

# BUILDING AND CONSTRUCTION LAW JOURNAL

Volume 40, Number 5

2025

## EDITORIAL

**Security of Payment in Hong Kong** ..... 529

## ARTICLES

**Proportionate Liability in Construction Disputes: The Gold Standard or a False Start?** – *Andrew McNeill*

Over two decades after the enactment of uniform proportionate liability legislation, the High Court continues to grapple with questions regarding its application. In two highly contested decisions, *Tesseract* and *Pafburn*, the High Court has developed proportionate liability law with far-reaching implications for the resolution of construction disputes. This article explores the significant ambiguities arising from these decisions, particularly in the interaction between common law claims and statutory duties, and the possibility of contracting out of proportionate liability through dispute resolution clauses. This article also assesses the practical consequences of these uncertainties for construction projects, with a focus on how they complicate dispute resolution processes, especially arbitration, and explores whether alternative choices of law in arbitration could circumvent this prohibition or are contrary to the public policy of the regime. .... 530

## REPORTS

*Synergy Construct Australia Pty Ltd v GSA North Terrace Pty Ltd* ..... 543

*Wan Sern Metal Industries Pte Ltd v Hua Tian Engineering Pte Ltd* ..... 568

*Hynash Constructions Pty Ltd v BRP Industries Pty Ltd* ..... 585

*RE Oakey Pty Ltd v Canadian Solar Construction (Australia) Pty Ltd* ..... 596

*XY v UV* ..... 614

