting and negotiating the EPC contract for the liquefaction plant and also for the two platforms and pipelines.
- Advising on the financing of the development, construction and operation of two port terminals on the Orinoco River, Venezuela.
- Advising two National Football League franchises in connection with the construction of their new football stadiums, including defense of two multimillion-dollar claims, negotiation of a complex closeout agreement and pursuit of substantial design claims.
- Advising both contractors and owners in connection with several renewable energy and power related projects.
- Advising contractors and owners in connection with several significant airport projects in multiple countries.

INSIGHTS

Publications

Third time lucky: Triple Point in the Supreme Court

20 July 2021

The Supreme Court has handed down its long awaited decision on the question of whether delay liquidated damages (LD) provisions survive termination. The case related to a dispute between the parties as to how delay LD provisions apply where an English law

contract is terminated prior to its completion, and the interpretation of contractual wording seeking to limit liability.

Episode 5: How is technology disrupting the construction industry?

2 June 2021

THE DLA PIPER INFRASTRUCTURE PODCAST

In this episode, DLA Piper's Construction Disputes Partner, Suzannah Newbould is joined by Barry Lewis, Managing Director, Construction at ALEC, one of the UAE's leading construction groups and Petar Mladenovic, Enterprise Account Director from the construction tech company Disperse.

Contracting for the climate: The Climate Contract Playbook is a trove of climate clauses

11 November 2020

Contracts have become an essential vehicle for companies seek to mitigate their environmental risks and limit their carbon footprints.

DLA Piper Collaborative Contracting and Procurement Paper 2020

22 October 2020

The construction industry has suffered for ages from contracts and procurement processes that crudely allocate various risks resulting in misaligned incentives and consequent disputation.

It was from a desire to overcome this misalignment of interests that 'collaborative contracting' was born.

Read more in our paper.

The 2019 rail franchising litigation - procurement: Legal privilege and a duty to give sufficient reasons

4 August 2020

Mr Justice Stuart-Smith handed down judgment in the 2019 Rail Franchising Litigation, one of the largest and most complex procurement and commercial judicial review claims litigated to date in the UK. In this, our second article, we examine the Court's findings as they relate to legal privilege and the duty to give sufficient reasons.

Contract analysis in a crisis: flowcharts

7 April 2020

Flowcharts providing considerations for analyzing commercial contracts in the context of the COVID-19 pandemic through a logical

process flow that can serve as a practical checklist.

Cost-cutting considerations in the time of COVID-19 (Part 3 – employment issues outside the US)

7 April 2020

A deeper dive into various cost-saving measures and their viability for employers outside the US.

COVID-19 and the "essential business" designation: Practical guidance for businesses that fall in the gray area between "essential" and "non-essential"

6 April 2020

Certain frequently asked questions as well as practical guidance.

Beyond social distancing: What employers need to know to keep their workplaces safe and manage privacy obligations in the face of COVID-19

2 April 2020

Guidance from OSHA, EEO and CDC to help employers seeking to protect the health, safety and privacy of their on-site employees.

Coronavirus: Cybersecurity considerations for your newly remote workforce (United States)

31 March 2020

Cyber risk management involves balancing the productivity of a workforce with ensuring confidentiality, integrity and availability of the company's own systems and data, as well as that of their supply chain.

Coronavirus: DHS Response to COVID-19 - What US Employers Need to Know

29 March 2020

Key questions and answers related to the new DHS guidance.

Coronavirus: Employee furloughs, reductions-in-force and similar temporary cost-saving measures (Part 2 – Employment issues outside the US)

25 March 2020

A general overview of key employment issues to consider outside of the US in light of COVID-19.

Coronavirus: Employee furloughs, reductions-in-force and similar temporary cost-saving measures in the US - Part 1

25 March 2020

Key employment-related issues for US-based employers in relation to cost-saving measures due to COVID-19.

Coronavirus: Several state and local governments issue “shelter in place” orders (United States)

23 March 2020

Between March 17 and 22, state and local governments have promulgated at least a dozen “Stay-at-Home” / “Shelter-at-Home”-type Orders. This alert provides details on a number of state and local government orders.

Coronavirus and construction: Q&A (United States)

19 March 2020

With the coronavirus disease (COVID-19) reaching pandemic levels across the world, construction industry clients have been particularly focused on how the outbreak will impact their ongoing and future developments.

