



## 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.

### CAPABILITES

#### 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.

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

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- 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 Nungwa 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

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### 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.

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## **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.

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## **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.

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## **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.

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## **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.

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## **Varying construction contracts to provide COVID-19 relief (Australia)**

29 April 2020

Parties to construction contracts are struggling to meet their contractual obligations amid the COVID-19 pandemic. Indeed, governments around the globe have released guidance to government agencies to protect the financial viability of projects, to protect supply chains and to minimise exposure to Coronavirus related project stresses. This is particularly so in those jurisdictions where public health orders and the like have resulted in the complete closure of construction sites, but also in jurisdictions where sites have remained open and work has continued subject to various constraints (such as social distancing measures).

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## **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.

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### **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.

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### **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.

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### **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.

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### **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.

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### **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.

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### **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.

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### **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.

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## **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.

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## **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.

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## **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.

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## **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.

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## **When is a letter of intent binding?**

16 JUN 2011

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## **Events**

### **Previous**

#### **Webinar: FIDIC in the context of COVID-19**

3 November 2020

Webinar

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#### **COVID-19 and construction: touching all the bases now**

14 April 2020 | 1:30 – 2:30 ET

Webinar

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## NEWS

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### 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.

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