building 4.0 crc

PROJECT #80: WHY ARE INSOLVENCIES SO HIGH IN THE RESIDENTIAL CONSTRUCTION INDUSTRY AND WHAT CAN BE DONE ABOUT IT?

FINAL REPORT

MASTER BUILDERS VICTORIA

holmesglen

BPC Building and Plumbing Commission

QUT

Australian Government
Department of Industry, Science and Resources

Cooperative Research Centres Program

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ABC	Australian Broadcasting Corporation
ABIC	Australian Building Industry Contracts
ABS	Australian Bureau of Statistics
ACT	Australian Capital Territory
AFSA	Australian Financial Security Authority
AMR	Automatic Mutual Recognition
APRA	Australian Prudential Regulatory Authority
ASBFEO	Australian Small Business and Family Enterprise Ombudsman
ASIC	Australian Securities and Investments Commission
ASQA	Australian Skills Quality Authority
ATO	Australian Tax Office
BAB	Building Appeals Board
CBD-U	Domestic Builder - Unlimited licence in Victoria, Australia
CFMEU	Construction, Forestry and Maritime Employees Union
CRC	Cooperative Research Council
CPD	Continuing Professional Development
DBC	Domestic Building Contracts Act 1995
DCBOS	Director of Consumer, Building and Occupational Services
DOCA	Deed of Company Arrangement
FDM	Farm Debt Mediation
FTE	Full Time Employee
FY	Financial Year
GDP	Gross Domestic Product
HIA	Housing Industry Association
IBAC	Independent Broad-based Anti-Corruption Commission
MFR	Minimum Financial Requirements
MBA	Master Builders Australia
MRS	Mutual Recognition Scheme
NAHB	National Association of Home Builders
NCC	National Construction Code
NCIF	National Construction Industry Forum
NRF	National Registration Framework for Building Practitioners
NSW	New South Wales
NT	Northern Territory
PTA	Project Trust Account
QBCC	Queensland Building and Construction Commission
QCAT	Queensland Civil and Administrative Tribunal
QLD	Queensland
RPL	Recognition of Prior Learning
RTA	Retention Trust Account
RTO	Registered Training Organisation
SA	South Australia
SBR	Small Business Restructuring
SME	Small Medium Enterprises
SOP	Security of Payment
VCAT	Victorian Civil and Administrative Tribunal
VET	Vocational Education and Training
VIC	Victoria
WA	Western Australia

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EXECUTIVE SUMMARY

Construction is Australia's largest industry by output, employment and economic contribution, representing 1 in 7 workers and up to 24.2% of total GDP accounting for direct and indirect factors (Property Council of Australia, 2024). The construction sector underpins housing delivery, infrastructure expansion and national productivity. And yet, Australia's construction sector is in crisis, representing 26% of all national insolvencies in FY24 and an increase of 118% in the preceding three years (Australian Securities & Investments Commission, 2024a). While COVID-19 disruptions are often blamed, the sector's financial instability long predates the pandemic and continues despite recovery efforts (Amman, 2017; Coggins et al., 2020; Guest, 2012; Reserve Bank of Australia, 2022; Tan, 2014).

High insolvency rates in the residential sector is not just a construction issue – it is a housing supply, productivity and economic issue, given its contagion effect across the wider economy. The increased numbers in residential construction insolvencies therefore warrant urgent and careful policy attention. Yet despite the industry's scale, cascading consequences of company failure and over a decade of government inquiries, the root causes of high insolvency rates remain under-researched and poorly understood, leaving critical gaps in regulation, education and industry support.

This project sought to address that gap, taking a systems approach in recognition of the complex interrelationships and cultural factors that characterise the sector. Firstly, public and industry data was analysed to profile insolvency characteristics, informing a targeted approach. Secondly, workshops and select interviews with industry stakeholders led to an understanding of key internal and external drivers of financial instability, pinpointing where targeted interventions will be most effective. The project concluded with development of targeted evidence-based recommendations for policy reform, education and industry practice to reduce insolvency risk and build long-term resilience in the residential construction sector.

Key Findings

The key findings from this research project are:

1. **SMEs are most at risk**: Insolvency is concentrated among small, long-established firms, in eastern states. These businesses often lack financial buffers, rely on unsecured debt, carry tax debts and are run by directors with limited business acumen.

2. **Systemic pressures dominate**: Failures are not just due to poor management. Even experienced directors are affected, pointing to structural issues within the industry.

3. **Cultural Issues:** Cultural issues within the sector often underlie or exacerbate business failure, including by licensed builders engaging in practices which have a short-term financial focus rather than a long-term sustainable profit focus. By way of example, culture may discourage licensed builders from seeking timely legal or accounting advice due to the short-term costs involved, notwithstanding the long-term benefits available from receiving such timely advice.

4. **There are three core drivers of insolvency** (see Figure 1):

    a. **Financial Risk**: licensed builders bear disproportionate risk due to rigid progress payment structures, inflexible lending systems and restrictions on pre-deposit funding.
    b. **Regulatory Complexity**: overlapping and inconsistent rules relating to licensing, compliance and enforcement make compliance difficult and susceptibly to loopholes.
    c. **Low Business Acume**n: many licensed builders lack basic financial and business skills due to gaps in vocational training and continuing professional development (CPD).

5. **Data gaps hinder reform**: Long-standing limitations in public insolvency data, such as retrospective reporting, lack of early warning indicators and insufficient granularity continue to obstruct early detection and targeted policy interventions. These interventions are essential to improve transparency, support financially distressed residential construction firms and strengthen industry-wide resilience through preventative reform.

These three core drivers, which are all impacted by data limitations, should not be considered independently because the complex and interrelated nature of the industry means there is overlap in the underlying issues within them (see Figure 1).

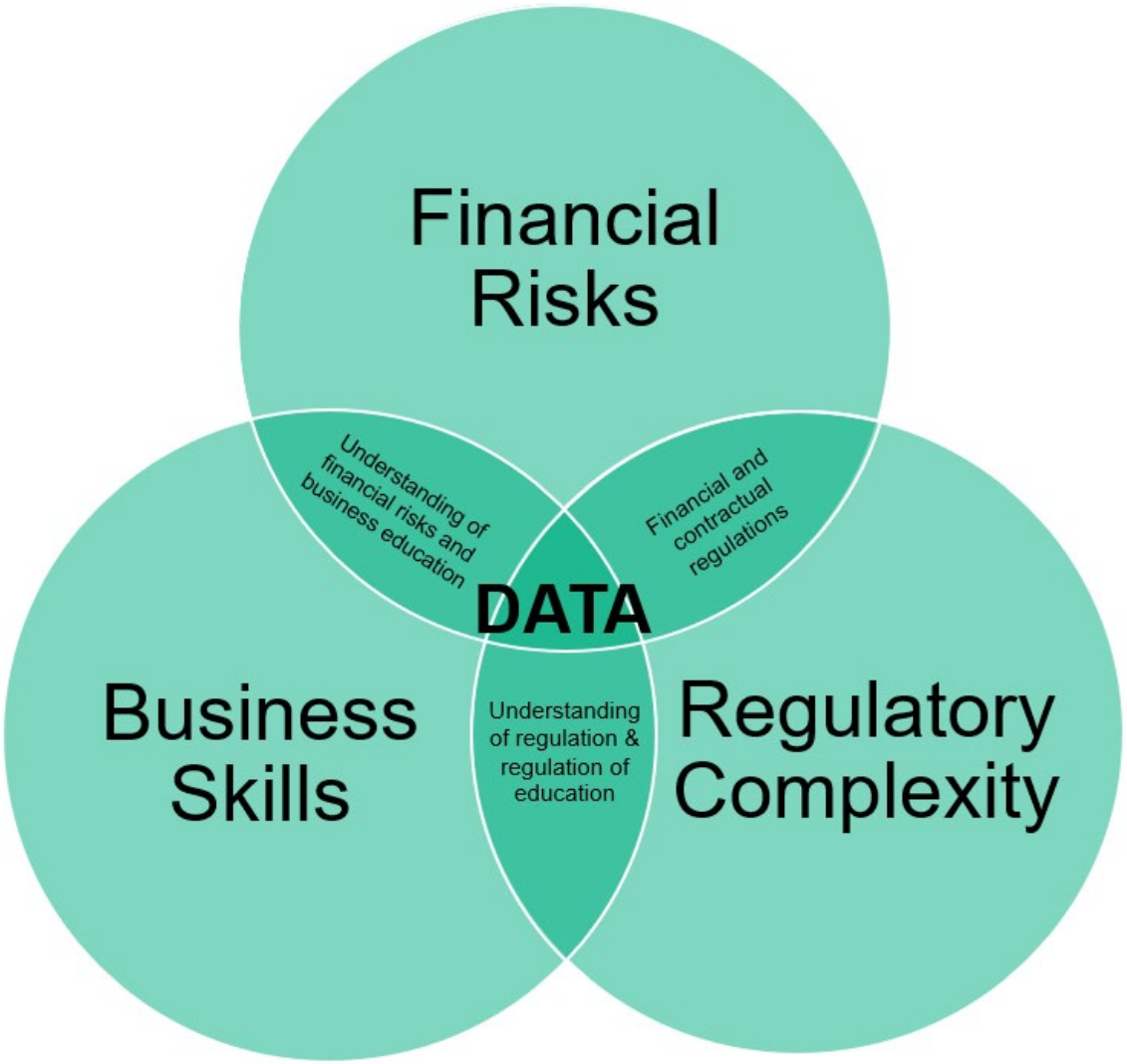

Figure 1: Drivers of Insolvency - Workshop Findings

Recommendations

To address these challenges, **the report proposes 23 tiered, targeted and tailored recommendations** across the four key drivers identified in our analysis:

Financial Risk

1. **Reassess financial risk:** Engage with financial institutions to review and reassess how construction sector risk is assessed. Such an assessment should explore adaptive lending models that meet prudential obligations without disproportionately penalising licensed builders or undermining project viability, recognising the inherent volatility of construction costs and timelines.
2. **Review progress payment schedules:** Conduct a national inquiry into progress payment schedules in contracts and regulations and their alignment with modern construction practices. Such an inquiry should assess whether current practices strike an appropriate balance between banks' prudential obligations and operational flexibility and explore reforms for progress payment schedules that better align with the reality of modern construction work.
3. **Promote adaptive financing:** Introduce milestone-based payment models tied to collaborative and verified progress payment schedules, aligned with the realities of the construction process, to reduce cashflow gaps and improve liquidity.
4. **Harmonise Security of Payment (SOP) legislation:** Undertake a review of existing SOP legislation across states to determine best practice and consider the development of a federal, or nationally consistent SOP regime. This will not only ensure that payments flow as required, but will also reduce the regulatory burden for SME operators and subcontractors, and the educational load in understanding and applying SOP obligations across eight jurisdictions
5. **Strengthen trust account protections:** Amend Security of Payment (SOP) legislation in Queensland to require the external administration of trust accounts, ensuring that funds allocated to subcontractors are safeguarded and used solely for their intended purpose. This recommendation would help address issues associated with incorrect administration of trust accounts, such as removing funds from one project account to pay for another and protect subcontractors – particularly in insolvency.

Business Acumen

6. **Mandate formal business education** as part of licensing requirements, with emphasis on legal and financial obligations and risks, cash flow planning, contract negotiation, risk management and directorship duties under the Corporations Act. These requirements should form part of nationally aligned requirements to obtain a license and as part of continuing education obligations with respect to renewal of licences. National oversight is necessary at licensing entry, otherwise the net benefit of this reform would be undermined by the Mutual Recognition Scheme.
7. **Address cultural barriers:** Develop targeted education programs to address cultural factors that discourage timely engagement with qualified professionals and reinforce informal practices such as the preference for cash/no contract jobs, the stigma in asking for help etc. These programs need to be fit for purpose and designed to engage with licensed builders at a level that is appropriate for the industry including collaborative education programs with Master Builders Australia, Bunnings, TotalTools, industry superannuation funds and relevant government departments.
8. **Encourage low-cost independent dispute resolution:** Establish or expand access to low-cost, independent dispute resolution services tailored to construction contracts, through a construction Ombudsman or other adjudication panel. This recommendation will allow stakeholders to resolve disputes more efficiently and equitably. Such an approach could be based on similar dispute resolution schemes in, for example, the farming industry (i.e. farm debt mediation).

9. **Tie CPD to registration:** Mandate CPD and tie completion to registration renewal, ensuring mandatory, ongoing competency in business, legal and financial management, and regulatory compliance. Ensure that CPD units are (1) mandatory (rather than electives), so that regulatory changes, managing business insolvency and understanding licensed builder's financial obligations under regulations are prioritised, and (2) provided by accredited industry bodies and training organisations to ensure reliable and rigorous training.
10. **Review RTO quality and consistency:** Undertake a comprehensive review of RTOs, assessing the quality and consistency of the training provided under Certificate IV and Diploma qualifications. Such a review should audit the business and finance modules specific to the construction industry, where there is often frequent regulatory change. Specific units are highlighted in Chapter 5.
11. **Train professional advisors:** Develop accredited CPD modules for professional advisors, such as lawyers, accountants and financial advisors, who support construction professionals.
12. **Create a public advisor register:** Further to recommendation 11, establish a publicly accessible register of "Construction Financial and Legal Advisors" listing accountants and lawyers who have completed relevant construction industry CPD/training. A verified register would help licensed builders identify advisors with demonstrated sector competence, reduce the risk of misinformed guidance and promote advisor accountability.
13. **Distribute practical toolkits:** Co-create sector specific toolkits (checklists, traffic light systems), with industry associations and culturally embedded companies, and circulate them through professional and social networks. By embedding this guidance in familiar environments and formats, it supports early and culturally appropriate intervention, reduces education fatigue and fosters a culture of proactive compliance.

Regulatory Complexity

14. **Review licensing frameworks:** Undertake a review of licensing and registration requirements across jurisdictions and the National Registration Framework to reduce regulatory arbitrage under the Mutual Recognition Scheme. This should include an evaluation of eligibility assessment approaches and alignment of initial and renewal requirements to minimise jurisdiction shopping and promote national consistency.
15. **Clarify insolvency obligations:** Clarify insolvency regulation obligations, including thresholds for voluntary administration and director duties. The project team supports a comprehensive review of Australia's bifurcated insolvency regime, as recommended by the Parliamentary Joint Committee on Corporations and Financial Services (2023) to address unnecessary complexity and improve regulatory coherence especially for SMEs.
16. **Unintended impacts of Small Business Restructuring Regime:** Review state and territory legislation to identify unintended consequences of appointing a restructuring practitioner to residential construction SMEs under Part 5.3B of the *Corporations Act 2001 (Cth).* Particular attention should be given to provisions that may suspend of cancel essential licences or insurance, potentially excluding SMEs in certain jurisdictions from accessing restructuring options.
17. **Simplify compliance for SMEs:** Streamline compliance processes for SMEs operating in the construction industry by simplifying reporting, insurance and dispute resolution mechanisms. Consider tiered compliance models based on business size and risk profile, while carefully managing the risk of increased regulatory complexity or disincentives for business growth.
18. **Remove costly and time-consuming regulations:** Conduct periodic, co-designed reviews of relevant regulations, and identify and repeal or simplify requirements that add cost or delay but deliver minimal safety or consumer benefit. Embed sunset provisions into building laws to ensure regulations remain justified and responsive to sector dynamics.
19. **Improve transparency:** Create a well-regulated public database of qualified construction professionals, including a default register, to improve transparency and accountability across

the supply chain and to protect consumers. Oversight should ensure accurate reporting of residential construction related defaults and address concerns about existing tools like iCirt.

20. **Rebalance deposit caps:** Rebalance deposit cap regulations to reflect actual upfront costs and reduce liquidity gaps for licenced builders. Current caps do not account for preliminary costs, subcontractor expectations or modern construction methods like prefabrication, which require higher deposits. Consider increasing caps to 10% for standard builds and 20% for prefabricated projects and explore whether insurance costs should be excluded from deposit limits.

Data Limitations

21. **Build a national data platform:** Establish a well-regulated national insolvency data platform, integrating data from the Australian Securities and Investments Commission (ASIC), the Australian Financial Security Authority (AFSA), industry bodies and other relevant regulators. Harmonised data will enable predictive modelling of insolvency risk, support early intervention strategies and facilitate evidence-based analysis of insolvency causes to inform more effective mitigation approaches.
22. **Standardise data collection:** Require consistent data collection and publication across all regulatory bodies to improve transparency, comparability and early intervention to prevent residential construction insolvencies. Regulatory bodies should adopt standardised reporting formats for key early warning indicators. The standards should apply to state-level regulators and extend to statutory insurers, dispute resolution bodies, WorkSafe authorities and other relevant agencies. Structured free-text fields should be included to enhance data granularity and interpretability. Regulatory bodies should be empowered to act on early warning signs through targeted interventions such as issuing conditional licences, requiring remedial action plans, adjusting insurance coverage terms etc.
23. **Invest in real-time tracking:** Invest in technology integration across the residential construction system to enable real-time tracking of financial health, project progress and risk exposure. This will support early intervention for financially distressed licenced builders, improve transparency for clients and suppliers and strengthen regulatory oversight across the broader supply chain.

Conclusion

Residential construction insolvency is a systemic issue shaped by a complex interplay of regulatory, financial, educational and cultural factors as well as unpredictable and unmitigable external pressures. This report traces the contours of that complexity, offering a high level, yet multi-layered analysis of how insolvency, emerges, spreads and persists across the sector. Drawing on regulatory data, stakeholder insights and systems mapping, this research moves beyond surface level diagnoses, towards a deeper understanding of the structural conditions that enable insolvency to take root.

For industry and policymakers, the implications are clear and compelling. Addressing insolvency in the residential construction sector requires a coordinated, sector-wide response. Reactive enforcement or isolated campaigns are not enough. Any reforms must adopt a systems-oriented approach that recognises the interdependencies and cultural dynamics at play in the sector, with a view to national as well as state-based issues. This report calls for better data, clearer and less burdensome regulation, and a cultural and financial reshaping and redistribution of risk. Above all, it requires a shared commitment between all levels of government, industry and builders to understanding insolvency not as an endpoint but as a signpost for where the sector most needs support.

1 INTRODUCTION

The purpose of this chapter is to introduce the context and rationale for this research project, providing the background to the high and rising insolvency rates in the Australian residential construction sector, as well as the broader economic ripple effects these failures generate. This chapter outlines the project's objectives and the research approach and scope, establishing the foundation for the remainder of the report.

1.1 Background

The Australian construction industry is a cornerstone of national economic activity, with every $1 million of building activity supporting around $3 million in activity across the wider economy (Master Builders Australia, 2023a).

Notably, the industry is made up of three district sectors:

1. Residential building which includes the construction of houses, townhouses and apartments
2. Non-residential building which includes offices, retail, industrial, hotel, education, entertainment, recreation, health and aged care, and
3. Engineering construction which includes railways, roads, pipeline construction, harbour works, water supply systems and other recreational and social infrastructure (Murray, 2018, p. 11).

This report focuses on the residential construction sector due to its critical role in shaping urban development, driving social justice outcomes and economic contribution.

The residential construction industry is defined with reference to the type of buildings under construction and the trades people and businesses working within those types of construction projects. According to the Functional Classification of Buildings, (Australian Bureau of Statistics, 2021a), residential buildings are those that *'…contain one or more dwellings, intended for the provision of long-term accommodation, and include, houses, separate houses (such as cottages or cabins), kit homes, transportable homes, detached separate dwellings (such as granny flats), semi-detached or townhouses, apartments and residential buildings not classified elsewhere (such as pool houses, green houses and gazebos)'*.

The industry also includes the trades people and businesses that service residential construction projects. According to Jobs and Skills Australia, the residential construction industry employs 315,500 employees (Australian Bureau of Statistics, 2024a). The construction industry, as a whole (including residential and non-residential including civil and installation services), represents 9.4% of Australia's workforce (Australian Bureau of Statistics, 2024a) and contributes 7.0% of Australia's Gross Domestic Product (GDP).