Coronavirus and the US commercial real estate sector

13 March 2020

Considerations on the impact of COVID-19 on commercial real estate agreements already in place.

Novel coronavirus (2019-nCoV) – potential effects on international arbitration, sale of goods, shipping and shipbuilding (AsiaPac)

10 February 2020

The current outbreak of novel coronavirus (2019-nCoV) is causing widespread concern. This article will discuss the potential impact on international arbitration, sales of goods, shipping and shipbuilding contracts.

Events

Previous

Webinar: FIDIC in the context of COVID-19

3 November 2020

Webinar

COVID-19 and construction: touching all the bases now

14 April 2020 | 1:30 – 2:30 ET

Webinar

NEWS

Recognition in China Business Law Awards 2021

19 May 2021

DLA Piper has been recognised by China Business Law Journal in the annual China Business Law Awards 2021 in nine categories, including best international law firm.

In New Zealand

DLA Piper New Zealand has a deep understanding of construction related disciplines and the construction industry, with a comprehensive knowledge of construction and related law.

The firm specialises in complex construction briefs with multi-faceted engineering demands, including in infrastructure, commercial, residential, government, telecommunications, roading, airports, rail, energy and utilities, for public, private and listed entities.

DLA Piper New Zealand has particular expertise in public private partnerships (PPPs). We understand the regulatory, economic and political issues that arise. DLA Piper's international expertise on public private partnership models and operations means we can assist clients with any construction in any location in New Zealand, the Pacific and globally, particularly with regard to the purchase of equipment from international jurisdictions.

Our philosophy and key consideration is to assist clients proactively in managing construction risk and avoiding disputes.

Our expertise in this area includes issues affecting construction including resource management, tax, finance, regulatory and insurance advice.

CAPABILITIES

- Project procurement, tendering, documentation
- Construction contracts and negotiation
- Project planning, financing, structuring, completion and sign off
- Contract administration
- Construction disputes, mediation, expert determination, dispute resolution
- Joint ventures, Public Private Partnerships (PPP)
- Building; building law
- Resource Management consenting processes

EXPERIENCE

Yashili Dairy Co., Limited

DLA Piper New Zealand acted for Yashili in the purchase land in Pokeno to construct and operate a milk processing facility where the total expenditure to establish the business (pre-commencement) exceeds NZ\$100 million. The project is the first standalone Chinese dairy investment in New Zealand and highlights the wide scope of DLA Piper New Zealand's developing China practice, in particular in respect of inbound investment, having the requisite language capabilities to communicate directly in Chinese.

Metlifecare Limited

DLA Piper New Zealand advised on the tendering process, construction contracts and on the provision of a performance bond to Auckland Council for landscaping works. The matter was reported to be NZ \$40 million and was a key project for a new client of the construction practice.

Wellington City Council

DLA Piper New Zealand was the key adviser to Wellington City Council Project Team on the appointment of consultants, their contract negotiations, and the tender process for construction for a new NZ\$47.5 million community sports centre in Kilbirnie.

Wellington City Council

Wellington City Council has obtained a grant of \$10M from Housing New Zealand to update its social housing portfolio. DLA Piper

New Zealand prepared tender and contract documents for weathertightness, earthquake strengthening, reconfiguration and redecorating works. In addition to construction and consultancy contracts, the documents include tenders and agreements for moving tenants and their belongings elsewhere while the work is undertaken, and bulk purchases of fixtures and fittings (e.g. whiteware) at favourable prices. As the construction documents have been market tested and refined over the first two projects, the procurement process is now much quicker.

Hawkins Construction Limited

DLA Piper Australia and DLA Piper New Zealand acted in the first public private partnership to reach financial close in New Zealand. The Hobsonville Point Schools PPP is a landmark project involving the design, construction and financing of a primary and secondary school, together with their maintenance for a period of 25 years. The trans-Tasman DLA Piper team acted for Hawkins Construction Limited, one of New Zealand's largest privately owned construction and infrastructure companies. Hawkins will be responsible for design and construction of the new schools. It will be the first time that schools in New Zealand will be built under a public private partnership. The primary school is scheduled to open at the beginning of 2013 and the secondary school early 2014.

New Zealand Fire Service

DLA Piper New Zealand was chosen to advise the New Zealand Fire Service on the construction of a new National Training Centre in Rotorua New Zealand. This included construction contracts, tendering and negotiation on contracts for equipment.