

# 2021 A YEAR IN REVIEW

Key Legal Developments in the  
Building & Construction Industry

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# MESSAGE FROM THE DIRECTOR



**DAVID GLINATSI**  
Managing Director  
Kreisson

The pursuit of excellence requires a great deal of sacrifice, compromise and uncertainty. As we meet each challenge, we are faced with difficult decisions which can alter the future of our businesses and relationships.

However, at each unique challenge, creative and determined leaders emerge to forge solutions and pathways which benefit and inspire the community.

The Australian construction industry has remained a steadfast source of innovation and adaptability. The commencement and completion of many major infrastructure, commercial and residential projects in challenging circumstances has demonstrated the immense confidence placed on the construction industry.

Likewise, Kreisson aims to inspire confidence in our clients by embracing new technologies and developing new products with which we can advise on the ever-changing requirements of domestic and international business.

As we head into 2022, we will stand by as your trusted legal partner, ready to work with you to overcome any challenges the new year may bring.

In the interim, this short eBook offers a summary of the key insights and developments made by Kreisson this year. We trust you'll find it an informative resource.

Kreisson wishes you a Merry Christmas and a safe and prosperous New Year.

# BUILDING AND CONSTRUCTION

The past year has seen a number of key developments impacting the building and construction industry. A summary of Kreisson's key insights on these developments is set out below.

## Article: New SOPA Changes for Residential Builders Commenced 1 March 2021

On 1 March 2021, new NSW regulations came into effect which brings residential builders and owner-occupiers under the NSW Security of Payment Act (SOPA).

Builders and owners therefore need to get on top of their rights when it comes to payment for owner-occupier contracts.

[Read Article](#)

## Article: Payment Claims and Payment Schedules: Make your first shot your best shot

This article considers the impact of how new reasons introduced by principals can be excluded by an adjudicator under the NSW Security of Payment Act (SOPA).

[Read Article](#)

## Update: Construction Law Reform

This update unpacks the application of the Design and Building Practitioners Act 2020 (NSW) and the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 (NSW).

[Read Update](#)

## Newsletter: Important Changes for Design and Building Practitioners Effective 1 July 2021

In December 2020, the Government introduced for discussion the Design and Building Practitioners Regulation 2020 (NSW). This became effective from 1 July 2021.

[Read Newsletter](#)

### Case Note: Builder's Responsibility Confined to Agreed Scope of Works

In the decision of *Oikos Constructions Pty Ltd v Ostin & Anor* [2020] NSWCA 3581, the Court considered whether the negotiated scope of works could be expanded to include other works by virtue of the implied statutory warranties under the Home Building Act 1989.

[Read Case Note](#)

### Case Note: A "Modern Touch" Approach to the Prevention Principle and Liquidated Damages

On 26 March 2021, the NSW Supreme Court gave judgment about a contractual dispute arising from delays in relation to four subcontracts.

[Read Case Note](#)

### Article: Decennial Liability Insurance; Blockchain and Industry Ratings – proposed reforms to address building defects.

New reform proposals will use 10-year insurance products, advanced blockchain technologies and industry rating systems to improve building quality in NSW.

[Read Article](#)

## MODERN SLAVERY -

### A REPORT CARD ON MODERN SLAVERY STATEMENTS

#### Lessons for the Construction Industry

Under the Modern Slavery Act 2018 (Cth), statements for many reporting entities are due 31 December.

A recent study by Monash University closely scrutinised the level of disclosure of the first statements lodged by ASX 100 companies. That study has some key lessons for reporting entities to improve compliance.

[Download eBook](#)

# COMMERCIAL

Kreisson is focused on delivering tailored legal guidance across a range of business areas, allowing our clients to engage in day-to-day business operations with assurance. Below are some insightful articles, as well as an innovative new product offered by Kreisson to help provide tailored legal advice at a fixed monthly rate.

## Article: When Does a Contract Become Binding?

To determine the point at which a contract becomes binding may require consideration of pre-contractual documents.