The residential construction industry is expected to grow by at least 1.4% (for house construction) per year until 2029/30 (Kelly, 2025, 2024). Yet, despite projected growth and sustained demand, the sector is increasingly marked by financial instability and high rates of insolvency. Understanding the systemic pressures facing residential construction firms is essential to diagnosing sector fragility and informing targeted policy and regulatory responses.

The issues with the residential construction industry are not new, and despite increasing efforts to drive positive change in the industry, rates of insolvency continue to be problematic for construction companies, with insolvencies reaching unprecedented levels. Construction companies account for 26% of all insolvencies nationally - significantly more than any other industry (Australian Securities & Investments Commission, 2024). Despite sustained demand for new housing supply, the 2024 financial year saw a record 1,736 construction firms enter insolvency, underscoring a systemic fragility that persists even amid market growth (see Figure 2).

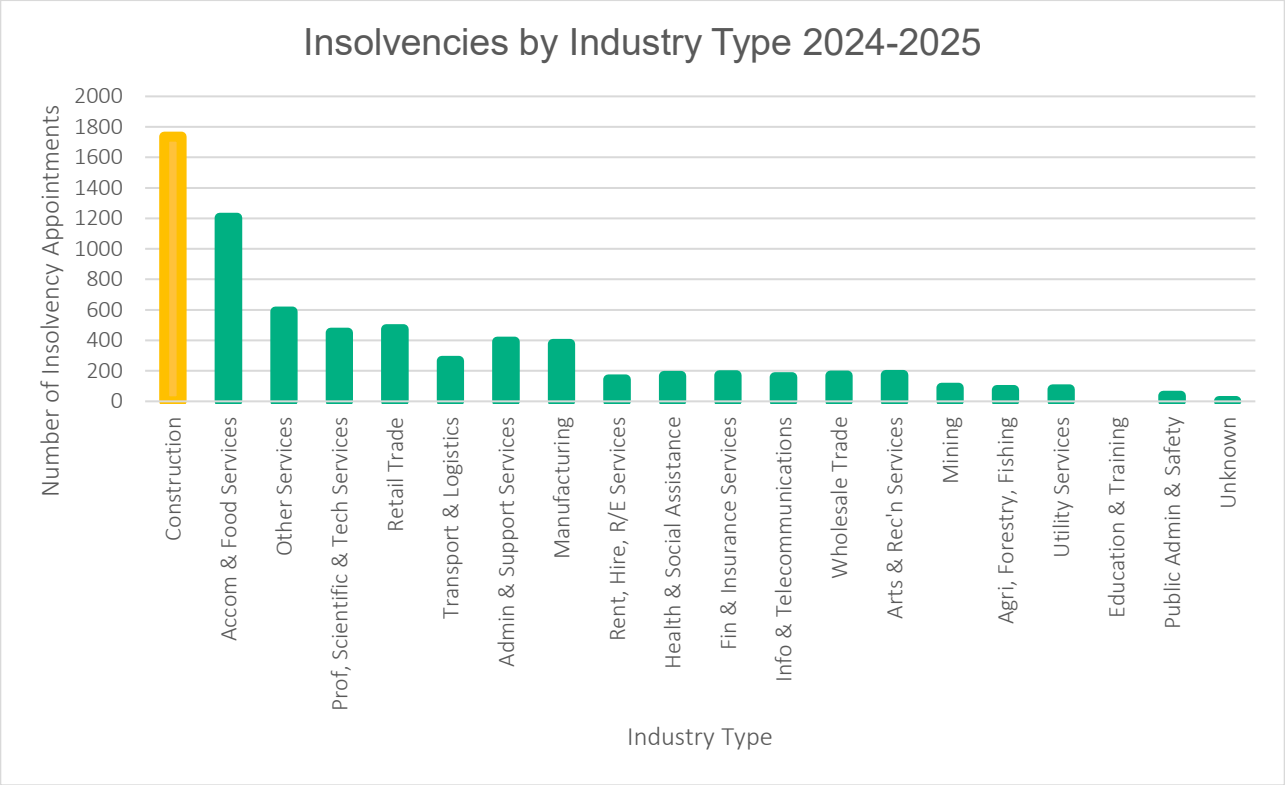

Figure 2: Insolvencies by Industry Type (2024)

Source: ASIC Series 1 and 2, 28 August 2025

The economic consequences of these insolvencies extend far beyond individual construction businesses. Construction failures trigger financial contagion across the economy, resulting in job losses, subcontractor business failures, stalled projects, financial impacts for consumers and reduced consumer confidence. These ripple effects suppress broader economic activity and strain public resources, as government interventions and bailouts divert funding from essential services. Given the sector's close ties to macroeconomic factors, such as interest rates, inflation and Gross Domestic Product (GDP) growth, construction insolvencies not only reflect underlying economic indicators but can also exacerbate them.

Not only is insolvency in the residential construction sector high, but it is also growing beyond pre-pandemic levels. Analysis of ASIC Insolvency data from 1 July 2013 to 30 June 2025 reveals that the number of insolvency appointments to construction companies at a national level has risen rapidly and consistently since 2021 (Australian Securities & Investment Commission, 2024a, dataset). As illustrated in Figure 3, during FY22 there were 2259 insolvency appointments. That number increased by 31% to 2965 appointments in FY23 and grew another almost 18% to 3490 appointments during FY24 (Australian Securities and Investments Commission, 2024a, dataset).

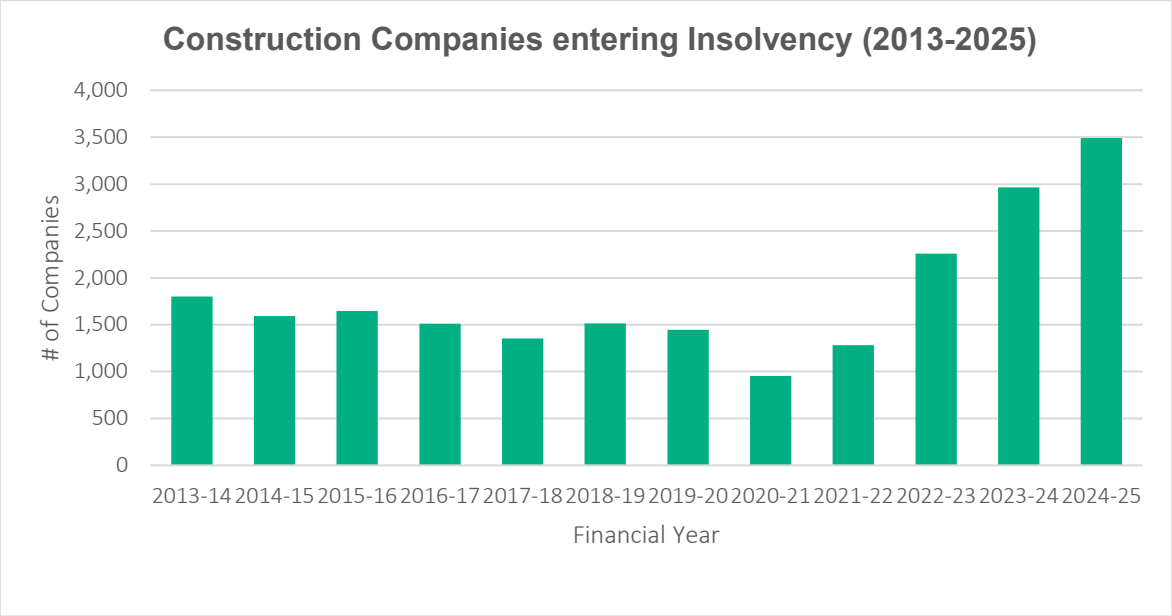

Figure 3: Construction companies entering insolvency 2013-2025

Source: (Australian Securities & Investments Commission, 2025a, p. 2, 2022)

Despite these rising insolvency rates, there remains a gap in research that examines how insolvency unfolds within the residential sector and what interventions might arrest and reverse this trend.

Critically, residential construction operates within a highly complex system shaped by a confluence of external and internal pressures. Rising interest rates, post-pandemic material cost inflation, supply chain disruptions, skilled labour shortages, together with shifting regulatory environment and financing conditions all place acute stress on cash flows. Internally, systemic issues such as hierarchical contracting chains, reliance on unsecured trade credit, delayed payments and aggressive underbidding further erode financial resilience. The prevalence of undercapitalised firms and phoenixing behaviours compounds these vulnerabilities, while the sector's reliance on small-to-medium enterprises (SMEs) with limited business management capacity heightens insolvency risk.

1.2 Motivation and Context

Addressing insolvency in residential construction is not merely a sectoral concern – it is a foundational requirement for achieving Australia's national housing supply, productivity and equity goals (Australian Government, 2015, pp. xx–xxi; Australian Parliament, 2008, p. 18). The consequences of insolvency extend well beyond financial loss, triggering cascading disruptions across supply chains, undermining workforce stability, impacting housing consumers and eroding the sector's capacity for innovation and reform.

When a construction business collapses, the immediate fallout includes project delays, cost overruns and the need to engage another licenced builder to take over the job at additional expense to consumers. These disruptions are rarely contained to a single project. As highlighted by the Electrical Trades Union of Australia and the Construction, Forestry and Maritime Employees Union (CFMEU), insolvency in one project can compromise subcontractor capacity across multiple concurrent jobs, amplifying risk and inefficiency throughout the sector (Australian Government, 2015). This domino effect reduces confidence, increases exposure and discourages investment in workforce development and operational improvement.

The financial contagion of insolvency also raises the cost of doing business. As noted by the Housing Industry Association (HIA), when financiers absorb losses from liquidation events, they respond by tightening lending conditions and increasing capital costs across the board, penalising even

financially sound firms (Australian Government, 2015). These systemic pressures constrain growth, depress reinvestment and inhibit productivity-enhancing reforms.

Labour market impacts are equally significant. Workers affected by insolvency may face prolonged unemployment or be forced to seek public assistance, increasing demand on government support systems and reducing workforce continuity. As one sector representative observed, this creates '*a drain on productivity and a drain on all the things we should have in a civil society*' (Australian Government, 2015, p. 56).

Despite the construction industry's central role in Australia's economy and its foundational importance to housing delivery, employment and social equity, there remains a lack of targeted research into the drivers of insolvency within the residential construction sector. While multiple government inquiries, including those by the Queensland Productivity Commission and the 2015 Senate Economics References Committee, have examined insolvency and inefficiencies in construction more broadly, none have offered sustained, data-driven analysis of why insolvency rates remain disproportionately high in residential building.

Moreover, many of the recommendations from past inquiries, particularly those outlined in the 2015 Senate report, have not been systematically implemented or evaluated. This has left a gap in regulatory reform, educational intervention and industry support mechanisms.

This research steps into that gap. It seeks to identify the systemic causes and consequences of insolvency in the residential construction sector and generate actionable insights that support cross-sector resilience. By combining empirical analysis with stakeholder-informed recommendations, the project aims to advance regulatory clarity, improve vocational education and contribute to the Building 4.0 Cooperative Research Centre's (CRC) broader mission of fostering innovation, productivity and sustainable industry transformation.

1.3 Project Objectives

The objectives of this study are to:

1. Identify the characteristics of an insolvent residential construction company and analyse the principal factors contributing to insolvency by conducting a comprehensive review of existing literature and various insolvency data, alongside qualitative consultations with key industry stakeholders. This will enable a nuanced understanding of both internal and external drivers impacting financial stability in this sector and identify where targeted interventions will have the greatest impact.
2. Critically examine the inherent complexities of the residential construction sector, situating it within a broader socio-economic and regulatory system, and to elucidate the specific triggers and mechanisms that precipitate insolvency.[1] This objective seeks to explore the interplay between multifaceted systemic factors and sector-specific vulnerabilities that exacerbate financial distress.
3. Develop evidence-based recommendations aimed at policy reform, educational enhancement and sector restructuring, with the goal of mitigating insolvency rates in the residential construction sector. These recommendations will be grounded in empirical findings and stakeholder insights and will propose strategic interventions.

[1] Economic modelling relating to the contagion on insolvency in the residential construction sector is outside the scope of this project.

1.4 Approach and Evidence Base

The research employed a dynamic, three-stage approach to comprehensively investigate insolvency within the residential construction sector. This approach is inherently iterative and recursive, with each stage informing and refining the others through ongoing feedback loops and collaboration with industry stakeholders (see Figure 4).

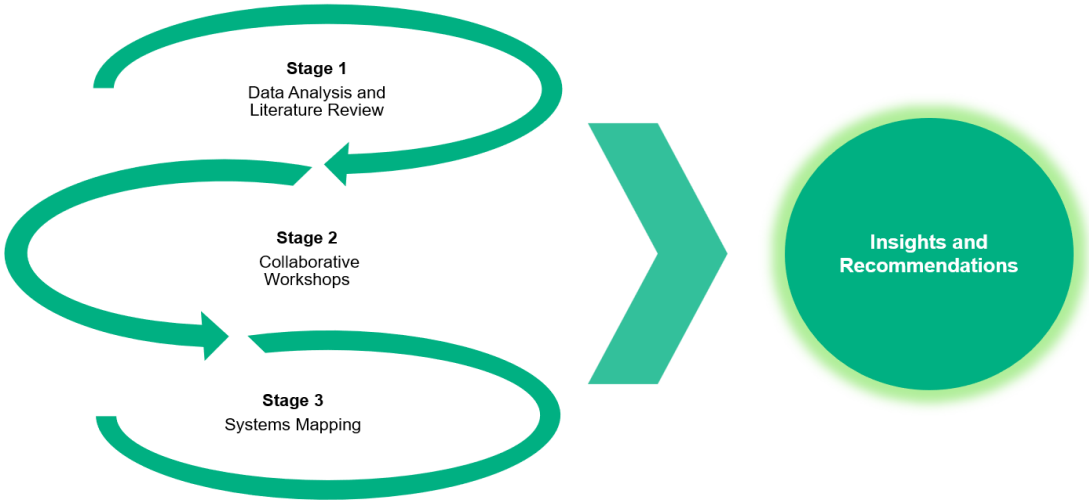

Figure 4: Research Methodology

1.4.1 Stage 1: Literature and Data Review

The first stage of this research involved an environmental scan to identify extant literature and knowledge on the causes of construction insolvencies and economic impacts. This review identified broad economic trends, regulatory frameworks and historical insolvency drivers that shaped subsequent inquiry.

A review of national datasets (including the Australian Bureau of Statistics (ABS), ASIC, the Australian Tax Office (ATO) and the Australian Small Business and Family Enterprise Ombudsman (ASBFEO)) established a foundational understanding of sector dynamics and insolvency patterns. This analysis of insolvency data was then used to gain a deeper understanding of failing companies to identify patterns and profile insolvents to ensure the project insights and recommendations are targeted for maximum impact.

1.4.2 Stage 2: Stakeholder Engagement and Qualitative Exploration

Building on this foundation, a series of four structured workshops engaged diverse stakeholders, including builders, regulators, insolvency practitioners, industry associations and legal experts, to validate and deepen insights into insolvency drivers. These workshops combined presentation of preliminary findings with collaborative activities such as system mapping and thematic discussions. Participant contributions were systematically captured, transcribed and analysed to identify emergent themes that informed both the systems analysis and reform recommendations.

Data gathered in Stage 1 was triangulated with data gathered in Stage 2 via a series of guided workshops with the project partners and other invited industry participants to map the institutional and systemic elements of the residential construction industry using a systems thinking approach, with a focus on identifying targeted recommendations to reduce insolvency rates in the residential construction industry.

This analysis was also informed by targeted interviews with insolvency industry experts as well as a detailed consideration of de-identified data provided by project partners.

1.4.3 Stage 3: Systems Mapping and Complex Systems Analysis

Stage 3 iteratively applied complex systems theory to integrate findings into a systems map of the residential construction sector's interconnected actors and processes. This systems perspective revealed feedback loops, systemic vulnerabilities and leverage points critical to understanding insolvency risk and informing targeted interventions.

Throughout the project, the iterative nature of the approach ensured continuous refinement. Emerging themes from stakeholder engagement prompted further literature review and adjustments to the systems map, while systems insights guided subsequent discussions with participants. This recursive process strengthened the relevance and robustness of the findings, supporting evidence-based recommendations responsive to both industry realities and policy imperatives.

1.4.4 Parallel Research

The significance of the construction industry, and its impact on the broader economy, has been a recurring focus across multiple government inquiries, both preceding and in parallel to this project. Since the inception of this project, the topic has gained heightened visibility, with increasing scrutiny from policymakers and industry. Notably, the Queensland Productivity Commission conducted a formal inquiry into Construction Productivity between June and October 2025. Although this report predates the finalisation of the inquiry, preliminary findings informed the project team's submissions to the Commission. These submissions are publicly accessible via QUT ePrints (Submission 1, Submission 2) and the Building 4.0 CRC website. The timing and relevance of this work positions it as an early and substantive input into a rapidly evolving regulatory and economic conversation on construction sector productivity against a backdrop of lagging housing supply.

1.5 Project Scope

While the objectives of this study encompass a broad exploration of insolvency within the residential construction sector, the analysis presented is limited by the nature of available data, as will be discussed in future chapters. Specifically, this report focuses on ***corporate insolvencies*** (which involves companies) rather than, or in addition to, ***personal insolvencies*** (which refers to individuals)***.*** Personal insolvency (also known as bankruptcy) is excluded due to limitations in data granularity and classification.

As detailed in the following chapter, insolvency data has been analysed to profile the characteristics of the residential construction companies that are falling into insolvency. That profiling has enabled this research to focus on the parts of the sector that are most likely to benefit from targeted policy interventions. This has narrowed the scope of this research to SMEs, the nature of which is at the standalone dwelling end of the market. As a result, this research has not examined large entity failures (such as Porter Davis) or medium to high density dwelling builders. While it is acknowledged that failure of these larger entities has a significant impact, these failures are relatively fewer and far between, and unlikely to be mitigated against by regulatory and/or education reform.

The terms 'builder registration' and 'builder licence' are used across Australian jurisdictions in relation to occupational licensing regimes. While there may be differences in terminology, regulatory frameworks and scope of authorised work across jurisdictions, for simplicity, this report uses the term 'licensed builder' or 'builder' when referring to practitioners who are authorised to construct domestic buildings (see Appendix B for the occupational builder licences by jurisdiction). This definition provides a consistent analytical framework for profiling insolvency risk among builders operating in the standalone dwelling segment, while acknowledging jurisdictional nuances in regulatory oversight and occupational classification.

Furthermore, although phoenixing (defined as the deliberate liquidation of a company to avoid debts and subsequently re-emerge under a new entity) is also a significant concern within the residential construction industry, its intentional and often covert nature places it outside the scope of this research. This research focuses on systemic, regulatory and educational factors contributing to insolvency in good faith operations, rather than fraudulent or criminal behaviours that require forensic

investigation and legal enforcement mechanisms and a separate suite of reforms to address loopholes.

1.6 Report Structure

This report is designed to provide policymakers and industry stakeholders with clear insights and actionable recommendations.

- Chapter 1 has provided an introduction outlining the project's motivation, objectives, research design and scope to establish context.
- Chapter 2 contextualises insolvency in the Australian economic and regulatory environment. It then analyses ASIC and industry data to profile insolvent companies. This analysis informs and frames the subsequent chapters.
- Chapter 3 examines the residential construction sector challenges through a systems theory lens. It flags the complexity and interrelated nature of various forces that impact insolvency, including cultural factors.
- Chapter 4 presents the research findings on the drivers of insolvency in the residential construction industry, drawing on stakeholder workshops and interviews, together with supporting literature, legislation and case law.
- Chapter 5 delivers practical recommendations and prioritises key interventions.
- Chapter 6 outlines avenues for future research to support sustained improvements in the sector.

