

5 April 2023

Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
PO Box 6100
Parliament House
CANBERRA ACT 2600

By email: corporations.joint@aph.gov.au

Dear Mr Turner,

Inquiry into corporate insolvency in Australia hearing, Parliamentary Joint Committee on Corporations and Financial Services – Proof Committee Hansard

Thank you for the opportunity to appear at the public hearings of the Committee’s inquiry into corporate insolvency in Australia. This is a response to the above hearing on 21 February 2023.

Question on Notice:

At the above noted hearing on 21 February 2023, the following questions were taken on notice:

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Chair: Could I ask a clarifying question about reach? What jurisdiction are you operating in?

Ms Connolly: Incolink is a worker entitlement fund across several states in Australia?

Chair: Which ones?

Ms Connolly: In Victoria, Tasmania and South Australia. Other worker entitlement funds also operate across commercial construction in Australia.

Mr Hawke: How many of these are there in commercial construction at the moment?

Ms Connolly: Incolink is the largest by a very large margin. About six or seven operate across Australia.

Mr Hawke: When you say you are the largest, the fund sizes would be comparable, wouldn't they? They would be substantial funds?

Ms Connolly: We have the largest funds under management. Our funds under management touch over \$1 billion and we have the largest number of workers contributing to the fund.

Chair: Can I ask about the other jurisdictions so we cover that off – Queensland?

Ms Connolly: There is a fund up there called BERT. There is ACIRT, which operates across different jurisdictions.

Chair: Which ones to they cover?

Ms Connolly: Commercial Construction. ACIRT, I believe, covers New South Wales and the ACT

Chair: What about the Northern Territory?

Ms Connolly: I don't know who covers the Northern Territory. I'll have to take that on notice.

Answer/Response:

BERT covers both Queensland and the Northern Territory.

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Chair: So this is about a change between the FEG and the WEF, the worker entitlement fund; they're in battle with one another. One is a fully government-funded response, which is very significant – and we certainly saw that in Queensland, with the payment of workers. I think it captured the imagination of the Australian papers regarding people in the nickel mines.

Mr Pitt: In Townsville.

Chair: In Townsville. That was the big one, I think, where everybody woke up to the fact that there is a Fair Entitlements Guarantee –

Ms Connolly: Yes.

Chair: whereas this WEF is a preventative model, making sure that businesses are operating sustainably and meeting their requirements before law, for payments that are expected under the Australian law for people who are working.

Ms Connolly: That's correct.

Chair: A billion dollars is quite a large amount of money. You may need to take this on notice: in terms of the scale of that, what regulatory oversight are you required to comply with? To whom do you answer in terms of these funds held in trust?

Ms Connolly: I'll take it on notice to provide further details. To be clear: as a managed investment scheme we've been operating for over 35 years, and the fund of a billion dollars is essentially on the back of really strong investments and returns. We've got a funding ratio that far exceeds requirements. If the apocalypse happened tomorrow, which we almost saw in 2020, and every worker needed to claim their funds, we've got a very large buffer on top of that, through strong investment returns which enable us to do the programs that we do, along with having that additional amount there.

Answer/Response:

Although we are not a managed investment scheme, the Incolink group is regulated by:

- ASIC and the Corporations Act
- The ATO and the Fringe Benefits Tax Assessment Act (as a constitutional corporation and an approved worker entitlement fund)
- The Trustee Act and general trust law.

Incolink's shareholders are regulated by General Manager of the Fair Work Commission, formerly the Registered Organisations Commissioner (which was abolished effective from 6 March 2023)

Incolink takes its fiduciary obligations as trustee of each Fund very seriously. We already have a comprehensive governance framework in place to ensure accountability and that we are acting in the best interest of our members at all times.

Additionally, major activities and initiatives funded by Incolink are regularly monitored and reviewed including by our auditors, particularly in respect of our industry skills training and OH&S training and awareness grant funding to ensure value for money.

The following processes/checking mechanisms have been utilised to verify our procedures and auditing scrutiny:

- Internal Auditor (PwC)
- External Auditor (EY)
- Financial delegations policies
- Risk Management Framework and Risk Register
- Incolink Code of Conduct
- Directors Code of Conduct
- Board Governance Training
- Up to date board committee structure and charters
- Comprehensive Fraud and Corruption Control Plan and Policy
- Credit card policies
- Privacy training and policy updated and communicated to all Members
- Independent remuneration review
- Actuarial review of insurance schemes
- Conflict of Interest Declarations/Register and Policy
- Gifts, Benefits & Hospitality Register and Policy
- Privacy Act, Spam Act and Confidentiality Review
- Privacy and Complaints Officer and accompanying policies and procedures
- Whistleblowing Policy
- Regular and targeted staff training

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Yours sincerely,

Ashleigh Dalmau (nee Connolly)
Chief Operating Officer