



NEWSLETTER

APRIL 2022



Construction Delays and COVID

As the fifth wave of the coronavirus continues to take hold of Hong Kong, its impact on construction companies, their suppliers, sub-contractors and staff is plain for all in the industry to see. What the future may hold is not yet clear, limiting the damage and cost of works delayed due to this wave could be the key to a project being deemed a success or a failure.

Currently, Employers are issuing warning letters for delay to on-site progress, supply and delivery delays and manpower numbers, which are all being disrupted due to the current government policies set to fight the spread of the virus. Whilst most of these disruptions should be covered under the contract as an exceptional circumstance, gaining a delay for a covid related disruption may well be helpful to cover the contractor for an extension of time. However, it will not necessarily extend to the cost of this additional time meaning that unless the contractor can establish their entitlement to it, they will need to cover their own prolongation costs.

So how does the land currently lie on plausible delays arising from the ongoing covid situation? From a delay analysis perspective, it is reasonably straightforward to include the prolongation caused by a design change or a delay in delivery due to supplier issues due to the borders with China being closed thereby limiting access from suppliers, by extending an activity or including another one to represent the delay in the baseline programme. However, establishing an accurate prolongation / disruption claim activity for some covid related delays may not be so clear cut when trying to accurately impact their effect on an impacted programme. For example, every worker is now required to wear a face mask when entering the site to work and are granted additional breaks to lessen the discomfort added by wearing such facemasks. Therefore, does the wearing of a facemask, over the course of the day, impact on how productive that worker is and did this prolong the works they were scheduled to carry out and further, has this affected the progress of the site works? A claim such as this may be argued by increasing the time allowed for the works by an agreed percentage to compensate for the reduced productivity. Doing this across a programme of thousands of activities, with a wide variety of trades taking place at the same time, for an extended time period, would not be so straightforward.

Where does this leave us as we move further into 2022 with no end in sight to the current situation? What is clear, and is recommended in the Society of Construction Law Delay and Disruption Protocol, is the importance of supporting records and documents to justify claims. A prolongation claim may well be issued for a covid related delay whereas a more costly delay, such as a design change, would have a greater benefit to the Contractor. Therefore, keeping concise, well-organized data from across the project, including site diaries, RFIs, AIs, meeting minutes, daily manpower records will be of great benefit when producing retrospective delay claims. Further to these records a regularly updated, as-built programme is an especially useful tool for recording delivery dates and installation dates of big-ticket E&M items, statutory installations, milestone key dates, all of which are very useful to establish a basis for a retrospective delay claim as and when they arise.

HONG KONG CONSTRUCTION INDUSTRY STATISTICS

Census & Statistics Department's construction output statistics for the fourth quarter ('Q4') and the whole of 2021 show:

- The gross value of construction works performed by main contractors in Q4 decreased by **3.8%** from a year earlier to **HK\$61.1 billion** and increased by **0.7%** to **HK\$231.4 billion** for the whole of 2021. In real terms there was a **9.6%** decrease for Q4 and a **1.5%** decrease for all of 2021 after removing the effect of price changes.
- Private sector sites were down **7.6%** for Q4 of 2021 from a year earlier at **HK\$17.7 billion**, and there was a **0.1%** decrease for all of 2021 at **HK\$61.1 billion**.
- Public sector sites increased by **3.6%** for Q4 of 2021 to **HK\$22.9 billion**, and increased **4.8%** over the whole year to **HK\$73.9 billion**.
- Gross value of construction works at locations other than construction sites (maintenance, decoration, repair, electrical installations, etc.) was down **6.7%** for Q4 of 2021 at **HK\$23.9 billion**, and down **1.8%** to **HK\$96.4 billion** for the whole of 2021.
- Residential Building projects accounted for the largest share in gross value for the whole of 2021 at **HK\$49.8 billion** (down **4.8%**), with transport projects coming in second at **HK\$36.3 billion**, up **5.0%** from 2020.

PROJECT NEWS

The Leighton Contractors (Asia) Ltd. led **IEC Boardwalk JV**, has been awarded a **HK\$1.18 billion** contract for construction of the **Boardwalk underneath East Island Corridor**. The contract is for construction of a board walk and connecting promenades with a total length of about 2.2 km, access points, and viewing platforms, a fishing platform, movable bridges, architectural and ancillary features, beautification, modification and revitalisation works to existing facilities and buildings. The project has now commenced and is anticipated to be complete in 2025.

The **Shui On Joint Venture** have been awarded the contract for **Design and Construction of Fire Station and Ambulance Depot, with Departmental Accommodations in Lok Ma Chau Loop**. The works include construction of a divisional fire station, and ambulance depot, divisional training facilities a hazardous material maintenance store, law enforcement facilities, dangerous goods stores, laboratories, detention areas and associated building services installations, drainage and external works. The contract value is **HK\$1.04 billion** and the project is scheduled for completion in March 2024.

STAFF NEWS

We are pleased to welcome the latest editions to our team, **Ms. Karen Cheung** (Consultant QS), **Mr. Tim Wong** (Quantity Surveyor), **Mr. Jerald Cheung** (Project Quantity Surveyor), **Ms. Suki Lam** (E&M Quantity Surveyor) and **Mr. Ivan Ho** (Project Quantity Surveyor). Jerald, Tim, Suki and Ivan are currently providing contractual administration services to our client on the Third Runway System project. We are also looking forward to welcoming another three members to our team in April and May this year, details to follow soon.