2 INSOLVENCY

This chapter starts by considering the economic contagion effects of the high rates of insolvency in the residential construction sector, highlighting the cascading impacts of insolvency across labour markets, housing supply and consumer confidence. The regulatory foundations of insolvency in Australia are then introduced and key terminology is defined. The purpose of this chapter is to develop a core understanding of insolvency laws and pathways relevant to construction sector characteristics. This chapter then addresses Objective 1, identifying the characteristics of an insolvent residential construction company. A profile is built, drawing on ASIC and other relevant recent industry data, enabling targeted interventions and recommendations to be developed.

2.1 Insolvency Contagion

According to Property Council of Australia (PCA), the property sector is Australia's largest industry by output, employment and economic contribution (Property Council of Australia, 2024). Hence the high and sharp rises in insolvency, is cause for concern given the widespread and compounding disruptions that insolvency events trigger throughout the economy and housing supply chain. These consequences are myriad, pertaining not only to economic and productivity loss but also to societal consequences.

The Property Council positions construction as the backbone of Australia's economy—larger than mining and manufacturing combined. It's not just about building homes and offices; the sector underpins national productivity, **employment** and liveability, supporting 1.75 million jobs or 14.9% of jobs nationwide. This figure includes direct employment in trades as well as engineering, architecture, and project management, as well as indirect jobs in finance, logistics and materials supply (Property Council of Australia, 2024, p. ii).

Construction directly contributes $232.7 billion annually to Australia's **GDP**, making it the single largest industry by output, accounting for 10.6 % of total GDP. A further $297.6 billion (13.6% GDP) in GDP is contributed through flow-on demand for goods and services, resulting in a combined contribution to GDP of $530.3 billion (24.2% GDP) (Property Council of Australia, 2024, p. ii).

The need for policy attention to high insolvency rates in the construction industry is also demonstrated by the cascading **societal consequences** which flow from residential construction insolvency. There are naturally significant repercussions for the business owner(s) themselves, who find themselves bankrupt and/or find their company insolvent, with flow on effects to the families who may be dependent upon those business owner(s) and the income they generate. These economic losses to the business owner(s) may occasion negative impacts beyond unemployment and financial insecurity, including '*poor physical or mental health, substance abuse, gambling addition, family violence and breakdown, and even suicides*' (Stevens and Piracha, 2022, pp. 696, referencing Ramsay, 2001, p. 525)

There are also significant consequences for a **broad range of stakeholders**. These stakeholders include the employees of the business and their own families. Stakeholders also include creditors who may themselves become financially distressed as a consequence of unpaid debts. In residential construction there are an average of 24 sub-contractors involved in a single-family build,[2] often small or sole trader businesses who are reliant upon payment from the head contractor, many of whom would have their own costs and creditors. As noted in the Reserve Bank of Australia's Financial Stability Review – October 2022, '*failures of larger builders tend to affect a high number of construction services businesses, which in turn have the potential to transmit stress more widely*

[2] The National Association of Home Builders (NAHB) reported in 2020 that based upon a survey completed by 354 members, 69% of those builders '*use between 11 and 30 subcontractors to build an average single-family home'* and an average of 24 subcontractors. See (Emrath, 2020).

through their own subcontractors', thus increasing the risk of financial contagion (Reserve Bank of Australia, 2022).

In the context of residential construction, there are even further societal and economic complications with the negative **consequences for home purchasers**. These homebuyers may be confronted with unfinished homes, and the difficulties in finding replacement builders at considerable additional expenses (Cott, 2023, p. 38). This is a significant problem, with housing affordability already a major economic concern in Australia (Lee et al., 2022, p. 1739). This crisis in affordability and accessibility of housing across the nation impacts both homebuyers and renters alike (Stone et al., 2023, p. 29). There is evidence to suggest that the ramifications of this housing crisis extend beyond immediate fiscal concerns, with wide ranging societal consequences such as perpetuating and accentuating inequality with lower income households, the elderly and Indigenous persons, among other vulnerable peoples, susceptible to housing insecurity and homelessness (Australian Parliament, 2008; Morris, 2023; Stone et al., 2023).

There is, and likely will continue to be, **growing demand for housing** as a result of, inter alia, high immigration (while slightly down from the prior year remains high at 446,000 in 2023-2024) (Australian Bureau of Statistics, n.d.), decreases in average household sizes (due to later marriages, higher divorce rates, fewer children and other lifestyle and demographic changes) (Select Committee on Housing Affordability, 2008) and population growth (Australian Bureau of Statistics, 2024).

There are already concerns that residential building approval rates are not meeting **housing supply targets** (Australian Bureau of Statistics, 2025a; Master Builders Australia, 2025; National Housing Supply and Affordability Council, 2025). The supply of residential construction must find a way to keep pace with growing demand and cannot be undermined by the threat of increased insolvencies in the sector. The Productivity Commission (2025) reports "*Dwelling construction productivity has been in the doldrums for at least 30 years… Construction productivity is 12% lower now, even after adjusting for house size and quality*" with attributing factors identified as: fragmented industry structure, poor scalability, regulatory complexity and workforce inflexibility. These factors are known contributors to insolvency risk, especially for small and medium-sized builders operating on thin margins. The report also notes: "*Over the past five years, construction costs have risen by 40%, while residential build times have extended by up to 80%*." Such cost blowouts and delays often trigger cash flow crises, a leading cause of insolvency in the sector. (Productivity Commission, 2025).

It is therefore evident that the residential construction industry is a significant contributor to the Australian economy and a wide range of productivity indicators including the ongoing Australian housing crisis. The increased numbers in residential construction insolvencies therefore warrant urgent and careful policy attention.

2.2 Insolvency in Australian regulation

Corporate insolvency in Australia is governed by the *Corporations Act 2001* (Cth), with the key regulator being the Australian Securities and Investments Commission (ASIC).[3]

When a company cannot pay its debts when they are due and payable, it is considered to be insolvent (*Corporations Act 2001 (Cth)*, sec. 95A). A company is also deemed to be insolvent if it proposes a restructuring plan to its creditors (*Corporations Act 2001 (Cth)*, sec. 455A(2)). Because a company is legally separate from its owners (shareholders) and managers (directors), the company's debts are generally its own, not the personal debts of the directors or shareholders. The only exceptions are if owners personally guarantee debt (there is some liability that arises under statute or if the law allows the company's legal protection, known as the 'corporate veil', to be lifted).

[3] As indicated previously, this research focuses on corporate insolvencies, not personal bankruptcy due to data limitations. (Refer to discussion at section 4.5 regarding data limitations of this study.)

Those exceptions aside, corporate insolvency by definition affects the company itself, not the personal finances of the people behind it.

If a company becomes insolvent, the Corporations Act provides a formal insolvency proceeding for the liquidation of that company (*Corporations Act 2001* (Cth), Part 5.4 to 5.6). There are also several legislative procedures aimed at facilitating debt compromises with creditors: namely schemes of arrangement (that are rarely used), voluntary administration and small business restructuring (*Corporations Act 2001* (Cth), Part 5.1, 5.3A and 5.3B).

Directors also owe certain duties to the company, particularly if the company trades while insolvent (*Corporations Act 2001 (Cth)*, sec. 588G). The directors may avoid being found guilty of insolvent trading if they take a course of action that is reasonably likely to lead to a better outcome for the company (see *Corporations Act 2001* (Cth), Part 5.7B, Div 3, Subdiv C for further details).

This report considers insolvency as it is legally defined but acknowledges that insolvency is only part of the story. The factors that caused the company to become insolvent and how to mitigate those causes to avoid insolvency are equally important. These drivers of insolvency and recommendations for reform are discussed further in Chapter 4 and Chapter 5.

2.3 Insolvency pathways

As this report examines the persistently high rates of insolvency within the residential construction sector, it is important to first outline the broader insolvency framework in which the industry operates. The construction industry features highly in corporate insolvency statistics, and understanding the available winding up and restructuring pathways is essential for contextualising the challenges faced by firms in this space. The key pathways include:

- **Liquidation (Winding Up):** Liquidation is the most prevalent corporate insolvency process (Harris and Murray, 2022 [10.50]), bearing similarities to personal bankruptcy in its finality. It involves the appointment of a liquidator who takes control of the company's affairs, sells its assets, distributes proceeds to creditors and oversees the company's deregistration before the company is formally dissolved and ceases to exist (Murray, n.d., para. [27.010]).
- **Voluntary Administration:** This process provides temporary relief for a financially distressed company, allowing some 'breathing space' to assess options and determine the company's future (Harris and Murray, 2022 [20.05]). An administrator is appointed to take control of the company, investigate its financial position and form an opinion regarding whether it is in the interests of the company's creditors that the company enter into a Deed of Company Arrangement (DOCA), end the administration and return control to the company, or for the company to be wound up (*Corporations Act 2001 (Cth)*, n.d., pt. 5.3A; Murray, 2025, para. [26.010], Harris and Murray, 2022 [19.190]). If a DOCA is not viable, then the administrator may recommend liquidation.
- **Deed of Company Arrangement (DOCA):** A DOCA is a formal agreement which may be developed during voluntary administration, under which the company (or a third party) agrees to pay creditors some or all of the company's debts over time. If approved by a majority of creditors, the DOCA enables the company to avoid liquidation and continue trading (*Corporations Act 2001 (Cth)*, n.d., secs. 444A, 453C; Murray, 2025, para. [26.020], [26.070]).
- **Small Business Restructuring (SBR):** Introduced in 2021, the SBR regime offers a simplified and cost-effective restructuring pathway for eligible small businesses. It allows directors to retain control of operations while working with a restructuring practitioner to develop and implement a debt repayment plan (*Corporations Act 2001 (Cth)*, n.d., pt. 5.3B; Harris and Murray, 2022, para. [21.070]).

- **Receivership:** Receivership typically occurs when a secured creditor, such as a bank, appoints a receiver to take control of specific assets that the creditor has a security interest over. The receivers' role is to sell those assets to repay the secured debt. This process may occur independently of liquidation, and the company may continue to operate during or after receivership.(Murray, n.d., para. [25.030]).

Also relevant are:

- **Schemes of Arrangement (Schemes):** Part 5.1 of the Corporations Act also provides a process for the 'creation of a binding agreement between the company and its creditors that modifies the pre-existing legal rights of both parties and allows the company to continue trading' (Productivity Commission, *Business Set-Up, Transfer and Closure,* 2015, p356). But this is a less common pathway reserved for larger companies.
- **Informal Workouts**: It is possible for informal arrangements to be agreed outside the mechanisms provided within the Corporations Act. Such arrangements are beyond the scope of this research and the publicly available data.

Using a traffic light colour-coding, Figure 5 demonstrates these pathways and how they relate to the financial viability of companies. The green represents companies that, having been through successful informal workout, successful SBR, or successful DOCA, are expected to be solvent and able to continue trading. While amber is allocated to companies in receivership, SBR or voluntary administration/DOCA which may or may not achieve viability. Red is allocated to liquidation and simplified liquidation where business failure is at a critical point, and companies are insolvent and cannot trade.

Figure 5: Insolvency Pathways in Australia

Source: (Created by authors but informed by Australian Restructuring Insolvency and Turnaround Association, submission No 36 to the Parliamentary Joint Committee on Corporations and Financial Services, 2022, p. 8; Productivity Commission, 2015, p. 362 (Figure 13.2)).

2.4 Insolvency data and what it tells us

To provide targeted intervention recommendations, it is necessary to first understand the nature of failing companies. Analysis of a range of insolvency data enables profiling of those residential construction companies most likely to suffer from financial distress and therefore become insolvent.

2.4.1 High number of construction insolvencies

According to data from the Australian Banking Association (ABA) and the ABS, construction remains Australia's largest industry by number of businesses. As of 30 June 2025, the ABS recorded 452,937 active construction businesses nationwide (Australian Bureau of Statistics, 2025b) (See Figure 6).

However, the sector also experienced the highest number of business exits in the 2024–2025 financial year, with 66,412 closures[4] (Australian Bureau of Statistics, 2021b) – 28% more than the next highest industry, Transport, Postal and Warehousing (See Figure 7).

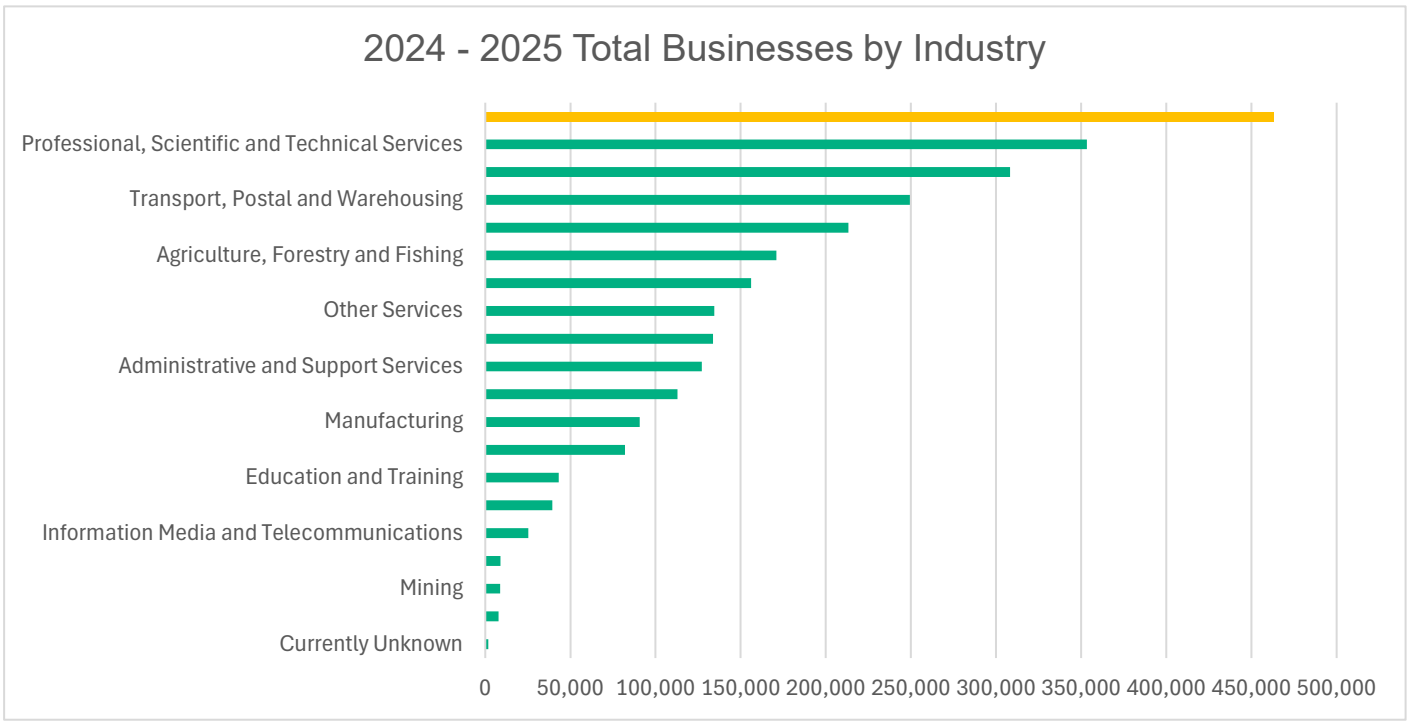

Figure 6: 2024 - 2025 Total Australian Businesses by Industry

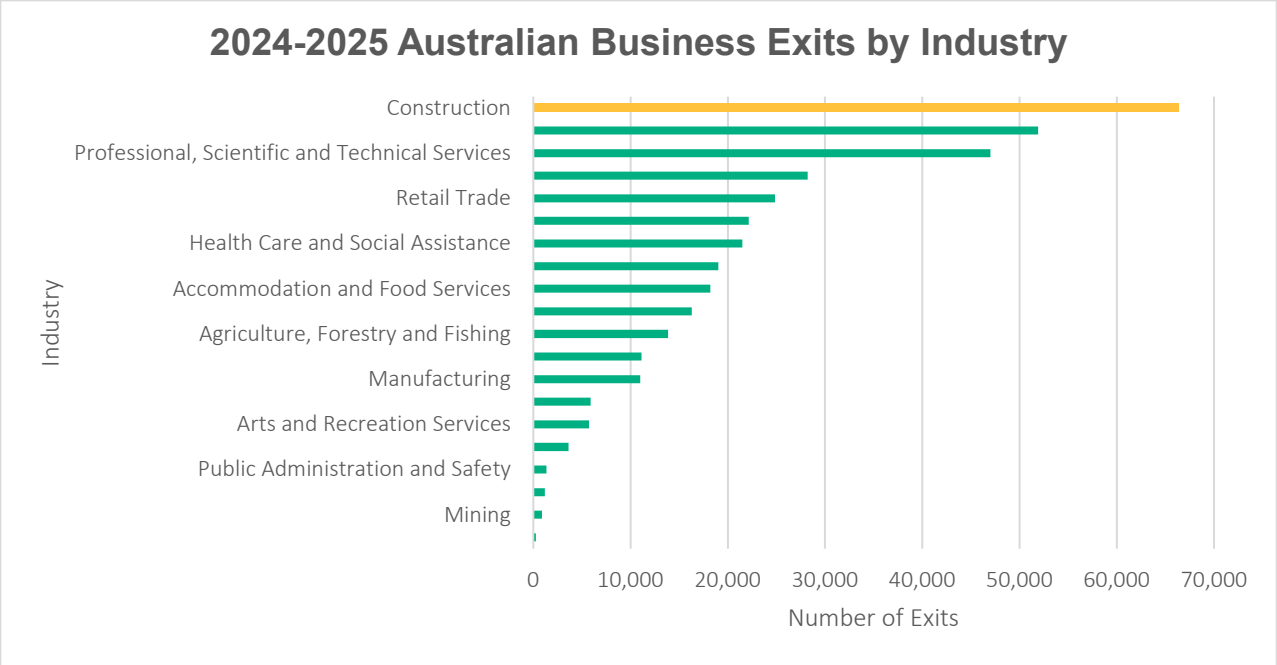

Figure 7: 2024 - 2025 Australian Business Exits by Industry

Source: ABS, Counts of Australian Businesses, including Entries and Exits (July 2021 - June 2025)

[4] Business exits are defined in the ABS Methodology as being businesses that have cancelled their ABN, ceased remitting GST for an extended period of time, had their ABN changed due to a merger or acquisition and, in relation to a small number of businesses, been moved back to the business entries population.

The research team looked to insolvency data to better understand the nature of business exits in the residential construction industry. Insolvency data in Australia is drawn from data collected by ASIC, the corporate regulator. ASIC data is reported in a publicly available 'Insolvency Series 1 and 2' dataset. The data contained in this dataset is drawn largely from a form, known as the **'Initial Statutory Report'** that insolvency practitioners are required to submit to ASIC when they have been appointed under one of the insolvency pathways discussed in section 2.3 (Australian Securities & Investments Commission, 2023a). Although these forms are only required to be submitted when the insolvency practitioner believes that a company (referred to as a person in the legislation) may have committed an offence or engaged in misconduct in relation to the company, (Australian Securities & Investments Commission, 2025b; *Corporations Act 2001 (Cth)*, n.d., sec. 422(1), 438D(1), 500AE(3)(f) and 533(1)) this data still provides valuable insights into the number and causes of corporate insolvencies in Australia.

As discussed further in section 4.5, there has been sustained criticism regarding the lack of publicly available insolvency data in Australia (Bull, 2025, p. 32; Parliamentary Joint Committee on Corporations and Financial Services, 2023). In response to these concerns, ASIC released a more detailed and publicly available dataset in 2021. This dataset offers improved granularity and enables more nuanced analysis of insolvency trends from 2021. Hence, the analysis presented in this report should be read with an awareness of the historical limitations in data availability and the ongoing challenges in accessing comprehensive, industry-specific insolvency information.

2.4.2 Insolvency and small-medium enterprises[5]

ASIC Series 3 insolvency statistics provide insight into the characteristics of corporate entities in the Australian construction industry as a whole. According to that data (refer Figure 8), more than three quarters of construction firms entering insolvency during FY24 had less than 19 Full Time Employees ('FTEs') (n=1545, 79%), with the vast majority having less than 5 FTEs (n=1279, 65.5%) (Australian Securities & Investments Commission, 2024, p. 3.1.2 (Table 3.1.2.1)).