[Read Article](#)

## Article: Using "Without Prejudice" Without Error

The words "without prejudice" are some of the most misused words in business and commercial dealings. This article explores their proper usage.

[Read Article](#)

## Article: Recent Changes - Resignation Of Company Directors

The Treasury Laws Amendment (Combating Illegal Phoenixing) Act 2020 (Cth) took effect. It introduced new laws to combat the rise of illegal phoenixing activities in Australia, and affects a director's ability to resign.

[Read Article](#)

## YourCounsel<sup>></sup>

Kreisson is excited to introduce YourCounsel, a new legal service for modern business!

YourCounsel is an in-house legal service offering startups and growing small to medium enterprises access to expert on-tap legal support, at a fixed monthly fee.

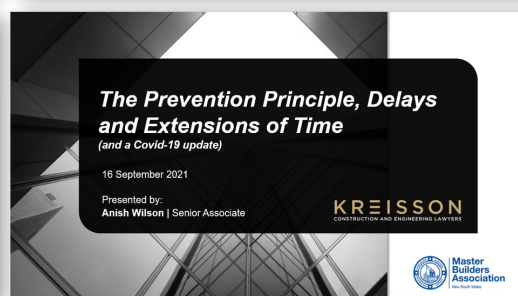
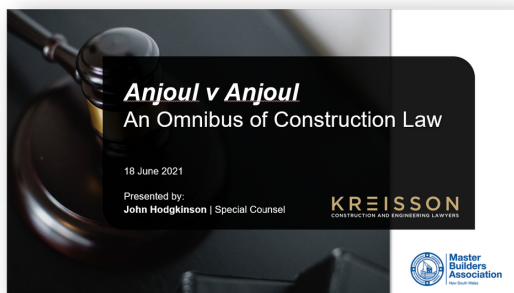
[Find Out More](#)

# EDUCATION, TRAINING AND PARTNERSHIPS

As part of our ongoing commitment to thought-leadership and education within the building and construction industry, we have partnered with the Master Builders Association in the delivery of topical seminars/webinars on a monthly basis.

Below are a curation of several webinars presented by members of the Kreisson legal team over the course of 2021.

In partnership with:



Kreisson has partnered with Payapps, a provider of cloud-based construction software that manages progress claims, to help educate industry-leading Australian construction firms on compliance and risk management. Below are some publications which Kreisson has authored in collaboration with Payapps.

In partnership with:



## Kreisson is now a proud sponsor of International Justice Mission

We uphold efforts to defend the human rights of vulnerable groups and individuals that are unable to defend themselves. That is why Kreisson proudly supports the efforts of International Justice Mission (IJM) to promote justice worldwide.

IJM is a leading anti-slavery organisation that partners with local law enforcement to protect people in poverty from violence. The global work of IJM addresses slavery, violence against women and children, and police abuse of power.

[Read Announcement](#)



# OUR TEAM APPOINTMENTS

Our people are our strength. Kreisson's innovative culture is the result of an experienced legal team that prioritises the development of tailored solutions for our clients. Below are two key appointments that were made in 2021 due to the growth of our practice, and which will strengthen our ability to meet the changing needs of our domestic and international client base.



**Anish Wilson** | Senior Associate

This year Kreisson was pleased to announce the promotion of Anish Wilson to Senior Associate.

Anish is a construction lawyer and commercial litigator with particular expertise in building, construction, and engineering law disputes. Anish works closely with developers, builders, contractors, individuals, shareholders, directors and corporations in a range of Australian jurisdictions.

