

# BUILDING AND CONSTRUCTION LAW JOURNAL

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## ARTICLES

### **Concurrent and sequential causes of delay** – *Paul Tobin*

Delays to progress and to completion inevitably occur on the majority of building and construction projects. There are a multitude of potential causes of those delays. The risk of bearing the effects of those causes are allocated, under the terms of the contract or at law, between the owner and contractor. Factual and legal complexity arises when more than one cause of delay overlaps, or is concurrent with, another cause of delay. There may also be concurrent effects attributable to delaying events that have arisen at different times. .... 10

### **Responsibility for failure to certify progress payments: Where are we now?** – *David Rodighiero*

This article considers the historical interpretation of GC 42.1 and the impact of *Brewarrina Shire Council v Beckhaus Civil Pty Ltd* (2003) 56 NSWLR 576, as well as the determination of the Victorian Court of Appeal case *Aquatec-Maxcon Pty Ltd v Minson Nacap Pty Ltd* [2004] 8 VR 16 and subsequent decisions considering these issues. Subject to the issue being reconsidered by the Court of Appeal or further appeal, it appears that the interpretation of GC 42.1 has now been settled in New South Wales and Victoria (and possibly South Australia). That is, the obligation of a superintendent to issue a payment certificate under the above standard contracts is subject to a condition precedent that the contractor supported the progress claim with evidence of the amount due to it and with such information as the superintendent might reasonably have required. Unless the requisite evidence and information supported the claim, the superintendent is arguably not obliged to issue a payment certificate in response. .... 29

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