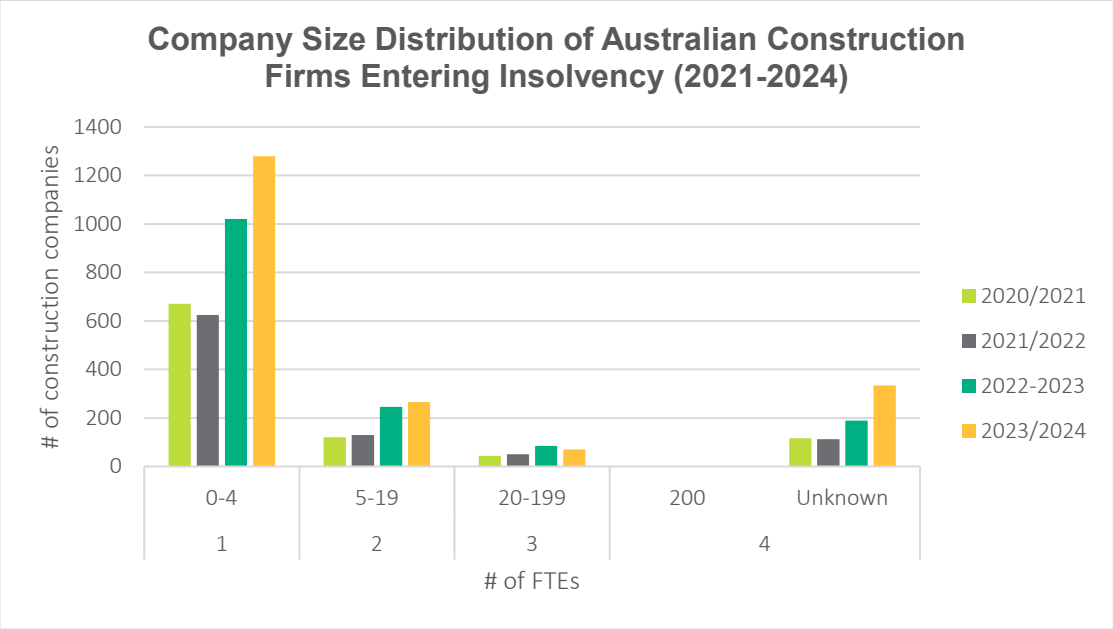

Figure 8: Size of Australian construction company at date of appointment

Source: ASIC Series 1 and 2, 3 April 2025

[5] The definition of SME varies across Australian statutes and regulations. As noted by the Australian Small Business and Family Enterprise Ombudsman (ASBFEO), agencies such as the Australian Tax Office (ATO), the ABS and the ASBFEO itself all apply different criteria when defining small businesses (Australian Small Business and Family Enterprise Ombudsman, 2024). These variations reflect the differing functions and data needs of each agency and can lead to inconsistencies in reporting and compliance obligations.

Although insolvency pathways are available to companies of all sizes, the majority of insolvency appointments in the residential construction sector involve SMEs. This report therefore focuses on SME building companies in its analysis.

SMEs typically face unique operational, financial and regulatory pressures compared with larger firms, including limited access to capital, tighter cash flow constraints and fewer resources to manage risk and comply with complex regulations. These factors often make residential construction SMEs more vulnerable to insolvency, with consequences that can ripple through supply chains and the broader economies.

Given this context, the scope of this research is deliberately focused on exploring the insolvency triggers specific to corporate SMEs within the residential construction sector. By narrowing the scope in this way, the study aims to generate a detailed understanding of the particular risks and vulnerabilities facing these businesses, which differ substantially from those confronting larger and/or commercial construction businesses. This focus also aligns with broader policy priorities, as supporting SME resilience is critical to stabilising the residential construction sector and addressing broader issues such as housing affordability.

2.4.3 Geographic Location of Construction-related Insolvencies

Data reveals a clear concentration of residential construction insolvency appointments in eastern states, with New South Wales accounting for the highest volume at 7,320 appointments, followed by Victoria with 6,075, and Queensland with 3,567 (see Figure 9). Not surprisingly, these figures reflect the relative economic scale and business density in these jurisdictions. In contrast, appointments in Western Australia and South Australia were significantly lower, each recording fewer than 1,500 cases. The Australian Capital Territory (n=390), Tasmania (n=198) and Northern Territory (n=108) reported the lowest volumes. This distribution aligns with historical trends and highlights the importance of tailoring insolvency policy and practitioner resources to jurisdictional demand.

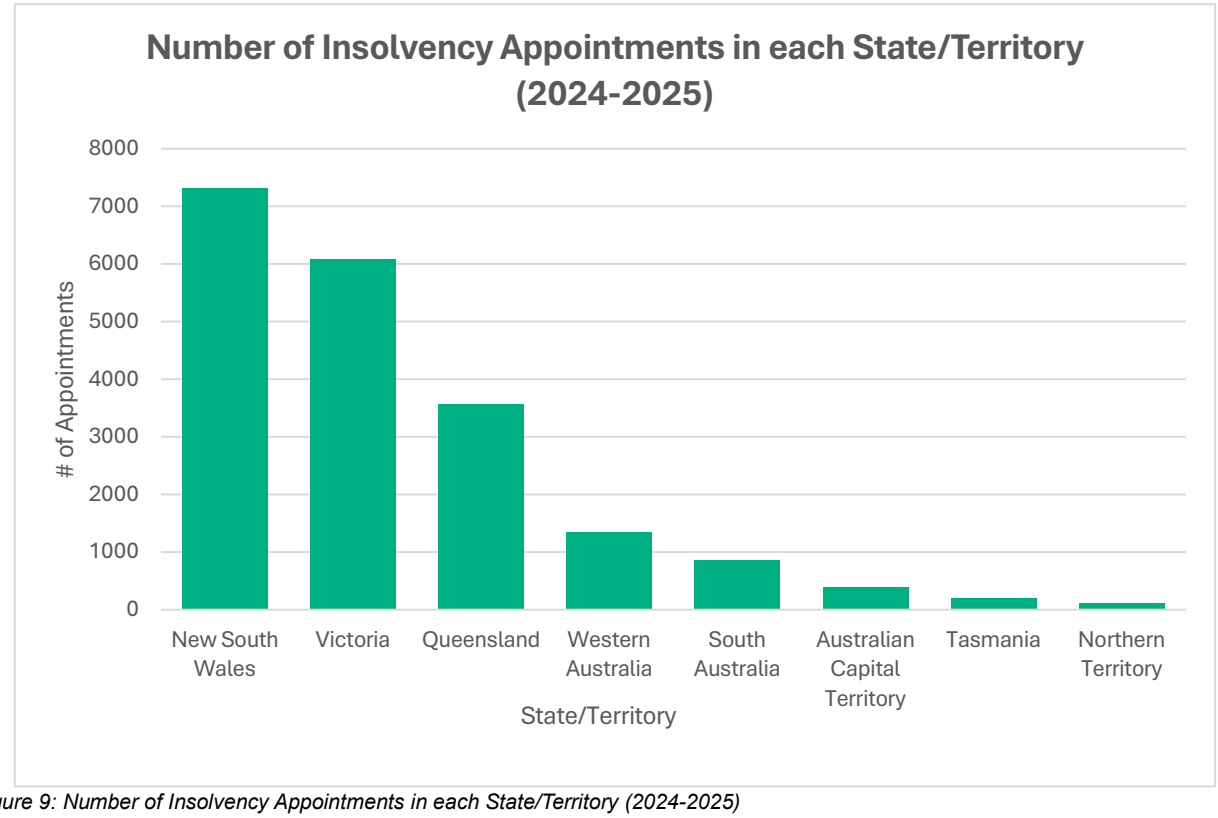

Figure 9: Number of Insolvency Appointments in each State/Territory (2024-2025)

Source: ASIC Insolvency Series 1 and 2, 18 August 2025

However, when construction industry insolvencies are examined as a proportion of total corporate insolvencies in each of the states and territories, the data reveals that the proportion of construction insolvencies relative to total insolvencies is **consistently high across all jurisdictions**, including those with lower absolute numbers such as the ACT, Tasmania and most notably the Northern Territory. This data (see Figure 10 below) suggests that construction sector distress is not confined to high-volume states but is a significant contributor to insolvency activity nationwide, regardless of the total number of appointments.

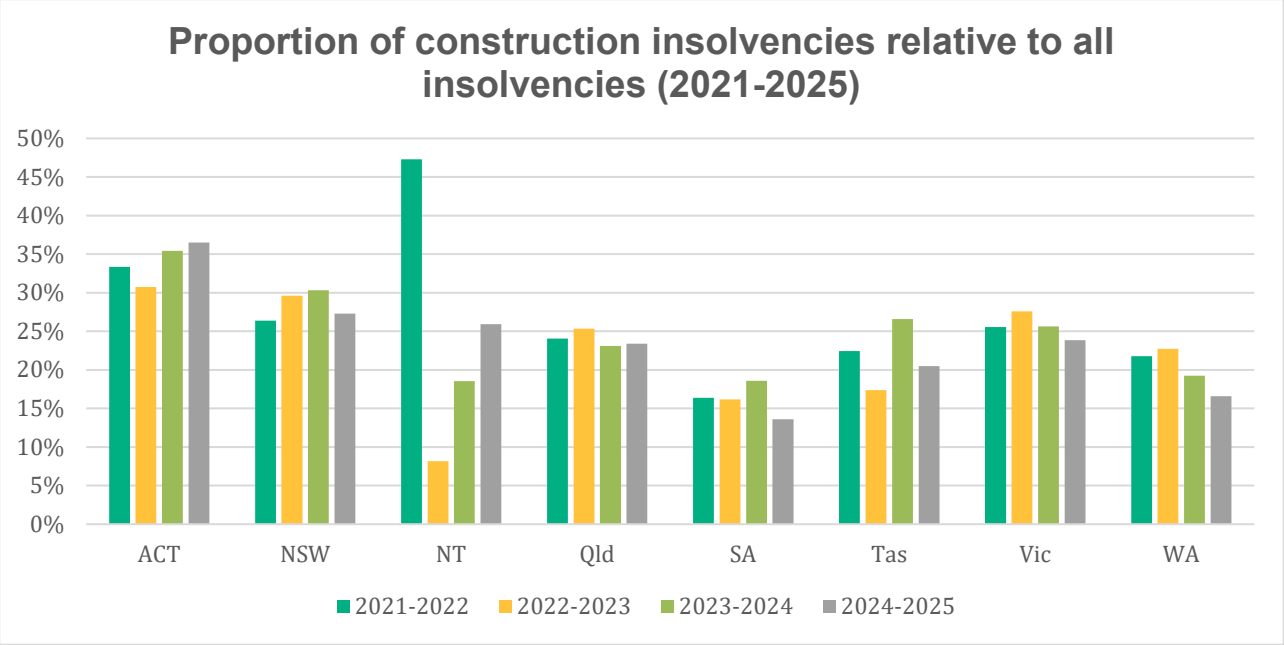

Figure 10: Proportion of construction insolvencies relative to all insolvencies

Source: ASIC Series 1 and 2 dataset, 2025

This data also suggests that no single jurisdiction 'has it right'. The proportion of construction insolvencies relative to all insolvencies varies from around 14% (South Australia) to 36% (ACT) in FY25 , with the remaining states/territories clustered between 17% and 27%. Hence, while there are differing jurisdictional regulatory environments, various attempts to mitigate risk in the sector are not having significant impacts.

2.4.4 Debt Levels of Insolvent Construction Companies

Analysis of ASIC data reveals the quantum and nature of the debt levels of insolvent Australian construction companies, providing insight into the financial flow-on impact these insolvencies have on the broader economy. The analysis highlights two key dimensions:

1. **Secured vs Unsecured Debt:** Total debt levels are increasing at alarming levels, with Australian construction companies increasingly entering insolvency with high levels of unsecured debt (not recoverable) rather than secured debt (which may be at least partially recoverable). As Figures 11 and 12 illustrate, many of these construction companies have less than $250,000 in secured debt, with the vast majority having none. Unsecured debt levels are similarly modest, typically less than $100,000 – again emphasising the fact that most of the companies operating in this industry are SMEs and potentially hold no assets to borrow against. However, it is worth noting that a growing number of construction companies enter insolvency with unsecured debt levels of up to $5,000,000. While these cases are less common, they underscore the financial exposure in this industry.

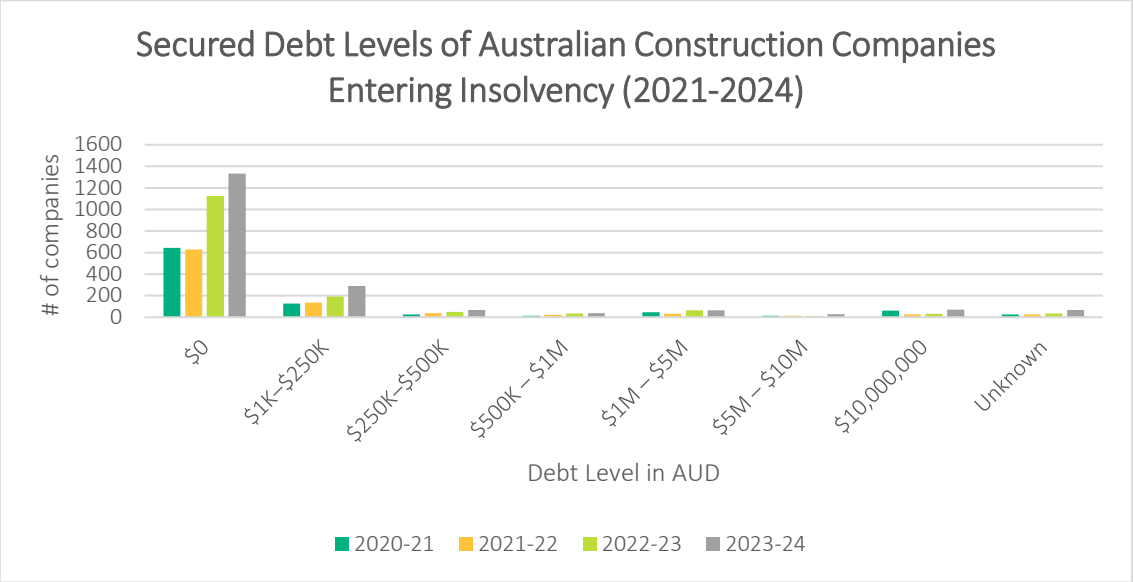

Figure 11: Secured Debt Levels of Australian Construction Companies Entering Insolvency (2021-2024)

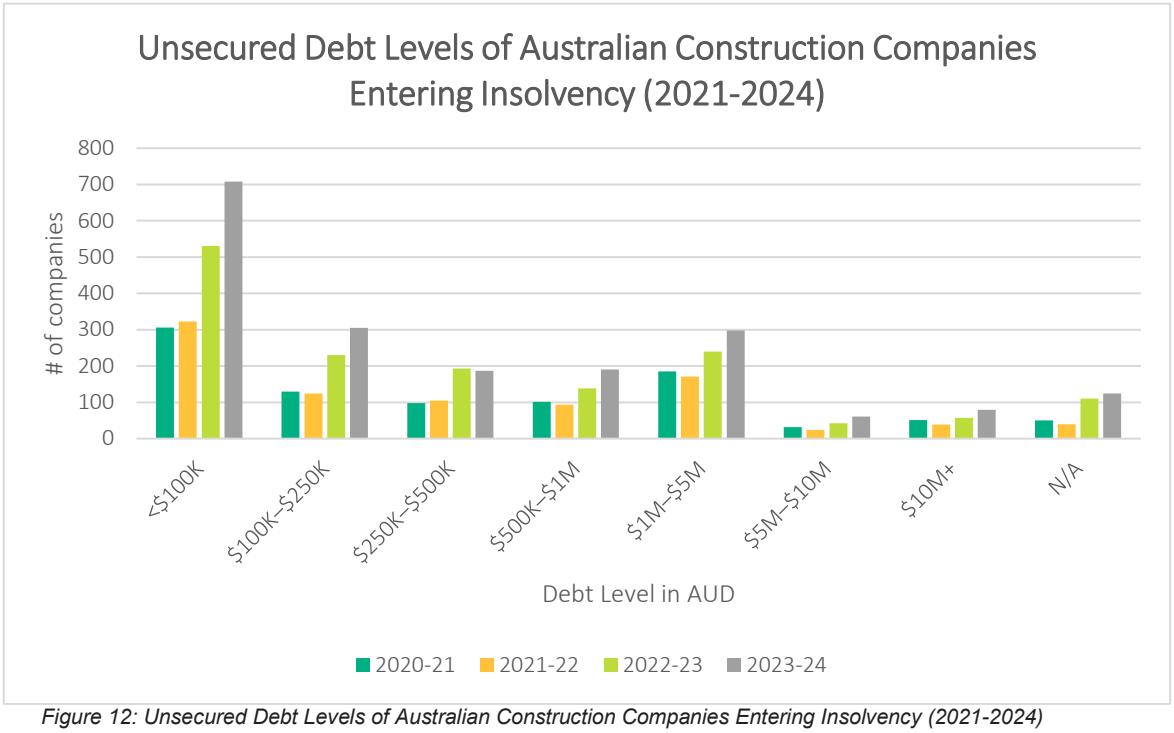

Figure 12: Unsecured Debt Levels of Australian Construction Companies Entering Insolvency (2021-2024)

Source: ASIC Series 1 and 2, 18 August 2025

2. **Outstanding Tax Liability:** In terms of tax liability, a substantial proportion of these companies (n=2624) carried significant unpaid tax liabilities at the time of appointment, with 27% (n=1488) owing between $1 to $100,000 and 33% (n=1783) exceeding $250,000 in unpaid tax (see Figure 13). The high rate of unpaid tax suggests problems with cash flow or cash flow management. Tax compliance costs are significant and require effective management. Arguably, the cost of tax compliance is disproportionately higher for SMEs given, inter alia, growing complexity of taxation, and greater emphasis on self-compliance and self-management (Lignier and Evans, 2012, p. 618)

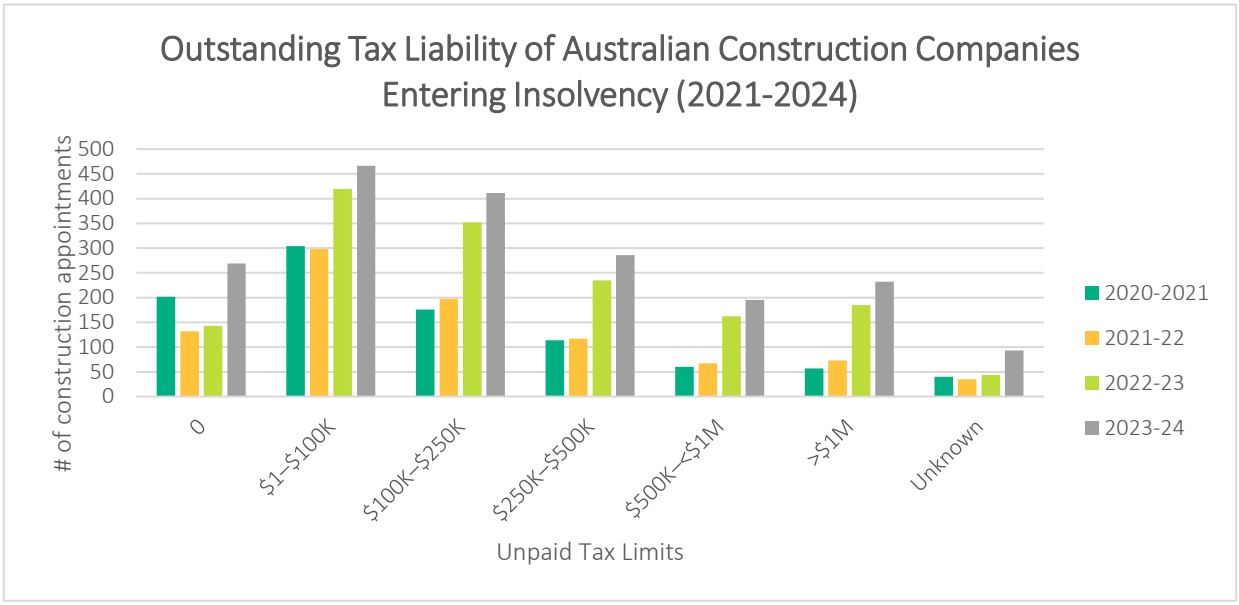

Figure 13: Unpaid Taxes at Appointment Date (2021-2024)
Source: ASIC Series 1 and 2, 18 August 2025

2.4.5 Insolvency Pathway Analysis

Understanding the type of insolvency appointment, whether a company is being wound up or attempting rescue, is essential for interpreting trends and informing sector-specific interventions and recommendations. In FY22 and FY23, winding up applications (liquidation) in the construction sector were over three times the number of corporate rescue appointments (voluntary administration/deed of company arrangement, restructuring/restructuring plan). However, the number of rescue appointments rose significantly in FY24, reaching almost three quarters the number of winding up appointments (see Figure 14) (Australian Securities & Investments Commission, 2025a).

