



Australian Institute of Building

Submission to the

***Senate Inquiry into Insolvency in
the Australian Construction
Industry***

Introduction

The Australian Institute of Building (AIB) welcomes the opportunity to lodge a submission to the *Senate Inquiry into Insolvency in the Australian Construction Industry*.

Founded in 1951 and granted a Royal Charter in 1969, the Australian Institute of Building (AIB) concerns itself with increasing the professionalism amongst builders. The AIB is the voice of professionally trained and experienced construction managers who number more than 80,000, according to the 2011 census. AIB members hold degree qualifications in building and construction management and work as project managers and in senior levels within construction companies. With a focus on supporting the next generation of building professionals, AIB cooperates with universities to ensure the relevance of undergraduate programs in building disciplines, and assists in improving course curriculums. AIB accredits only the courses of the highest standards.

AIB Objectives

The objectives of the AIB are:

- To promote excellence in the construction of buildings and just and honourable practices in the conduct of business.
- To advance the study of Building and all kindred matters, arts and sciences.
- To encourage the friendly exchange between members of knowledge in practical, technical and ethical subjects.
- To uphold the dignity of the profession of Building and status of the Institute.

NSW Government Inquiry into Construction Industry Insolvency

In 2012 AIB responded to the NSW Government inquiry into construction industry insolvency. In AIB's submissions at that time, the following factors were identified as contributing to insolvency of companies and sole traders in the construction industry:

- The Global Financial Crisis led to discounting by builders and lower profit margins to win work, with profit margins of 1-2 percent not uncommon;
- Builders shouldering a disproportionate share of contractual risk, also as a result of trying to win work in tight economic times;
- Builders expected to fix architects' design faults and absorb the costs;
- Builders often not receiving the final payment owed, and then weigh that amount against the time, expense and trouble of taking the matter to court;
- Builders spending large sums to tender for jobs, and clients often abusing this; and
- Poor management of financial affairs a reason many subcontractors fail. Tradespersons should be required to obtain a Certificate IV in Building and Construction, in which there is a relevant focus on financial skills and legal concepts.

Further, the AIB notes that the inquiry itself found that the most common causes cited for insolvency in the construction industry in NSW were:

- insufficient capital together with excessive debt;
- poor financial management skills;
- an inability to manage the scope of projects;
- lack of requisite expertise for a particular project;
- low margins;
- payments withheld or not paid;
- fraud;
- poor economic conditions.

The Crucial Role of Professionalism

AIB's position is that greater professionalism is critical in reducing insolvency in the building and construction industry. In terms of the education levels of construction managers, federal and state governments need to legislate higher educational standards to ensure that they have the necessary skills to manage large scale projects, and the associated financial aspects. Higher educational standards and financial skills are also important for tradespersons working in the building and construction industry.

The AIB administers the National Building Professionals Register (NBPR), which allows those registered to use the title 'Chartered Builder' after their name. AIB full members can use the title 'Chartered Building Professional'. AIB requires its members to undertake Continuing Professional Development (CPD) in order to retain AIB membership, and the ability to use these titles, with those on the NBPR also required demonstrate the requisite insurances and financial position.

AIB emphasises that federal and state governments should legislate that only tertiary-qualified construction managers should be allowed to manage large scale commercial, infrastructure and residential projects, and that only those that are tertiary-qualified in a construction management degree should be allowed by law to refer to themselves as a 'construction manager', just as 'engineer' and 'architect' are protected professional titles in most states. This would curtail the situation of many construction companies growing exponentially with directors lacking basic financial skills or simply the education, and allowed, unchecked to manage large scale projects to their own, the profession's and the public's detriment.

Support for Positions in Other Submissions

AIB supports many of the positions in the submission by Master Builders Australia, and in particular the need for regulation reform and business skills training to enhance entry and reduce firms exiting the building and construction industry.

In terms of regulation reform, AIB supports the following MBA recommendations:

- substantially reduce State, Territory and Local Government variations to the National Construction Code (NCC);
- eliminate the differential classification and treatment of employees and sub-contractors within and between jurisdictions; and,
- improve third-party regulatory processes, especially where these regulations and their associated requirements are imported and/or referenced in Federal Government et al regulatory instruments.

In terms of business skills training, AIB supports the following MBA recommendations:

- greater harmonisation of apprenticeship systems and public sector funding policies around the nation;
- the development of "Passports of Competencies"; and,

- wider industry-owned qualification and competency development.

Further, AIB supports the following comments in the MBA submission to the Senate Inquiry into Construction Industry Insolvency:

- The building and construction industry is highly cyclical.
- Regarding 'phoenix companies', "fraud has always been illegal and requires no new laws".
- There is an "unacceptable culture within the CFMEU", and "defiance of the rule of law should not be tolerated".
- "We reject the proposition that sham contracting has any influence on insolvencies".

AIB agrees with the HIA submission to the Senate Inquiry into Construction Industry Insolvency that the following contribute to insolvencies in the industry:

- "The competitive nature of the industry, the cycles of building activity, restrictive consumer protection provisions together with the costs of complying with complex overlapping state, local and Commonwealth laws and regulations";
- "Large red tape and regulation burden"; and
- The subcontractor as the statutory right to a progress payment, regardless of the quality of work performed, and there is the principle of "pay now and argue later".

Further, as with the MBA submission, AIB agrees with the HIA submission that 'phoenix companies' are not such an issue, due to regulation in each state and territory on who can start a company.

End of Submission

Submission lodged on 28 April 2015.

Appendix 1

Further information about the AIB

Founded in 1951, the Australian Institute of Building (AIB) is the peak body for building and construction professionals in Australia and the Asia-Pacific region, acknowledged for its ability to bring individuals together who share a common interest in improving the standing of the building profession and their career within Australia and overseas.

The AIB was incorporated by Royal Charter in 1969, and as such members who meet the requirements are entitled to be referred to as 'Chartered Builder'.

Recognised as the accrediting body for building and construction degrees at educational institutions, the AIB has a long and proud history of supporting and servicing the building profession. For more than sixty years, the Institute has worked with the building and construction industry, government, universities and allied stakeholders to promote the building profession, support the development of university courses in building and construction whilst promoting the use of innovative building techniques and a best-practice regulatory environment.

The AIB's membership comprises some 2500 professional qualified and experience construction managers employed at senior levels by all major construction companies in Australia. The AIB represents the interest of some 85,000 qualified construction managers in Australian (2011 Census).

AIB is proud of its role in promoting the exchange of information amongst individuals and accomplishes this through publications including the *Construct* magazine and the Australasian Journal of Construction Economics & Building (AJCEB).

The AIB also has an extensive continuing professional development program in Australia and overseas and facilitates the annual AIB Professional Excellence in Building Awards Program.

For further information please go to www.aib.org.au