

MARSH JLT SPECIALTY

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Waste to Energy

The Changing Construction Insurance Market
and How to Get the Best Out of it



Waste to Energy

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Introduction: A Toughening Market

Towards the end of 2018, UK construction insurance started transitioning out of a soft market. Some insurers withdrew from underwriting specific sectors, while others closed their construction divisions. This trend has continued through 2019 and into 2020.

Against this background, the waste to energy (WtE) sector has seen large losses. Many projects suffered lengthy construction delays for two reasons:

- Engineering, procurement, and construction (EPC) contractors being unfamiliar with the technology deployed.
- The impaired performance of specific technology and/or processes, for example, gasification.

These factors combined to reduce insurer appetite and capacity for WtE projects significantly. Insurer selection in the construction phase is key in securing a long-term relationship and transitioning smoothly to the operational phase.

Insurers' Top Three Questions

Each project presented to insurers is subject to increased underwriter scrutiny and it is important that key projects risks are identified and addressed. The three fundamental issues for insurers are:

- Has the EPC contractor delivered this type of plant successfully before?
- Is the process/technology proven, and is the key equipment from reputable suppliers?
- Is there a robust proposed fire strategy and fire suppression and detection system?



Insurer selection in the construction phase is key in transitioning smoothly to the operational phase.

Key Project Risks

In order to receive the most favourable terms, specific risk issues need to be understood, assessed, and, where necessary, articulated to insurers. These risk issues include, but are not limited to, the following:

Risk issue	Comments
Technology and design	<p>Moving grate incineration is the most commonly used WtE technology worldwide for municipal solid waste.</p> <p>However, if parts of the treatment technology or process are unproven or prototypical within the UK, the insurance market will restrict the cover available or even decline to participate in the risk during construction and/or operation. Full details of the technological solution will be required.</p> <p>Project lenders expect defective design cover and the highest level of cover during the defects liability period.</p>
Process guarantee	<p>Several large claims in this area means that project insurers no longer provide insurance cover to contractors for any process guarantee risk. To ensure the risks and liabilities are understood fully, start discussions with your contractor early in the process.</p>
Proven contractors	<p>Many WtE contractors have suffered lengthy delays during construction, principally due to the technology deployed or the lack of experience of the contractors used. It is critical to demonstrate that all key subcontractors have successful experience in delivering similar projects.</p>
Fire strategy	<p>High profile fires involving large stockpiles of stored waste material awaiting processing or recycling will need to be considered, as this risk will be a consideration for the insurance market.</p> <p>Project insurers will seek clarification that the agreed fire strategy complies with guidance published by the NFPA, FM and WISH.</p>
Fire suppression and detection systems	<p>Fire and explosion claims for commercial property insurers cost an estimated £945 million in 2017¹, so protections have to be best in class. A bespoke fire detection and suppression system is a fundamental part of any risk management strategy, especially in the tipping hall and bunker. It is important for fixed fire protection systems to be based upon a system (or equipment) which is:</p> <ul style="list-style-type: none">• Listed, approved, or certified for its intended purpose by a recognised independent testing laboratory (for example LPCB, NFPA, FM Approvals, DFL).• Designed, installed, and maintained in accordance with acceptable published codes or standards addressing the intended purpose.• Designed, installed, and maintained in accordance with manufacturers' literature. <p>Any variation is likely to lead to difficulties obtaining insurer acceptance of the system.</p>



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¹ Construction News: [Spike in construction site fires 'deeply concerning'](#)

Risk issue	Comments
Defects liability period	Lengthy defects liability periods are a feature of WtE projects. Typically, the construction insurance market limits the cover provided during defects liability periods to 24 months. Careful consideration is required for allocating responsibilities during the time beyond the insured maintenance period
Testing and commissioning	WtE technologies undergo longer and more extensive periods for testing and commissioning prior to handover. Such periods often include start-up or hot commissioning and it is important to ensure the insurances cover this exposure. Careful consideration must be given to the interface of insurances in between take over and full acceptance.
Loss of revenue	In the event of the facility being unavailable, specific consideration must be given to the basis of insurance cover (as often revenue via gate fees continues to be received), and include reference to contingency planning arrangements that might be put in place. In a tightening market, insurers prefer a fixed-costs/profit basis. Certain insurers can't underwrite projects where the delay in start-up sum insured exceeds 50% of the contract value.
Commercial and industrial waste streams	Operational insurers will be keen to understand the acceptance criteria, nature, and screening operations for commercial and industrial waste streams. Full details regarding the pre-processing/sorting at any other premises operated by the fuel supplier will provide additional comfort to insurers.
Environmental impairment or pollution	Depending on the site conditions, a bespoke environmental insurance and risk solution might be required, covering the activities of the on-site contractors and the exacerbation of any historic site pollution. Also requiring consideration and management is the risk of nuisance claims arising from fumes or odours (noxious, toxic, or otherwise), injunctions during remediation, and costs of remediation.
Warranties	Both construction and operational insurers expect to maintain subrogation rights against original equipment manufacturers (OEMs), in respect of the warranties and guarantees provided for critical plant and equipment used in the facility.
Offtake agreements	Sponsors need to carefully consider the commitments made under the offtake agreement, and the indemnities provided in the event of failure to supply.
Grid connection	Grid sub-stations represent a critical export dependency for this type of project. Insurance should be tailored to protect the project against any delay exposure arising from loss/damage to this location.



Ensure your broker can demonstrate experience in closing multiple WtE projects in tough markets.

How to Obtain the Optimum Insurance Terms

It is crucial to differentiate your WtE plant. Consider taking the following actions:

- Provide detailed credentials outlining where the EPC contractor has successfully delivered this type of plant before.
- Provide technical information demonstrating that the process/technology is proven, and that key equipment has been sourced from reputable suppliers.
- Demonstrate a robust fire strategy, with high quality fire suppression and detection systems.
- Outline your approach to quality assurance – through a competent Owner's Engineer – flagging the client's other plants in operation.

In addition, you should ensure your broker can demonstrate experience in closing multiple WtE projects in tough markets, and understands how to generate optimum appetite from insurers.

To increase the chances of the best outcome for your project, an experienced specialist broker will tailor and agree with you the correct strategy for your project. Additionally, they will articulate your approach on the key risk issues and prepare high-quality market submissions addressing the key insurers' concerns.





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