This shift suggests that more residential construction firms are financially distressed but potentially viable. One explanation may be that a greater number of residential construction companies were able to satisfy the eligibility criteria to access the small business restructuring regime in Part 5.3B of the *Corporations Act 2001* (Cth), which commenced in January 2021 but did not gain traction until mid-2023 (Australian Securities & Investments Commission, 2025a).

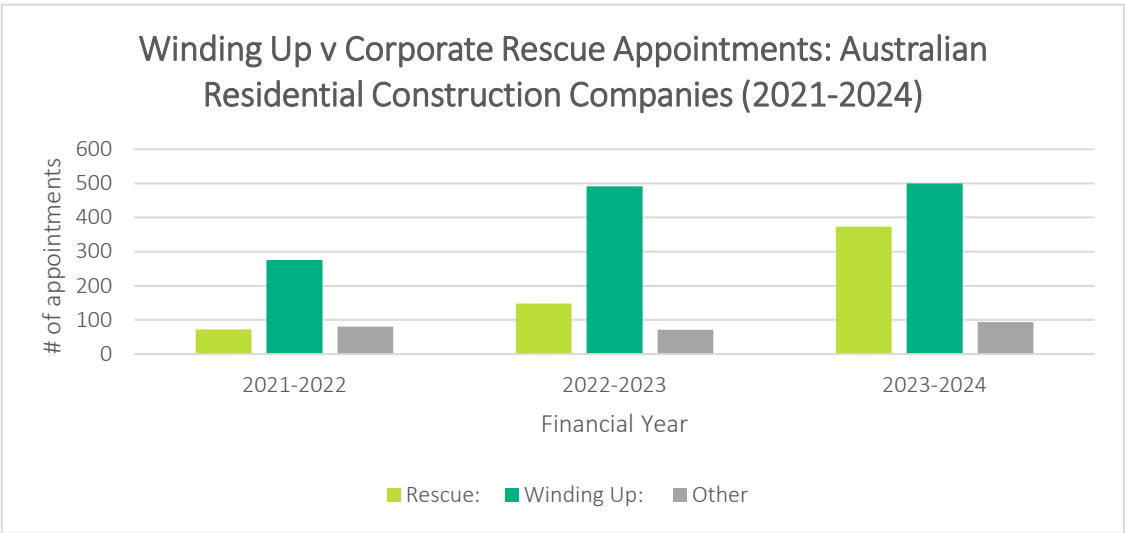

Figure 14: Winding-up vs Corporate Rescue Appointments: Australian Residential Construction Companies (2021-2024)
Source: ASIC Series 1 and 2, 28 August 2025

Despite this trend, corporate rescue success rates in the residential construction industry remain mixed. Only 50% of voluntary administrations led to a creditor approved deed of company arrangement, and while the small business restructuring regime had a higher success rate, during the 2023-2024 financial year that rate sat at 60% (see Figure 15).[6]

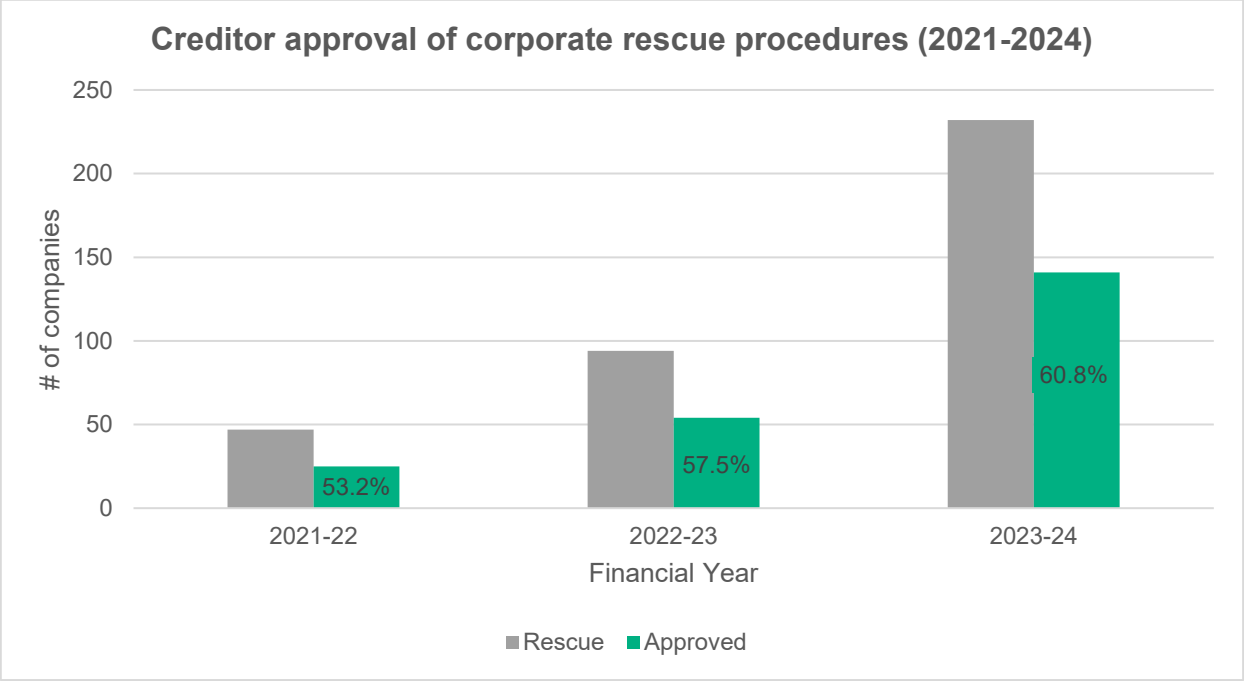

Figure 15: Creditor Approval of Corporate Rescue Procedures

Source: ASIC Series 1 and 2, 16 September 2025

These figures indicate growing interest in rescue pathways in the construction industry but also highlight persistent barriers to having rescue plans approved under these regimes.

2.4.6 Industry Data

To gain deeper insights into insolvency trends within the Australian residential construction sector, and to inform the profiling process, anonymised data provided by the Building and Plumbing Commission was analysed.

This data related to residential construction companies that had been subject to a winding up application, liquidation or ASIC deregistration between 1 January 2023 and 24 March 2025. This data is limited to companies (and directors) that held a registration as a builder in the class of domestic builder (unlimited) (CDB-U) in Victoria under the *Building Act 1993* (registration in this latter context refers to building practitioners who have been authorised to construct domestic buildings under occupation builder licences by jurisdiction (see Appendix B)).

This anonymised data set of 303 Victorian CDB-U registrations indicated:

1. **Insolvencies are in established companies:** 60% of directors operated a company for more than 5 years before CDB-U registration (n=183, 60%) and 44% were in operation for 10 or more years before CDB-U registration (n=132, 44%).
2. **Insolvencies were in small enterprises:** 38% (n=116) of CDB-Us in the sample had been recorded as the builder on between one to nine building permits and 33% (n=99) had not been recorded as the builder on any building permits, suggesting many were small

[6] NOTE: Not all restructuring plans or DOCAs are approved in the same financial year as the company enters the voluntary administration or small business restructuring process. This data should be read in that context. For example, ASIC Report 810 indicates that 88% of restructuring plans were approved in FY22-23, 87% in FY23-24 and 79% in the first half of FY24-25: ASIC Report 810, p10-11.

enterprises (n=215, 71%) (see Figure 16). Furthermore, 70% of CDB-U registered companies had a single director (n-212, 70%) again highlighting the small size of these companies.

3. **Average cost of building works less than $1 million:** close to a third had an average cost of building works of between $250,000 - $499,999 (n=59, 29%), with over 50% of insolvencies falling within the $250,000 - $999,999 range (n=102, 50%);[7]

Company directors are generally over 35 years of age: companies registered as a domestic builder (unlimited) in the sample experience greater levels of insolvency risk when the nominee director is between 45-54 years of age (n=96, 30%), followed by those in the 35-44 year age bracket (n=75, 23%), 55-64 year age bracket (n=65, 20%), 65-74 years of age (n=64, 20%) and 75+ (n=15, 5%) (see Figure 17).

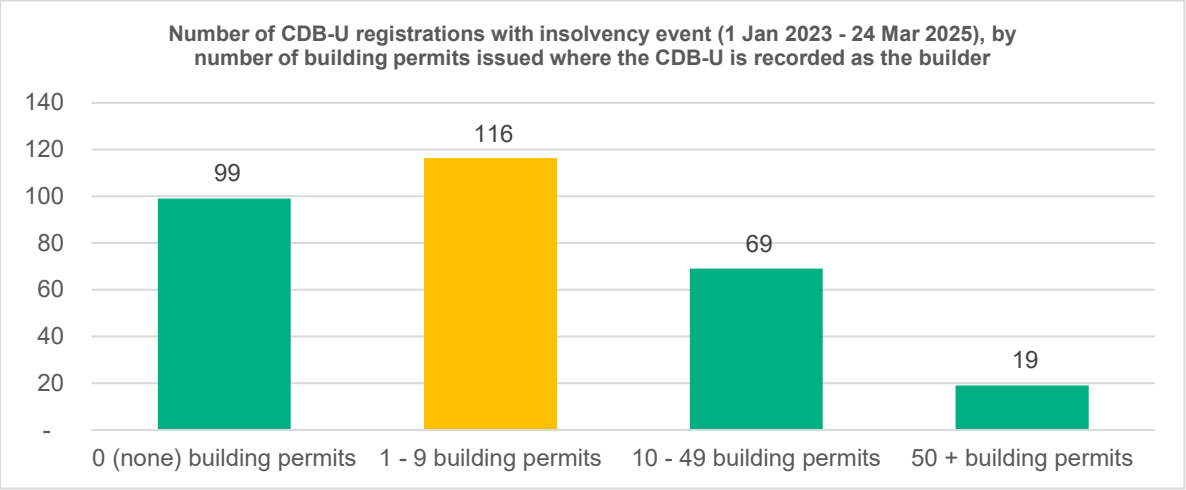

Figure 16: Number of CDB-U registrations with insolvency event by number of building permits issues (1 Jan 2023-24 Mar 2025)

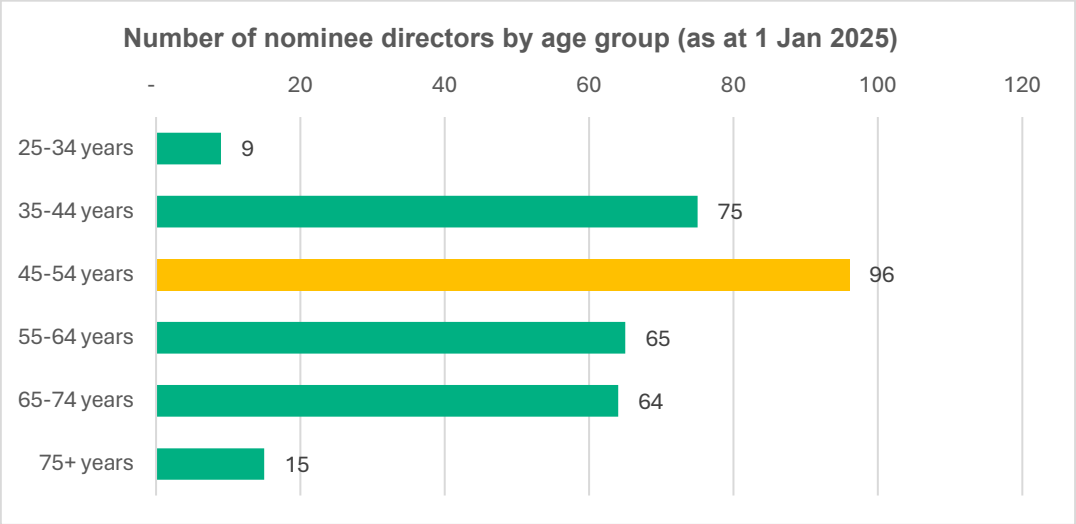

Figure 17: Number of nominee directors of in scope companies by age group

Source: Building and Plumbing Commission anonymised data (at 7 April 2025).

2.5 Profile of an Insolvent Residential Construction Company

This analysis of ASIC and industry data provides a foundational understanding of the profile of residential construction companies experiencing insolvency. These insights informed the focus of

[7] Note: These figures are based on the 204 CBD-Us that were recorded as the builder on at least one building permit issued between 1 July 2019 and 30 June 2024 (from the total sample of 303).

the workshops and interviews undertaken as part of this research project and the subsequent discussions and analysis contained in this report, including the targeted recommendations for regulatory and practical reform.

Insolvent companies in this sector are predominantly:

- small in size
- long-established SMEs
- not concentrated in any particular states or territories
- directors are between 45-54 years of age
- entering the regulated building sector after years of informal or subcontracting experience
- lacking the financial resilience, business systems and strategic acumen of larger operators
- relying on unsecured debt
- carrying unpaid tax liabilities
- operating within limited financial buffers – conditions that leave them vulnerable when they take on more complex projects. These include higher contract value, managing multiple concurrent builds, navigating regulatory and compliance demands, coordinating subcontractors and supply chains and handling longer term projects.
- accessing restructuring pathways in greater numbers but struggling to have these plans approved by creditors (see section 2.3).

Counterintuitively, data indicates insolvency is not confined to inexperienced operators; even directors who have been in the industry for some time are affected, underscoring the influence of systemic industry pressures over individual capability.

2.6 Chapter Overview

Construction is Australia's largest industry by output, employment and economic contribution and at the same time is the most affected by insolvency. Business failure in this sector carries significant ripple effects, triggering financial contagion across supply chains, subcontractors, consumers and wider economies.

This chapter makes a critical contribution by constructing a detailed profile of the typical insolvent residential construction company. Drawing from ASIC insolvency data and industry sources, it identifies a distinct cohort that is particularly susceptible to insolvency: small enterprises, often operating for greater than five years, that transition into the regulated building sector after informal or subcontracting experience. These businesses operate with a reliance on unsecured debt, carry large unpaid tax liabilities and exhibit limited strategic planning and business systems – factors that collectively signal low financial resilience.

Importantly, the chapter situates this profile within the broader regulatory landscape. While corporate rescue pathways exist for financially viable companies, analysis of ASIC data reveals that many SMEs struggle to gain creditor approval for restructuring plans. This suggests that systemic barriers, rather than individual business failings alone, may be obstructing access to recovery mechanisms.

By establishing this profile, the chapter lays the groundwork for the report's empirical design. It directly informed the structure of stakeholder workshops and interviews, shaped the focus of subsequent chapters and underpins targeted recommendations for regulatory reform. Understanding who fails, and why, is essential to designing interventions that are both proportionate and effective.

The following chapter builds on this foundation, examining the complex system that is the residential construction industry, taking into consideration its cultural, behavioural and institutional dynamics. These insights provide essential context for understanding the drivers of insolvency and the limitations of current regulatory responses.

3 THE RESIDENTIAL CONSTRUCTION SYSTEM

This chapter addresses Objective 2 by examining the inherent complexity of the residential construction sector and situating it within a broader socio-economic and regulatory system. It proposes that insolvency in this sector cannot be understood through linear or isolated analysis; rather, it emerges from a dynamic interplay of internal vulnerabilities and external pressures. Using a systems thinking approach, this chapter reveals how feedback loops, such as those involving financial flows, regulatory burdens, stakeholder relationships and cultural dynamics can either reinforce instability or mitigate risk.

Drawing on insights from stakeholder workshops, which will be discussed in further detail in Chapter 4, this chapter introduces a systems map that illustrates the non-linear pathways to insolvency, showing how multiple triggers converge and compound over time. Together, these insights lay the groundwork for the research findings and recommendations presented in following chapters.

3.1 Systemic complexity

The residential construction sector is a complex and dynamic system – one shaped by a dense web of interdependent stakeholders, financial flows, contractual obligations and regulatory frameworks. To understand the challenges contributing to high insolvencies in the sector, analysis beyond linear interpretations is required, hence the adoption of a **systems thinking approach**. This lens reveals how internal vulnerabilities and external pressures interact, creating feedback loops that either reinforce instability or reduce risk.

Systems thinking, as defined by Meadows (2008), refers to the process of examining the interconnections between elements within a system, observing how these relationships produce patterns of behaviour over time (Meadows, 2008). This method offers a structured way to diagnose underlying causes of dysfunction and to identify strategic leverage points where policy or industry reform can generate lasting impact. Researchers have long recognised the value of systems thinking in addressing complexity, noting its ability to uncover root causes, identify unintended consequences and inform more effective interventions (Arnold and Wade, 2015; Plate, 2010; Richmond, 1994; Senge, 2006).

At its core, a system comprises three key components (Arnold and Wade, 2015; Meadows, 2008):

1. Elements – the individual actors or components of the system (e.g. contractors, financiers, regulators, consumers)
2. Interconnections – the relationships and feedback mechanisms between these elements
3. Function or purpose – the overall goal or output of the system, whether intentional or emergent.

Applying a systems lens to the residential construction sector, enables the analysis to uncover not only what is happening, but why the system behaves the way it does and how it might respond to intervention. Hence, a critical early step of this research involved mapping the residential construction ecosystem, starting with the principal actors including clients, head contractors, subcontractors, suppliers, financiers, insurers and regulators; followed by considerations of external factors such as interest rate changes, supply chain disruptions, labour shortages, material price volatility and shifts in consumer demand. The systems map also needs to consider the cultural dynamics and informal practices that define how licensed residential builders operate. From handshake deals to resistance to regulation and multiple licensing pathways, these behaviours are not peripheral to the problem – they are central to understanding drivers of insolvency in this sector. The final step in a systems map is the identification of feedback loops – mechanisms that either reinforce change or de/stabilise the system (Meadows, 2008) deepening understandings of the sector's systemic and behavioural drivers of insolvency.

The resultant systems map (see Figure 18) is inherently complex and difficult to interpret, reflecting the deeply interwoven and non-linear nature of the construction ecosystem. There is no singular entry point, yet multiple interconnected pathways lead to insolvency. What does emerge with clarity are four primary factors that anchor the system: funding structures and cashflow, regulatory complexity, limited business acumen and data limitations. These core elements serve as focal nodes, with other contributing factors radiating around them. Notably, while these four factors have been identified as key drivers of insolvency, they also present key leverage points for intervention (to be discussed further in Chapter 5: Recommendations).

This map was developed from the findings of the stakeholder workshops detailed in Chapter 4. It is presented here as a conceptual introduction to the systemic intricacies that underpin the construction sector. Its placement is intentional – offering readers an early visual reference point for the multi-faceted challenges explored throughout the report.