[Meet the Team](#)



**Emilee Clark** | Associate

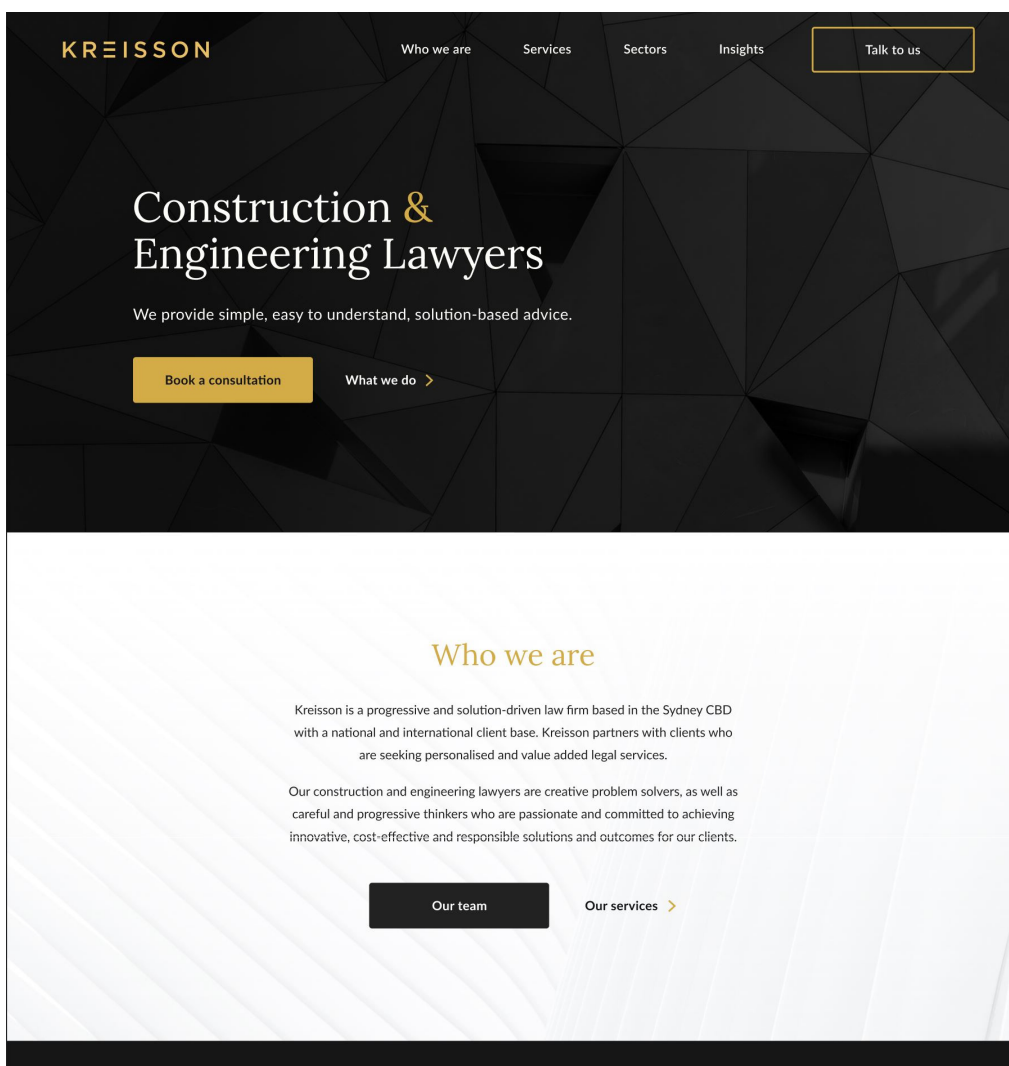
This year Kreisson was excited to announce the appointment Emilee Clark as a new addition to our growing team.

Emilee has broad experience advising on construction, property-acquisition and commercial contracts. Emilee also has significant experience in commercial and construction litigation with a particular focus on large-scale and complex litigation matters.

[Meet the Team](#)

# NEW WEBSITE

We have recently updated our website to better communicate Kreisson's service offering, values and knowledge-base to our clients. Feel free to visit our new website at the link below.



[Go to Website](#)

*Wishing you a safe and happy Festive Season!*

*Best wishes,*

the team at

**KREISSON** 



THINK. SOLUTIONS  
CREATE. INNOVATION  
BUILD. OPPORTUNITY

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