通訊

4月 2022



工程延誤和冠狀病毒病

自第五波疫情在香港爆發以來，它對建築公司、其供應商、分包商和員工所帶來的影響是有目共睹的。行業前景仍然不明朗，而減低這一波疫情對因工期延誤所造成的損失和成本將是決定工程成敗的關鍵。

目前，業主們都在就因政府推行中的防疫抗疫措施所導致的現場施工進度滯後、供應和交付延遲及人力短缺而發出警告信。當中大部分干擾能被合約中的極其特殊情況所涵蓋，關於冠狀病毒病(新冠)而導致相關干擾，承包商可在合約下獲得延期。但是，承包商不一定享有因該合約工期延期而產生的相關額外費用的賠償，意味著除非他們能夠確立賠償的合同權利，否則便要自行支付工程延期的成本。

那麼，持續的新冠疫情又使工地受到如何的延誤影響呢？從延誤分析的角度來看，一個合理直接的做法就是包含一些因為設計變更或者因為中國封控措施下供應鏈受影響所引致的工程延期。做法可以是透過相應地延長在基綫施工進度計劃內的相關受影響活動項目，或者是直接加插一個代表該項延期的活動項目去反映工程進度計劃被延誤了。但是，要準確地確立那些與新冠相關的施工活動項目的影響往往並不容易。例如，現在的防控措施要求每位工人進入工地工作時都必須戴上口罩，並獲得額外的休息時間，從而以緩解戴口罩引致的不適。因此，戴上口罩是否會影響工人的工作效率？又是否延長他們預定的工作時間？從而影響工程進度？像這樣的索賠，可能需要透過與業主們協商，確定某些施工活動項目因新冠而額外增長的施工時間考慮。從而釐定一個百分比去補償被降低了的施工生產率。然而，要落實此建議並不簡單，因為工程計劃中包含多個項目，而各種各樣的施工活動亦會在延期間內同時進行。

邁入2022年，當前的情勢仍然不明朗，這會為我們帶來什麼影響呢？可以確定的是和在建築法學會「工程延誤與干擾指南」中被推薦的是證明索賠的記錄和文件的重要性。承建商當然可以就新冠相關的延誤申請索賠，但成本更高的延誤（例如設計變更）很可能會為他們帶來更大的利益。因此，在申請追溯性延誤索賠時，保持簡潔和有組織數據(包括現場日誌、信息請求、建築師指令、會議記錄、每日人力記錄)將會對追溯延誤索賠帶來很大好處。除了定期更新記錄之外，實際施工進度計劃亦是一個非常有用的工具去記錄例如交付日期、昂貴的機電設備的安裝期、法定要求的安裝和關鍵里程碑日子等，為追溯性延誤建立索賠的基礎。

香港建築業統計

政府統計處2021年第四季(Q4)及全年的建造工程完成量統計數字顯示：

- 2021年第四季主要承建商的建造工程名義總值計比上年同期下跌3.8%，達至611億港元，而2021年整體總值較2020年上升0.7%，達至2,314億港元。扣除價格變動的影響後，以質實計算建造工程總值，2021年第四季比上年同期下跌9.6%，全年則較2020年下跌1.5%。
- 2021年第四季，私人地盤建造工程比上年同期下跌7.6%，達到177億港元，2021年為611億港元，較2020年下跌0.1%。
- 2021年第四季，公營地盤建造工程比上年同期增加3.6%，達到229億港元，2021年為739億港元，較2020年上升4.8%。
- 2021年第四季除建築工地（保養，裝修，維修，電力裝置等）外的建築工程總值比上年同期下跌6.7%，達到239億港元，2021年為964億港元，較2020年下跌1.8%。
- 住宅樓宇建築項目於2021年完成的建造工程總值佔最大比重，為498億港元（下降4.8%），第二大為交通項目，為363億港元，比2020年度上升5.0%。

項目信息

禮頓建築（亞洲）工程有限公司主導的 IEC Boardwalk JV 獲得價值 11.8 億港元的東區走廊下之行人板道合約。該工程合約建造的项目包括建設一段總長約 2.2 公里的行人板道和連接長廊、接入點、觀景台、釣魚平台、開合橋，提供建築特色及配套設施，美化、改建和活化現有設施及建築物。該項目已展開，預計於2025年竣工。

瑞安聯營獲批設計及建造位於落馬洲河套地區的消防局暨救護站建造工程合約，並建造部門宿舍。工程包括建造分區消防站和救護站、分區培訓設施、危害物質保養倉庫、執法設施、危險品倉庫、實驗室、拘留區域，以及相關的屋宇設備裝置、渠務和外部工程，合約金額為港幣10.4億元，計劃於2024年3月竣工。

員工信息

我們很高興歡迎 Ms. Karen Cheung (顧問)、Mr. Tim Wong (工料測量師)、Mr. Jerald Cheung (項目工料測量師)、Ms. Suki Lam (E & M 工料測量師) 和 Mr. Ivan Ho (項目工料測量師) 加入我們的團隊。Jerald、Tim、Suki 和 Ivan 目前為香港國際機場的第三跑道系統項目提供合約管理服務。另外，我們也期待將於今年 4 月和 5 月加入我們團隊的三名成員，詳情將於稍後公佈。