Importantly, this map is not intended to be exhaustive. It represents a synthesis of current insights and stakeholder perspectives, and the authors acknowledge that further research may reveal additional dimensions or alternative configurations. Readers and practitioners are encouraged to build upon this foundation, contributing to a more comprehensive understanding of the system over time.

This systems map highlights the complexity and interconnectedness of the multitude of internal, external and cultural factors. Together, these interdependencies highlight the vulnerability of the residential construction sector to systemic failure. The tight coupling between stakeholders, combined with high financial exposure and regulatory complexity, means that a disruption in one area can quickly propagate across the entire system. Understanding these behavioural patterns through a systems-thinking lens allows us to better anticipate where fragility lies and identify opportunities for targeted intervention.

Explanation of these primary factors, their connectedness with the other elements and their role in the path to insolvency is provided in the following chapters.

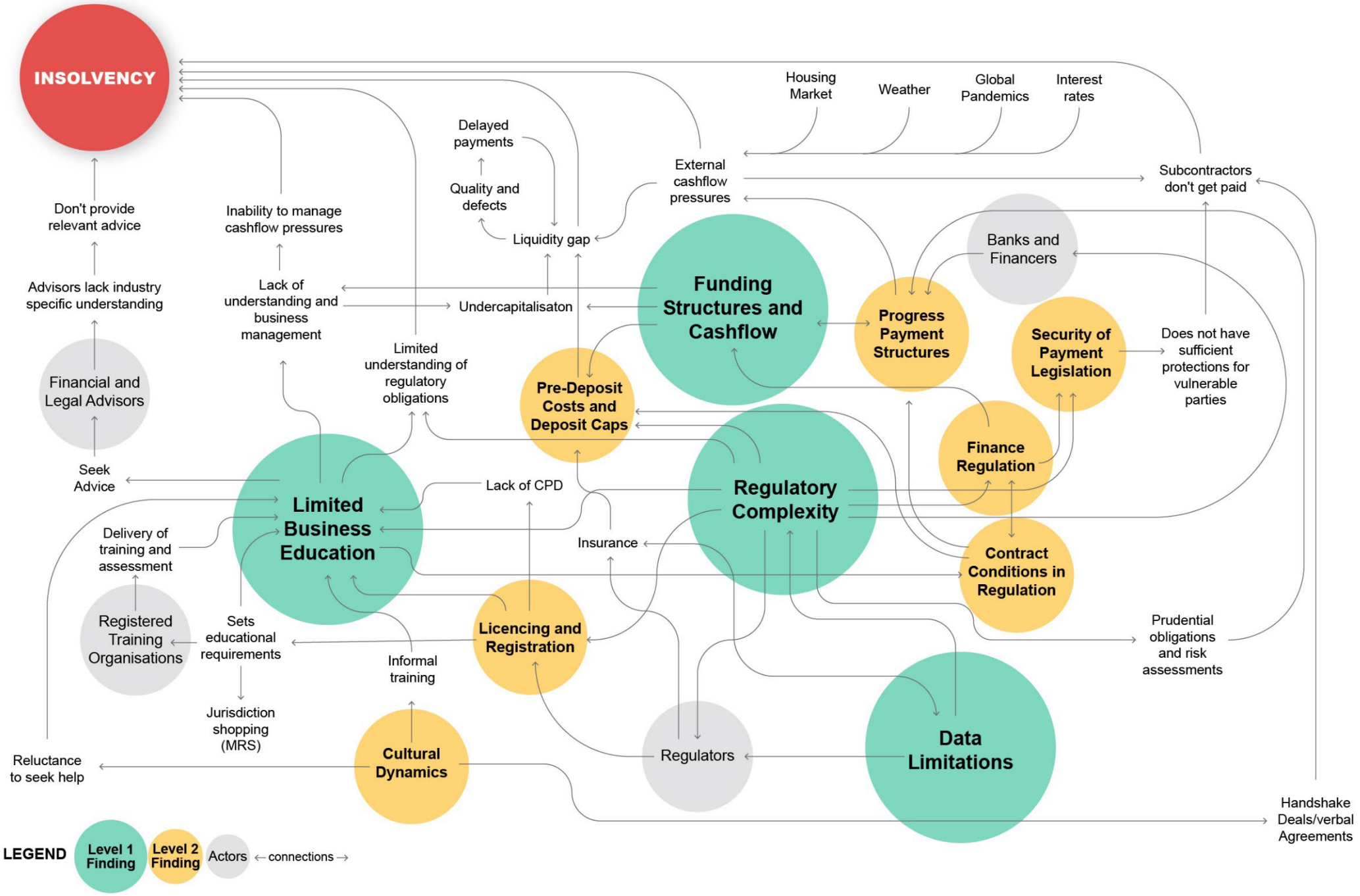

Figure 18: Construction Insolvency Systems Map

3.1.1 Key stakeholders and interdependencies in the residential construction industry

The residential construction industry operates as a tightly interwoven network of stakeholders, each playing a distinct role, yet highly dependent on one another for the success and stability of a project. These stakeholders can be broadly categorised into internal (directly involved in construction delivery) and external (indirectly influencing the environment in which construction occurs).

Understanding their interdependencies is essential to recognising the systemic vulnerabilities and leverage points within the sector. The interrelated nature of these stakeholders is broadly illustrated in Figure 19 (for a more detailed breakdown of the stakeholder/actor network see Appendix A).

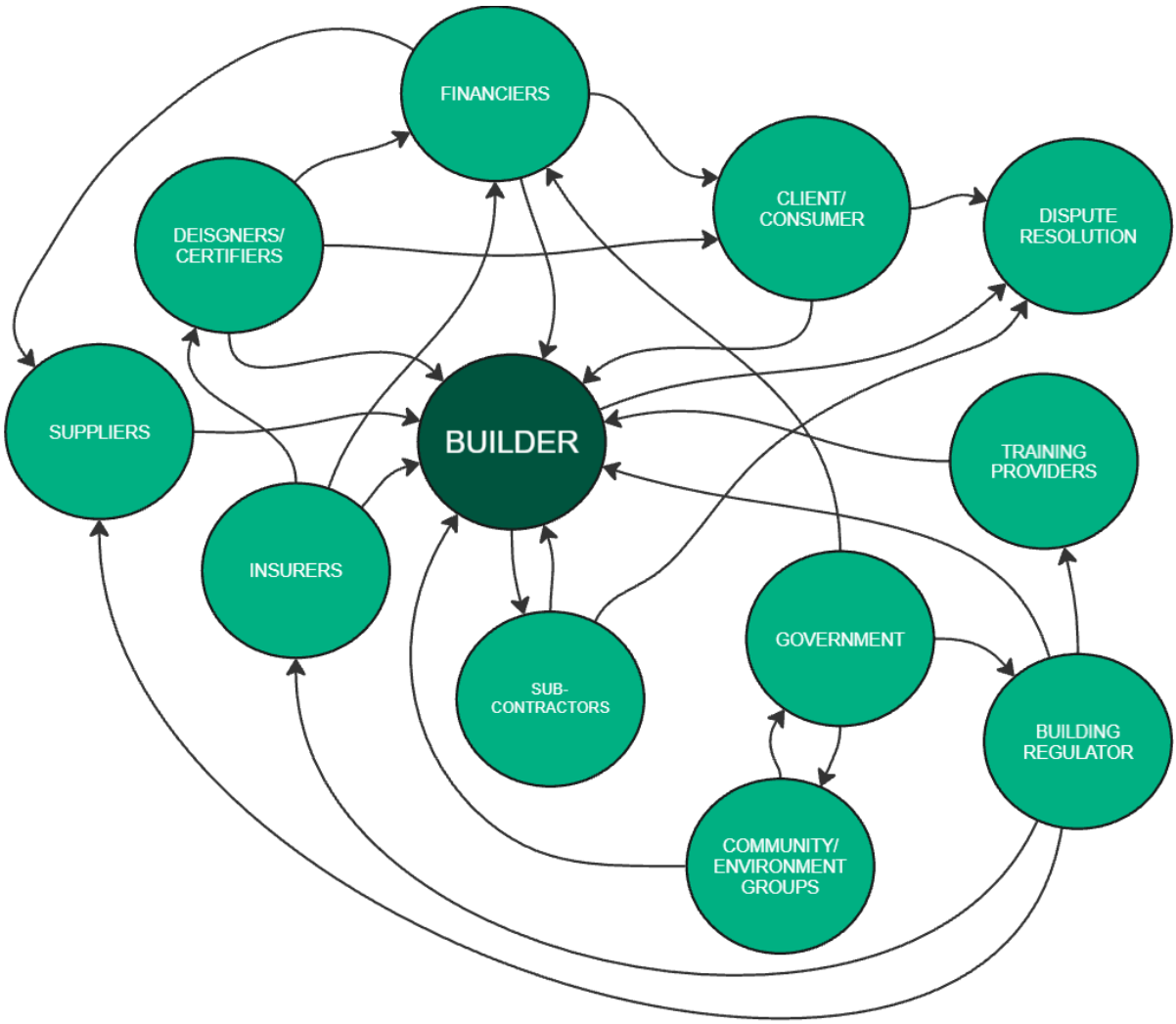

Figure 19: Multi-stakeholder Residential Construction Map

The residential construction industry is marked by a high degree of interdependence among stakeholders (actors), where each actor's ability to function is tightly coupled with the performance and decisions of others in the system. This interconnectivity extends across contractual, financial, regulatory and operational domains. When one element of the system experiences stress, be it a delayed payment, a regulatory amendment, or material shortage, ripple effects can quickly propagate throughout the entire value chain, leading to delays, disputes, or even insolvencies.

The residential construction industry in Australia is also characterised by a highly competitive and fragmented market, marked by significant power imbalances and opaque business practices, which have contributed to widespread market distortions (Australian Government, 2015). Rather than

mitigating these issues, the very structure of the industry exacerbates them, creating systemic challenges that impact the financial sustainability of many stakeholders.

At the core of these structural issues is the pyramid-like contractual hierarchy (Bowyer, 2018, p. 55). At the top sits the client or developer, followed by the head contractor, and further down the chain are subcontractors, suppliers and labourers. This vertical arrangement consolidates market power at the top, with those at the lower tiers often exposed to unfair contract terms, delayed payments and financial vulnerability.

As Murray (2018) explains in the Review of Security of Payment Laws, subcontractors near the base of the pyramid typically lack the bargaining power to negotiate favourable terms, such as prompt payment clauses or interest for late payments. When parties higher up the chain delay payment or become insolvent, subcontractors must often rely on their own short-term finance, such as overdrafts or credit lines, to meet obligations to their workers and suppliers. This dynamic not only increases business risk but frequently leads to insolvency among small operators who operate on tight margins (Murray, 2018, p. 12).

As noted in the 2015 Senate Committee Report:

> *'… the failure of businesses up the contractual chain can affect contractors and subcontractors further down the chain, as well as suppliers, developers and other participants within the industry. The failure of one business can push others over the fiscal cliff…*' (Australian Government, 2015, p. 39, para 3.35)

These risks are magnified by persistent payment delays, which are widely recognised as a systemic problem. Delayed or non-payment is not a new issue, but one that continues to re-emerge in cycles, passed from tier to tier as cash flow tightens. When a head contractor is unable to pay, or when retention money is withheld at the end of a project, the financial impact on subcontractors can be devastating (Australian Securities & Investments Commission, 2019; Bowyer, 2018, p. 54)

This has led to widespread calls for reform, with the 2015 Senate Committee emphasising:

> *'... there is one principle and one principle only that should be observed in relation to security of payment in the construction industry. It is a fundamental right of anyone who performs work in accordance with a contract to be paid without delay...*' (Australian Government, 2015, p. 169)

Indeed, between 2009 and 2014, inadequate cash flow was the leading cause of insolvency in the construction industry (Australian Government, 2015, p. 17; Bowyer, 2018, p. 55).

3.1.2 Considering external influences on stakeholder interactions

The structural vulnerabilities of the residential construction system become even more acute when external pressures disrupt the delicate balance between stakeholders, triggering cascading instability.

Macroeconomic shocks, such as rising interest rates or inflation, significantly affect both the availability of capital and the cost of delivery. When interest rates rise prospective homeowners defer purchases due to higher mortgage repayments. This reduces project commencements, putting pressure on licensed builders who rely on a steady pipeline of work to cover fixed overheads. With fewer contracts awarded, subcontractors and suppliers experience delayed or lost income. As these firms often operate with minimal financial reserves, a temporary disruption can rapidly lead to financial stress and insolvency.

These financial pressures are not distributed evenly across the system. Banks and financiers, who typically operate at the top of the **financial hierarchy**, are insulated through diversified business models, secured lending arrangements and asset-backed guarantees. In contrast, subcontractors, who provide the skilled labour, materials and services essential to project execution, are almost

always unsecured creditors. This asymmetry creates an imbalance in risk exposure. When delays or defaults occur upstream, it is those further down the chain, often smaller, less capitalised businesses, that are most exposed.

For example, a client who cannot obtain finance due to tightened **lending conditions** may cancel or delay a build start. This decision, while rational from a financial risk perspective, has downstream implications: the licensed builder's sunk preliminary costs are not reimbursed, leading to the need to let go of staff or scale down operations, subcontractors may not be paid for preparatory work and suppliers may be left with excess inventory. As Meadows (2008) points out, '*systems cause their own behaviour,"* and here we see how one decision, shaped by external financial conditions, reverberates through a web of dependent actors (Meadows, 2008, p. 2).

Supply chain disruptions add another layer of pressure. When material prices spike or deliveries are delayed, whether due to global events, local shortages, or logistical challenges, the impact is quickly felt across the project lifecycle. Builders may breach contractual timelines, delaying progress payments and increasing disputes with clients. Subcontractors, operating on fixed-price contracts, may be unable to absorb cost increases or reschedule work efficiently, further eroding their slim profit margins. These conditions reinforce negative feedback loops: increased costs reduce solvency, which causes firms to underquote or overcommit to win new work, further deepening their financial exposure.

Labour shortages further strain relationships. If skilled labour is scarce, project timelines blow out, increasing holding costs for clients and drawing down on loan facilities more slowly. This can create tension between builders, clients and financiers, particularly if milestone-based funding is delayed. The burden shifts onto licensed builders and their subcontractors to deliver within unrealistic timeframes, often without corresponding compensation. These **strained relationships** can lead to breakdowns in trust, disputes and even legal action, further increasing costs and threatening the continuity of not only the project, but also the financial sustainability of stakeholders.

In this way, external conditions serve as amplifiers of internal vulnerabilities. Poor coordination, information asymmetry and rigid contractual structures mean that the system is often slow to adapt and quick to fail. For example, even policy measures intended to stimulate the sector, such as grants or housing targets, can have unintended effects if supply chain or labour constraints are not addressed concurrently. The result is that the very actors responsible for delivering government policy objectives (e.g., small and medium builders) may face increased insolvency risk in attempting to meet them.

As Meadows (2008) explains, '[*s]ystem structure is the source of system behaviour. System behaviour reveals itself as a series of events over time*' (Meadows, 2008, p. 4). The repeated insolvency events we see across the residential construction industry are not isolated incidents. They are systemic outcomes of a structure that lacks resilience. By understanding the external pressures and how they interact with stakeholder relationships, we are better positioned to identify leverage points and interventions that improve risk-sharing, increase transparency, or build adaptive capacity into the system.

3.1.3 Understanding unique characteristics in the residential construction system

The complexity and interdependence of this system make the residential construction sector far more fragile and volatile than other more self-contained SME business models, such as a local cafe or small retail outlets (refer to Figure 20 for a brief comparative analysis). The key differences lie in the number and structure of stakeholders (refer Appendix A), the nature of the cash flows and dependencies, the layers of legislative obligation, the time horizon of service delivery and the scale of investment per transaction. This section describes some other key factors that are unique to the residential construction system.

A particularly vulnerable point in the system arises at the very beginning of a build: the pre-deposit phase also referred to as the "**preliminaries"**. This is a structural "chicken and egg" part of the

construction process that creates financial instability from the get-go, with the licensed builder required to commit substantial upfront capital, before the client has formally committed to the build and/or has finance approval to proceed. To obtain finance approval, the client's bank requires a fully documented and executed construction contract. While the contract is generally in a standard form, the licensed builder must also prepare and attach a range of detailed documentation including:

- Contract schedule
- General conditions
- Special conditions
- Prime cost items schedule
- Provisional sums schedule
- Plans and specifications
- Building approvals
- Certificates of inspections
- Insurance certificates.

The licensed builder is often unable to seek upfront payment for these pre-construction costs (say, by way of a deposit), requiring businesses to draw on their own reserves. For small firms with limited capital buffers, these sunk costs represent a critical exposure. If a project fails to proceed, for example, due to planning delays, contract disputes, or other external factors that affect buyer commitment, the business may never recoup these costs. Even in projects that do proceed, delays in reaching progress payment mean that licensed builders often operate in a cash-negative position for months. This dynamic introduces significant risk into the system well before any physical construction begins and contributes to a disproportionately high rate of financial stress during early project phases.

The role of bank financing introduces another layer of dependency into the system. Most residential developments are financed through staged **progress payments**, whereby lenders release funds based on verified construction milestones. This arrangement, while providing risk management for financiers, creates pressure for licensed builders to meet specific progress points to unlock the next tranche of funding. If a bank's third-party certification is delayed, or if a dispute arises about the quality or completeness of the work, funding may be withheld. This in turn prevents the builder from paying subcontractors and suppliers, creating a chain reaction of delayed payments and potential business failure throughout the system.

Legal and **contractual interdependencies** further intensify the system's fragility. Each project involves a complex web of legal instruments, including head contracts, subcontractor agreements, supplier terms and conditions, insurance policies and finance arrangements. These must align and remain consistent over the duration of the build. A breach in one area can unravel the entire network of agreements, stall construction and expose all parties to financial loss and/or litigation.

Another key behavioural feature of the system is the **mismatch between cash outflows and cash inflows**. Unlike service-based industries, where income is generated daily, residential construction projects typically take between six months to two years to complete. During this period, licensed builders and subcontractors must manage large upfront investments in labour, equipment and materials, while receiving payments in arrears only in staged intervals or upon completion. This **extended timeline** increases exposure to both market volatility and contractual risk. If the project is delayed, or if costs escalate unexpectedly, businesses may find themselves in severe financial distress long before the project reaches completion.

Supply chain volatility also plays a critical role in shaping the behaviour of the system. Residential construction is heavily reliant on the timely and cost-effective delivery of materials to site. Disruptions in global logistics, domestic manufacturing bottlenecks, or sudden increases in material prices, such as those seen during the COVID-19 pandemic, can halt work or significantly erode profit margins.

These disruptions not only affect clients and licensed builders but also undermine the stability of subcontractors and suppliers, who depend on timely payments to maintain their own operations.

I**nsurance and licensing** also shape system behaviour in significant ways. Builders cannot operate legally without appropriate licenses and insurance coverage. These are not just administrative requirements; they are contingent on continued financial health, compliance with regulatory frameworks and the absence of recent legal disputes or claims. A defect report or legal dispute can result in the suspension or non-renewal of licences or insurance, effectively locking a business out of future opportunities, even if it is otherwise capable of delivering high-quality work.

The industry is also tightly coupled with the **regulatory environment**. Residential construction projects must secure a sequence of approvals across multiple levels of government, including zoning clearances, development approvals, building permits and occupancy certifications. These approvals are often staggered, conditional and issued by different entities such as local councils, state building authorities and independent certifiers. A delay in just one approval, whether due to administrative backlog, compliance issues or policy changes, can halt a project entirely, generating financial penalties, increasing holding costs and risking the confidence of lenders or investors.

Contrasting With a Simpler Business Model: The Case of a Cafe

To highlight the unique fragility of residential construction, it's helpful to compare it with a more self-contained small business model like a café or restaurant. This type of business typically includes far fewer stakeholders, shorter transaction times, lower level of customer investment (emotional and financial) and hence significantly lower levels of interdependence.

Aspect	Residential Construction	Cafe
Stakeholders Involved	10+ (client(s), builder, subcontractors, suppliers, banks, regulators, insurers)	<10 (customers, owner, staff, landlord, suppliers, banks, regulators, insurers)
Contractual Complexity	High – multiple binding contracts with cascading obligations	Low – mostly informal or simple supplier/service agreements
Cash Flow Dependency	High – reliant on milestone payments, bank releases, and multiple approvals	Low – initial investment, daily revenue from customer payments
Transaction Duration	Long-term (6–24 months) with high upfront capital requirements	1-2 hours with minimal cashflow lag
Regulatory Oversight	Intense – multiple commonwealth, state and local government layers (planning, building, safety, environment, licensing etc.)	Moderate – WHS, local health and safety regulations, food licensing, industrial relations
Exposure to Third-Party Risk	High – delays or insolvency by others can derail the organisation	Low – primary risk is localised (staff illness, rent increase)
System Feedback Loops	Numerous – e.g., late payments cause subcontractor collapse, delaying project	Few – business can adjust quickly to most changes
Responsiveness to supply chain price increases	Price increases generally need to be absorbed due to fixed price contracts.	Ability to pass on to consumer at will (tempered by the customers propensity to pay).

The fragility in construction arises from its systemic complexity, not simply from poor management or bad luck. As systems theorist Meadows (2008) explains:

> *"Systems cause their own behaviour... External influences are important, but often they are exaggerated as explanatory factors"* (p. 2).

In this sense, construction's fragility is endogenous to its structure. Its performance is shaped by internal dynamics- feedback loops, delays, bottlenecks, and interdependencies- that make it highly sensitive to disturbance.

In contrast, a café's system is simpler, more flexible, and more resilient. It has fewer dependencies, faster feedback loops, and more direct control over inputs and outputs. A missed booking, or "dine-and-dash" doesn't threaten the solvency of the whole business, or of cascading subcontractors.

Figure 20: The Case of a Cafe: Business Comparison

3.1.4 Identifying Feedback Loops in the Residential Construction Industry

The residential construction industry operates within a deeply interconnected system of feedback loops that dynamically shape its behaviour. These loops are driven by the ongoing interactions between market forces, regulatory structures, financial flows and stakeholder decisions. At the centre of the system is a hierarchical flow of payments, which provides a framework for understanding the cascading effects of disruptions or reinforcements across the supply chain. Multiple feedback loops exist within this structure, each influencing the stability or volatility of the broader system.

One example of a feedback loop is found in the housing market's relationship with **population growth**. Rising population stimulates demand for housing. As demand intensifies, property values rise, attracting speculative investment and prompting builders to increase supply. This cycle fuels

economic activity and reinforces upward momentum, amplified by availability of credit, which enable consumers to pursue increasingly ambitious housing projects. However, this feedback loop can lead to market overheating and affordability pressures, particularly when the supply side is constrained.

Another feedback loop example is **interest rates** that function as both a catalyst and a constraint. During periods of low interest, borrowing becomes more affordable, driving construction activity, employment and sector-wide growth. Yet as macroeconomic conditions shift, rising interest rates introduce a balancing force. Higher borrowing costs dampen demand, slow investment and temper the growth loop. This dynamic has played out in recent years, with higher interest rates contributing to a decline in new housing and heightened financial stress among smaller builders – many of whom expanded rapidly under stimulus programs like the Federal Home Builder scheme (Kelly, 2025).

Despite these conditions, the expected balancing loop, where higher prices lead to **increased supply**, which in turn stabilises prices, has not fully manifested in the Australian context. The supply side of the housing system is inelastic, as regulatory constraints, planning delays and land scarcity hinder the ability of supply to respond meaningfully to demand (Janda, 2025). This lag prevents the stabilising effect from taking hold quickly enough to mitigate price escalation, thereby reinforcing the cycle and delaying systemic equilibrium. Stakeholders such as urban planners, local councils and state regulators hold the potential to introduce balance through **land release and zoning reform**, but these interventions are often slow-moving and politically contested, limiting their capacity to counteract market-driven feedback loops in real time.

Regulation introduces another layer of systemic feedback. In theory, the regulatory framework operates as a balancing loop designed to achieve policy objectives such as safety, quality, affordability and sustainability. Regulatory instruments are intended to ensure that construction proceeds in an orderly, compliant and equitable fashion. When effective, these mechanisms create stabilising forces by mitigating risk and promoting transparency. However, the influence of regulation is not always linear. Changes to zoning laws or building codes can introduce delays, increase compliance costs and create uncertainty within the system. These disruptions can, in turn, delay project timelines and undermine investor confidence, triggering reinforcing feedback loops of project cancellations, litigation, or cost blowouts. In cases where compliance is weak or uneven across jurisdictions, regulatory loops become distorted, failing to deliver equilibrium and instead adding friction or fragility to the system. Stakeholders such as licensing and planning authorities, building certifiers and industry bodies play a crucial role in either upholding or eroding the effectiveness of these loops through consistency and timeliness.

Delays in **project timelines** represent another area where multiple feedback loops intersect. Increased demand for housing leads to an expansion in the number of concurrent projects, which places strain on materials and labour. This can create reinforcing loops, where resource constraints delay projects, further increasing pressure on the system. As delays accumulate, holding costs rise and financial stress builds across the value chain, particularly for subcontractors and suppliers. While project planning and contingency management practices can introduce balancing mechanisms, such as rescheduling or reallocating resources, these interventions often come at the expense of cost and profitability. Weather events, unexpected site conditions and regulatory holdups also feed into these loops, complicating efforts to maintain balance. In this dynamic, the capacity of project managers, financiers and contractors to anticipate and respond to disruption becomes central to determining whether loops spiral or stabilise.

Labour availability further illustrates the dual nature of feedback within the system. An increase in construction activity generates heightened demand for skilled labour, which typically pushes up wages and can attract new entrants into the sector, ultimately reinforcing the cycle. However, if labour demand outpaces supply, as has been the case in Australia in recent years (Infrastructure Australia, 2021), the loop can become destabilising. The ongoing housing crisis has created a continuous demand for residential development, yet public investment remains prioritised in the education and healthcare sectors, diverting skilled labour away from residential construction (Bullen, 2025). Labour

shortages contribute to project delays, increase costs and reduce system-wide capacity to meet demand. These conditions can trigger a balancing loop, whereby rising costs and extended timelines temper demand for new construction projects, restoring a fragile equilibrium. The role of vocational training institutions, migration policy and workforce planning is critical here; these actors have the potential to either reinforce positive feedback (by expanding the skilled labour pool) or exacerbate imbalances (through poor training, inaction or policy constraints) (explored further in section 4.4).

Finally, the structure of **contracts and payments** within the construction hierarchy introduces some of the most influential and volatile feedback loops. When payments flow predictably from clients to head contractors and then to subcontractors and suppliers, a stabilising feedback loop emerges. Regular cash flow enables each stakeholder to meet their obligations, fund ongoing work and progress towards milestones that trigger future payments. However, disruptions to this flow, whether due to disputes, delays, failed inspections, or insolvency, can initiate a negative reinforcing loop. One party's inability to pay leads to knock-on effects throughout the supply chain, halting work, triggering further disputes and deepening financial stress. These loops can compound rapidly, particularly when small subcontractors are involved, as their limited financial buffers make them highly susceptible to even short-term payment delays. Transparent contract structures, secure payment mechanisms and appropriate regulatory oversight are potential balancing interventions that can reduce the severity of these loops and prevent systemic collapse.

Together, these feedback loops reveal a complex and dynamic system in which the behaviours of individual actors interact in non-linear and sometimes unpredictable ways. Stakeholders play pivotal roles in reinforcing or dampening these loops, depending on their actions, incentives and ability to collaborate. Understanding these interdependencies is critical for policymakers, regulators and industry leaders seeking to design interventions that enhance system resilience. Through this lens, the goal of the project workshops is to identify points of failure, trace their propagation through the system and explore targeted leverage points for intervention – shifting the industry towards greater stability, transparency and long-term viability.

3.2 Cultural Dynamics and Informal Practices

The residential construction industry in Australia is shaped not only by regulatory and financial structures but also by deeply embedded cultural norms and informal practices. These cultural dynamics influence how builders operate, make decisions and respond to risk, often in ways that increase vulnerability to insolvency.

In particular, the construction industry is characterised as a competitive sector with high-dollar value and **low profit margins** (Love et al., 2023). Businesses are incentivised to find cheaper and more efficient ways of doing things, which requires innovation and change. Yet construction organisations are generally reluctant to do so due to risks involved, time delays or fear of not meeting return on investment (Matthews et al., 2018).

Personal relationships are also an important aspect in managing projects (Cheung and Rowlinson, 2005). Construction is a labour-intensive industry where interpersonal relationship plays a crucial role in creating a harmony environment which foster teamwork, communication and knowledge transfer. When a non-conformance occurs in construction, it is often not reported as the reporting process is found to be lengthy and time-consuming. Non-conformance is also considered a result of poor supervision and management by the contractor, leading to reluctant documenting of such occurrences which might have a negative effect on the working relationship. Instead, the individual breaching the quality standard is generally given a warning or requested to leave the project site (Love et al., 2018).

Another defining feature of the sector is its reliance on **informal practices**, where 'gentleman's agreements' are common (Cox and Thompson, 1997). While these practices may reflect a culture of trust and expediency, they also undermine legal protections and contribute to poor recordkeeping (Australian Government, 2015). In the event of disputes or financial distress, the absence of formal

documentation limits avenues for recourse and exacerbate insolvency risk (Senaratne and Farhan, 2023). Notably, the hierarchical contracting structure drives a culture in which those with the most power, often the head contractor/builder, dismiss payment disputes, challenge adjudication actions or take action to prevent subcontractors being able to obtain further work if they access their remedies under Security of Payment legislation. The 2015 Senate Committee inquiry noted that subcontractors are often reticent to push back, and at times will work despite not receiving payment for billed invoices, for fear of being excluded from future work opportunities (discussed further at section 4.2.4.2) (Australian Government, 2015).

This informality is reinforced by the **educational profile of industry actors**. While licensed builders are required to obtain formal qualifications such as a Certificate IV or Diploma to meet licensing requirements, a significant proportion of practitioners, including carpenters, concreters and other trades, enter the broader construction sector through pathways that offer limited exposure to business, financial, or regulatory training. In some jurisdictions, roles such as labourers or subcontractors may not require formal registration or licensing, further reinforcing the diversity of entry points. While technical proficiency is rightly valued, there is a cultural tendency to undervalue business literacy. Financial management, strategic planning and regulatory compliance were frequently highlighted by workshop participants as secondary concerns, or tasks to be outsourced or dealt with reactively. This mindset contributes to undercapitalisation, poor cash flow management and a lack of proactive cash flow planning, all of which are key precursors to insolvency (see section 4.1). In a submission to the 2015 Senate Economics Reference Committee, the Australian Tax Office (ATO) noted this phenomenon, stating:

> '*…although contractors in the building and construction sector 'have high levels of industry specific technical skills, they mostly have limited business support and are often time poor'. In its view, these circumstances may lead 'to poor record keeping and challenges understanding the financial aspects of their business'* (Australian Government, 2015, sec. 2.52)

Unpaid taxes emerged as a key early indicator of insolvency in the data for the residential construction sector, with many SMEs failing to account for end-of-financial-year tax obligations. This is consistent with the inclusion of 'overdue Commonwealth and State taxes' in the list of indicators of insolvency in *ASIC v Plymin (No 1)* (2003) 46 ACSR 126 [386]. It is also consistent with data highlighting cultural issues relating to taxation payments in the sector; the ATO's Tax Integrity Centre received nearly 49,000 tip-offs in 2024-2025 about shadow economy activity, with the construction industry representing the largest share (18.2%) (Australian Taxation Office, 2025). The most common tip-offs related to builders' insistence on cash payments, mistreatment of workers and suspected fraud (Australian Taxation Office, 2025). Workshop participants believe that unpaid taxes are driven by the business and financial literacy skills of builders, as well as their cultural resistance to seeking help.

There is evidence that **professional advice** improves SMEs' chances of success, including with respect to mitigating the lack of business acumen, yet many SMEs do not seek such professional advice (Clarke, 2024). Lawyers, accountants and other advisors must somehow attract business owners to seek timely advice, including on front-end transactional matters such as contract negotiation, drafting and interpretation, where upfront legal advice can avoid difficulties arising later. However, complications arise because SME owners have an informal 'culture, communication and learning' style which is 'trust-based' and 'intuitive', and they 'evaluate the worth of external advisers' based upon their compatibility with the same cultural values and informal approaches (Dyer and Ross, 2007, pp. 130, 131–2). This can 'hinder successful advisory relationships' where advisers are not sensitive to the acumen, context and cultural values of SME clients, and do not adopt a practice that is empathetic and attractive to such clients (Dyer and Ross, 2007, p. 132).

Additionally, **resistance to regulation** is not uncommon, particularly where compliance is perceived as burdensome or disconnected from on-the-ground realities. Moreover, limited trust between

parties, including builders, subcontractors, clients and regulators, can foster adversarial relationships and discourage collaboration or early intervention.

These cultural drivers manifest in tangible financial behaviours. Builders may avoid formal budgeting, rely on outdated accounting systems, or defer engagement with insolvency professionals until it is too late. The result is a **reactive rather than proactive** approach to financial management, which leaves businesses exposed to sudden shocks and unable to navigate periods of instability.

Importantly, while culture presents challenges, it also offers a potential lever for reform. Peer-led education initiatives, industry mentoring and community-based **financial literacy programs** could help shift norms and build capacity from within. Indeed, culture impacts the effective training and education of residential construction industry members. While not specific to the residential construction sector, researchers have recognised the significance of 'experiential learning' generally to those in SMEs (Beresford and Saunders, 2005, pp. 337, 340). Barriers for training may include not only costs and unawareness of training needs and benefits, but also the lack of experience driven pedagogy with 'situated learning' involving real-world authentic frameworks which may be adopted by some training providers (Beresford and Saunders, 2005, pp. 339–340). Builders are more likely to engage with training and support when it is delivered by trusted peers or tailored to the realities of their work. Recognising and working with the cultural fabric of the industry — rather than against it — may be key to designing interventions that are both effective and enduring.

In summary, the cultural quirks of the construction industry are not peripheral to the issue of insolvency; they are central. Informality, undervaluing of business skills and resistance to regulation all contribute to financial fragility. Yet these same cultural traits – trust, pragmatism and peer networks – could be harnessed to build a more resilient and financially literate sector (see Chapter 5 for recommendations aligned with cultural dynamics).

3.3 Chapter overview

This chapter investigated the underlying architecture of the residential construction sector, offering a systems-level analysis of the stakeholders, interdependencies and feedback mechanisms that shape industry behaviour. While insolvency is often framed as an individual business failure, this chapter reframed it as a systemic outcome, emerging from the complex interactions, pressures and norms embedded within the broader construction ecosystem.

A key focus of this chapter was the cultural dynamics that distinguish residential construction from other industries. Informal practices, cultural undervaluing of business education and unwritten rules often govern decision making and risk management. While these norms can foster trust and flexibility, they also contribute to business fragility. Recognising these cultural characteristics is essential to understanding how insolvency risk becomes embedded within the system itself.

Fundamentally, these interactions and unique cultural dynamics don't just add complexity; they actively destabilise the resilience of the system. The significance of this analysis lies in its practical utility: by understanding how these interdependencies function under pressure, policymakers, regulators and industry leaders are better equipped to intervene strategically.

This analysis directly informed the design of stakeholder workshops, which aimed to identify the points of failure in the system, trace their propagation and explore targeted interventions. Insights from these workshops, combined with the systems analysis led to the development of the systems map introduced in section 3.1 (see Figure 18). This visual framework captures the dynamic feedback loops that perpetuate instability and constrain resilience across the sector and demonstrates that insolvency risk isn't driven by one isolated factor but rather through the interactions between multiple stakeholders, external pressures and fundamental cultural drivers.

Building on this foundation, the next chapter investigates the key drivers of insolvency. Drawing from stakeholder workshop insights and broader academic and industry literature, it surfaces recurring themes and begins to trace how these drivers interact within the broader system.

4 DRIVERS OF INSOLVENCY

Building on the systems-based understanding of the residential construction sector established in Chapter 3, this chapter presents the research findings on the specific drivers of insolvency through the lens of empirical data. Drawing on insights from stakeholder workshops and select industry interviews, alongside a review of academic and industry literature, this chapter surfaces the most cited contributors to financial distress.

These drivers are presented within four thematic categories, though it is acknowledged that many intersect across multiple domains, reinforcing the sector's complexity. By situating these findings within the broader system, the chapter advances Objective 1 and begins to map the conditions under which insolvency risk escalates, laying the groundwork for targeted interventions explored in the following chapter.

4.1 Drivers in insolvency data

ASIC data provides high level information about the causes of insolvency in the construction industry:[8] It indicates insolvency within the residential construction sector arises from a complex interplay of systemic factors and cultural dynamics:

- inadequate cashflow or high cash use (n=1055, 54%)
- poor strategic management of business (n=967, 49.5%)
- other (n=870, 44.6%)
- trading losses (n=856, 43.9%)
- poor financial control including lack of records (n=762, 39%)
- poor economic conditions (n=634, 32.5%)
- under capitalisation (n=613, 31.4%)
- poor management of accounts receivable (n=362, 18.5%)
- natural disaster (n=97, 5.0%)
- fraud (n=42, 2.2%)
- director dispute (n=38, 1.9%)
- business restructuring (n=11, 0.6%)
- industry restructuring (n=9, 0.5%)
- failed attempt at a Voluntary Administration/Deed of Company Arrangement under Part 5.3A of the *Corporations Act 2001* (Cth) (n=8, 0.4%) (see Figure 21).

When interpreting this data, its relevant to understand how this data is collected. ASIC collects data from reports completed by external administrators. The reports require selecting from predefined options and numerical ranges. This means the reported reason for insolvency may not fully reflect the actual causes. For example, when the cause of failure is reported as 'other' or 'a failed attempt at a voluntary administration/deed of company arrangement' it doesn't explain what led to the financial distress in the first place or why the company entered voluntary administration (Australian Securities & Investments Commission, 2023a, p. 2) (see conditions/limitations of the Series 3 data, (n=1535, 78.6%) 2024, Table 3.2.2.3). This is particularly relevant, when considering the category 'other' represents 44.6% of the causes of insolvency, with no further information able to be alluded from this publicly available data set.

[8] Note: More than one cause of company failure can be nominated in each report lodged by a registered liquidator for each company captured in this data. The number of nominated causes of failure will therefore exceed the number of insolvent companies. Reports are only lodged if it appears to the insolvency practitioner that there has been some type of misconduct or offence committed (Australian Securities and Investments Commission, 2024, Table 3.2.2.2, Australian Securities and Investments Commission, INFO80: How to interpret ASIC's corporate insolvency statistics)

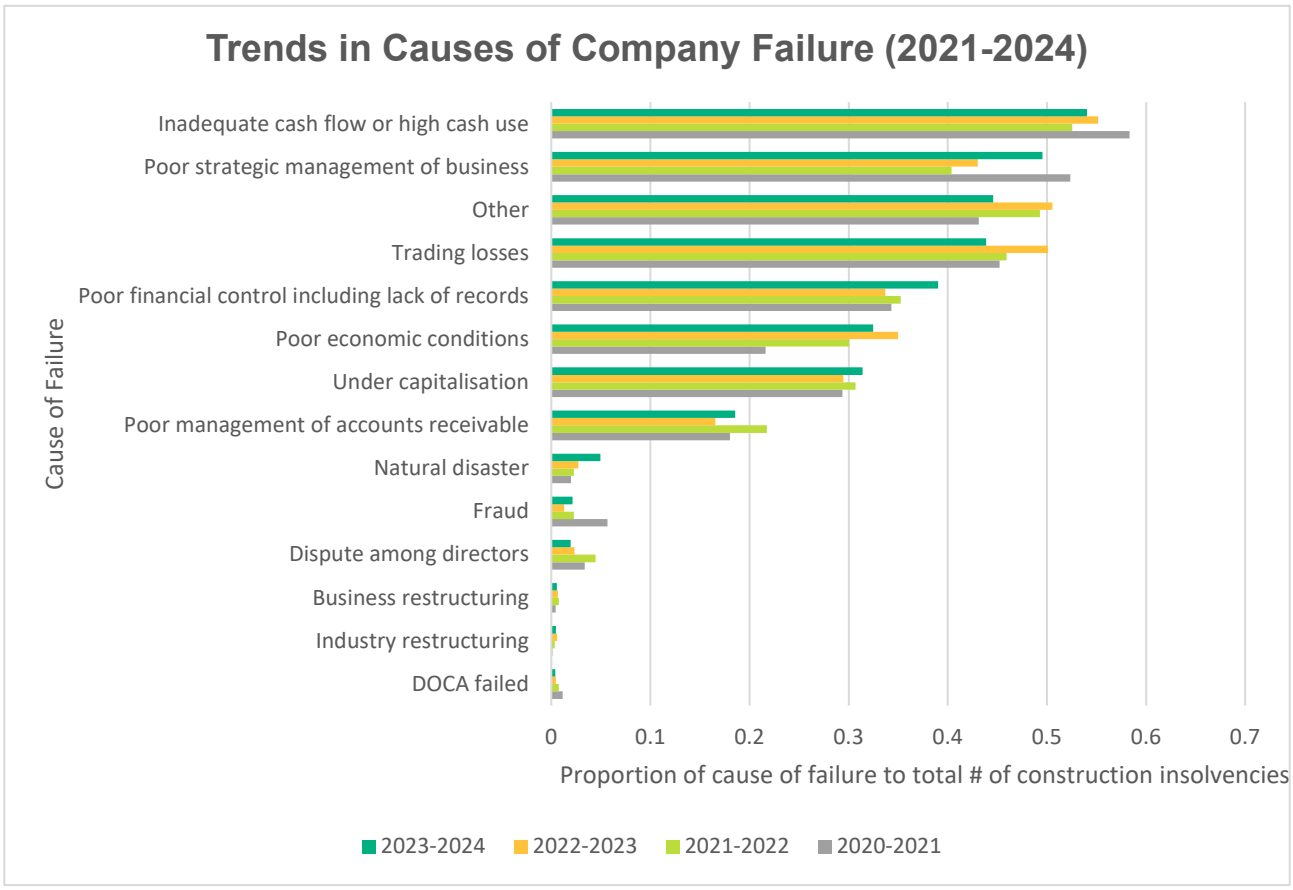

Figure 21: Trends in Causes of Company Failure in Construction Industry (2021 - 2024)

Source: Analysis of ASIC Series 1, 2 and 3 Insolvency Statistics conducted by QUT

To better understand the underlying causes of financial distress, it is useful to consider industry-specific factors. In the construction sector, for example, Buscombe, Karageorgiou and Thirlwell (Buscombe et al., 2023) link insolvency to structural and operational characteristics such as 'pyramidal contracting chains on construction projects', 'predominance of trade credit throughout the construction industry', 'the unsecured creditor status of building contractors and suppliers for work done and/or goods supplied', 'poor payment practices', 'underbidding', illegal phoenixing activity', 'undercapitalised firms, which are not financially resilient' and 'poor strategic business management skills'.

The project team hence sought to determine whether the industry-specific factors identified in the literature were also reflected in the 'other' category of reported causes of financial distress. To investigate this, the team collaborated with ASIC to gain deeper insight into the underlying factors captured within this classification. Through analysis of free text fields in ASIC's pdf reports, the top four reported causes of financial distress in the residential construction industry, reported as 'other' in the publicly available ASIC dataset are **contractual disputes (n = 173), defects (n=73), the nature of construction (n=61)** and **health issues** (n=35, or n=43 if **mental health** is included. These categories reflect both structural and operational challenges that are deeply embedded in the industry (see Table 1).

Table 1: Underlying causes of financial distress reflected in 'Other' category in ASIC Insolvency statistics

Cause as reported in free text field	FY21	FY22	FY23	FY24	FY25	Total
Contractual disputes	3	23	42	40	68	176
Death	0	0	4	5	5	14
Defects	1	3	19	32	18	73
Family dispute	0	1	4	3	2	10
Health (excl mental health)	0	4	6	7	18	35
Insurance	0	1	2	4	2	9
Mental Health	0	1	3	3	1	8
Nature of construction	0	4	19	22	16	61
Total	**4**	**37**	**99**	**116**	**130**	**386**

Contractual disputes emerged as the most frequently cited cause, underscoring the complexity and risk inherent in construction contracts. Disputes often arise from unclear terms, scope changes, delays or payment issues, and can quickly escalate into insolvency if not managed effectively. **Defects**, the second most common cause, point to quality assurance failures and the financial burden of rectification, which can be particularly damaging for SMEs with limited capital reserves.

The **nature of construction** encompasses a range of industry-specific pressures as explained in section 3.1. These factors are often interrelated and can compound financial distress, especially in an environment where margins are tight and project timelines are rigid. **Health issues,** including both physical and mental health challenges, also contribute to financial distress, particularly in SMEs where wellbeing of key personnel directly affects operational continuity.

Further analysis of the free text field, where practitioners identified multiple causes of financial distress, reinforces the significance of the causes reported above. **Contractual disputes and defects** not only appear as primary drivers but also frequently co-occur with other issues, suggesting they are central to broader patterns of financial instability.

The free text responses also reveal a **complex interplay of factors**, including:

- **COVID-19 impacts:** Lockdowns, border closures and supply chain disruptions led to material and labour shortages, project delays and job cancellations.
- **Inflation and interest rate rises:** Escalating costs and reduced client borrowing capacity contributed to cashflow issues and project viability concerns.
- **Legal and insurance challenges:** Disputes over defective works, cancelled insurance and litigation costs were recurring themes.
- **Personal and health-related issues:** Director illness, injury, family loss and mental health struggles were cited as contributing to business failure.
- **Structural vulnerabilities:** Fixed-price contracts, inadequate profit margins and front-loaded payment structures left companies exposed when costs rose or projects stalled.

These insights drawn from the ASIC 'free text' data highlight that **financial distress is rarely caused by a single issue**. Instead, it often results from a convergence of operational, economic, legal and personal pressures. The recurrence of certain themes, particularly defects, disputes and cost escalations, across both structured data and free text fields reinforces their centrality to insolvency in the residential construction sector.

Drawing on the comprehensive data analysis above, literature review and stakeholder engagement, the following sections further explores four key drivers: funding structures and financial risk, regulatory complexity, limited business and financial acumen and persistent data gaps.

4.2 Financing Structures and Risk Allocation

The financial architecture of residential construction projects embeds risk asymmetries that disproportionately affect subcontractors and small builders. Progress payment structures, while intended to ensure liquidity throughout a project's lifecycle, often favour head contractors and leave subcontractors vulnerable to delayed or withheld payments.

4.2.1 Construction Contracts, Risk Allocation and Cashflow Impacts

Risk is an inherent feature of all construction projects. As Barnes aptly observed, '*from the moment that the decision to begin design is taken until the new facility is in use, the client is uncertain about the outcome of the project'* (Valorum Law, 2024). While risk cannot be eliminated, it can be managed, transferred or shared, and construction contracts are the primary mechanism through which this allocation occurs (Senaratne and Farhan, 2023). The clarity and fairness of **contractual risk allocation** are critical not only to dispute avoidance but also to the financial viability of the parties involved.

Standard form contracts, such as those issued by Master Builders Associations (MBA), the Housing Industry Association (HIA) and the Australian Building Industry Contracts (ABIC), vary significantly in how they allocate risk. While some embed special conditions that favour contractors, others, like the ABIC contract, have been criticised by workshop participants for disproportionately assigning design-related liabilities to builders, even when they have no control over the design process. Workshop participants raised concerns about this imbalance and its potential to expose builders to financial risk from defects they did not cause.

The negotiation and formalisation of **risk allocation** prior to contract execution is a critical opportunity to set expectations and prevent disputes. However, workshop participants raised concerns that many SME owners and tradespeople lack the business literacy required to interpret complex contract terms, identify unfair risk burdens, or negotiate special conditions. This knowledge gap can leave contractors vulnerable to accepting unfavourable terms that erode their cashflow and increase insolvency risk (Australian Government, 2015).

Payment structures embedded within contracts further compound these challenges. Residential construction projects contracted between a homeowner and licensed builder[9], are typically priced using one of two models: lump sum (fixed price) or cost-plus (actual costs plus margin) (Queensland Building and Construction Commission, 2021).[10] While cost-plus contracts are often preferred by builders for their flexibility and responsiveness to market fluctuations, workshop participants noted that banks are reluctant to lend against them due to internal risk protocols. In some cases, cost-plus clauses are prohibited by jurisdictional legislation, or are subject to limited provisions and therefore consumer protections, as is the case in Victoria and Western Australia (*Domestic Building Contracts Act 1995 (Vic)*, sec. 13; *Home Building Contracts Act 1991 (WA)*, pt. 1 s3(1) '*definition of home building work contract*'). Fixed-price contracts, though more palatable to consumers and financiers, expose builders to inflationary pressures and cost overruns, which is particularly problematic in volatile markets (Reserve Bank of Australia, 2022). During the pandemic, for instance, residential construction costs rose by 20% in just 12 months, with a further 7.3% increase recorded in the year to June 2023 (Master Builders Australia, 2023b).

These pricing structures intersect with broader financing constraints. Contractors operating on **thin margins** – typically around 5% across the sector – can quickly find themselves in financial distress when locked into rigid pricing models amid rising input costs (Master Builders Australia, 2023b;

[9] There are other contract types for homeowners who engage a project manager or designer rather than the builder directly. These contract types are outside the scope of this project. (Brander, Smith, McKnight Lawyers, 2023)

[10] Contract conditions, including the legality of cost-plus clauses differ from state to state. For further discussion of this, see 4.2.4.1 Contract Conditions in Regulation

Reserve Bank of Australia, 2022). This dynamic is exacerbated by cultural norms of underbidding and undercapitalisation, where firms accept unsustainable terms to secure work, only to face insolvency when costs escalate (Australian Government, 2015; Reserve Bank of Australia, 2022) (see section 3.1).

Taken together, these contractual and financial mechanisms form a complex web of risk that directly influences cash flow stability and insolvency vulnerability. Addressing these issues through improved contract literacy, fairer risk allocation and more responsive financing represents a critical pathway to strengthening resilience in the residential construction sector.

4.2.2 Contract Financing Structures and Risk Allocation

Once a contract type has been selected, whether it be fixed price or otherwise, credit constraints tied to **predetermined progress schedules** then play a significant role. Banks frequently classify residential construction as high-risk and therefore often only lend under strict progress payment schedules contained in standard contract forms (Method A), rather than on more flexible builder guided payment schedules (Method B).[11] Banks generally prefer Method A for residential construction lending because it aligns with their risk management practices, regulatory obligations and internal processes. In contrast, Method B introduces more variability, which lenders perceive to increase complexity and risk. That perception arises because customised stages do not always align with standard valuation practices and internal procedures, making it harder for lenders to verify progress and standardise payment timeframes. However, while Method A works well for banks, it often places considerable strain on builders. One of the most significant challenges is the cash flow gap it creates, with works completed well prior to processing of payments by the client's banks. This occurs at all stages of the build; however, the greatest risk exists early in the project prior to exchange of contracts. This is discussed in more detail in the following section.

The rigidity of Method A also fails to account for the diverse nature of modern construction projects with prescribed stages not always reflective of the actual sequence of work. For some builds, or in renovations and extensions, the construction process is often non-linear and site-specific, meaning that tying payments strictly to standard milestones can be impractical. Delays in certification and administrative hurdles in evidencing completion of a stage further exacerbate **payment lags**, adding financial pressure and delaying project timelines. In this insufficient payment schedule, workshop participants highlighted that builders may need to borrow money from other projects to finance the current stage of a specific build. This is where issues with the Security of Payment Legislation intersect with the realities of the complex cashflow management necessary for construction operations (see section 4.2.4.2 for further discussion of Australia's Security of Payment regimes). The sector's reliance on fixed payment contracts further compounds this issue, as builders must absorb financial shocks without the flexibility to renegotiate terms mid-project. Interviewees noted that this structure creates an incentive for builders to delay completion of almost finished projects so they can begin new ones and access upfront cash flow, a practice driven by the front-loaded nature of progress payments (IP1, 2025, p. 1). This cycle increases the risk of insolvency, particularly for SMEs operating with thin margins.

In contrast, Method B offers builders a more flexible alternative. It allows the builder and client to define customised payment stages that better reflect the specific flow of work. Builders can schedule payments to align with high-cost phases of work or critical inputs like ordering materials or subcontractor bookings. This structure significantly improves cash flow by enabling earlier and more frequent **payments that are better matched to real-time expenditure**. Workshop participants noted that consumers are generally open to amending the standard progress payment schedules as

[11] This terminology is used in this report for consistency and clarity. Method A describes standardised progress payment schedules that are pre-determined by financial institutions and legislated within standard construction contracts. In contrast, Method B refers to more flexible, collaboratively negotiated payment arrangements between the builder and the client, allowing for tailored milestone definitions.

part of their building contracts, but that funding is frequently denied once the contract has been submitted to the bank.

Australian Prudential Regulatory Authority's (APRA) lending rules limit banks' willingness to lend flexibly, further straining builder liquidity. As one industry participant explained, banks are not inherently opposed to flexible lending but are constrained to **APRA regulations**, which require them to act prudently when issuing home loans. This means lending is capped based on the borrower's income and risk profile, and banks are reluctant to approve loans where construction costs are uncertain due to **consumer protection obligations** (IP1, 2025).

Overall, while Method A provides predictability for banks, Method B aligns more closely with the practical and financial realities of builders. For the domestic construction sector to remain sustainable, particularly in the context of rising insolvencies and tightening margins, there is a strong case for amending Method A schedule to become more flexible or to better align with the operational realities of the residential construction process.

4.2.3 Pre-Deposit Costs, Deposit Caps and Cashflow Effects

Further complexity arises in the pre-deposit phase of residential projects. Building regulations in some jurisdictions provide conditions on the amount builders can collect upfront (*Director of Consumer Affairs v Glenvill Pty Ltd [2009] VSC 76*; *Home Building Contracts Act 1991 (WA*)), and banks may not lend on amounts less than prescribed in the regulation. This action is intended to manage risk and provide protection for consumers, yet early-stage costs must still be absorbed.

Workshop participants noted that the responsibility to absorb these costs often falls to the builder. In many jurisdictions, regulatory settings prevent builders from charging for preliminary work over a certain amount unless a full contract has been signed (*Director of Consumer Affairs v Glenvill Pty Ltd [2009] VSC 76*; *Domestic Building Contracts Act 1995 (Vic)*; *Home Building Contracts Act 1991 (WA)*). In practice, this prohibits domestic builders from even accepting a **deposit** until after the contract is signed. Further a fully documented contract is required by the banks for finance approval, which is often required to fund that deposit. For smaller operators, this creates a dangerous liquidity gap that can persist throughout the project if progress payments are delayed or withheld.

This 'chicken and egg' scenario can be particularly burdensome for SME builders with limited financial reserves, forcing them to rely on **trade credit** or personal funds to fund these upfront costs (Reserve Bank of Australia, 2022). Builders often have no mechanism to recoup these costs should the client not proceed for any reason, including inability to secure finance approval.

Workshop participants also highlighted the insufficiency of existing deposit amounts, noting that after the preliminary costs and insurance premiums have been accounted for, there is very little working capital available to fund the next stages of the project. The **caps on deposits** in the regulation (discussed further in section 4.2.4.1) also do not account for the operational realities of construction work including the long lead times on products like windows, subcontractors' deposit expectation and modern forms of construction like prefabrication, which requires a significantly larger deposit (as most construction is completed off-site).

Taken together, these financial practices contribute to a fragile operating environment where licenced builders in residential construction routinely work with **negative or marginal cash flow**. Indeed, the share of medium-sized and large builders recording negative operating cash flows has risen sharply since 2021 and continues to rise (Reserve Bank of Australia, 2023). In a sector already characterised by thin margins, this creates a substantial risk of unmitigable financial losses and distress.

The risk is further amplified by volatile material and labour costs, delayed payments from clients or head contractors, and limited access to affordable short-term credit. Notably, credit demand in the construction industry fell by -10.3% in Q1 of 2025 compared to 2024, though the Australian Institute of Credit Management noted an increase in applications by high-risk construction SMEs, suggesting operators were seeking funds to stay afloat (Mason, 2025).

This environment erodes business resilience and increases the likelihood of insolvency, particularly during economic downturns or in periods of high interest rates. It also limits the sector's capacity to scale in response to national housing targets, as financially constrained businesses are unable to take on additional risk.

4.2.3.1 Cashflow and Quality

Workshop participants also emphasised that these financing structures can have significant impact on the quality of the build and **defect rates**. When builders are required to self-fund these early stage works, they can face acute cashflow pressure before any payments are released.

This financial strain can lead to compromised decision making, including the use of lower-cost materials, reduced supervision and accelerated timelines to reach the next payment milestone. These conditions increase the likelihood of construction defects which undermine not only the integrity and safety of the build, but also delay inspections and certifications required for the release of subsequent payments- **further compounding** the builder's financial stress.

This creates a cycle where quality issues trigger payment delays, which in turn exacerbate liquidity constraints and heighten the risk of further defects. This loop is reinforcing as each cycle intensifies the initial conditions: cashflow pressure. The more defects and delays, the more liquidity is constrained, prompting further cost-cutting and workforce strain, which again increases defect risk.

Over time this can spiral into insolvency. Workshop participants noted that this dynamic is particularly pronounced among smaller operators with limited working capital and minimal buffer against delays, making them more vulnerable to insolvency triggered by cumulative quality failures and reputational damage.

4.2.4 Regulatory Restrictions and Safeguards

4.2.4.1 Contract Conditions in Regulation

Residential construction contracts across Australian jurisdictions are governed by a complex mix of state and territory legislation, each imposing mandatory requirements designed to protect consumers and ensure builder accountability.[12] With the exception of the Australian Capital Territory, all jurisdictions require written contracts for residential building work above a specified monetary threshold. These thresholds vary, ranging from $3,300 in Queensland to $12,000 in South Australia, and are intended to ensure that key contractual terms are clearly documented and enforceable.

At a minimum, these contracts must be in writing, named and signed by all parties, and must set out the full scope of works, including attached plans and specifications. They are also required to include commencement and completion dates, a clear payment schedule (whether fixed price or otherwise) and statutory warranties that cannot be excluded. Builders are generally obligated to obtain home warranty **insurance** prior to commencing work, which provides financial protection to homeowners in the event of incomplete or defective construction. However, this coverage does not shield the builder from liability. In fact, workshop participants highlighted that many insurance schemes include provisions that allow the insurer to recover these costs from the builder after paying out a claim.

Several jurisdictions impose **additional restrictions** that can complicate contract delivery and contribute to financial strain within the sector. For example, Victoria and Western Australia prohibit cost-plus contracts, limiting flexibility in pricing where input costs are uncertain or volatile (*Domestic Building Contracts Act 1995 (Vic)*, sec. 13; *Home Building Contracts Act 1991 (WA)*, pt. 1 s3(1) *definition of home building contract works*). Western Australia also prohibits rise and fall clauses in fixed-price contracts under $500,000, with limited exceptions, further constraining builders' ability to

[12] Legislation includes: Domestic Building Contracts Act 2000 (Qld), Domestic Building Contracts Act 1995 (Vic), Home Building Act 1989 (NSW), Home Building Contracts Act 1991 (WA), Residential Building Work Contracts and Dispute Resolution Act 2016 (Tas), Building Act 2004 (ACT), Building Act 1993 (NT), Building Work Contractors Act 1995 (SA).

adjust for inflation or material cost increases (*Home Building Contracts Act 1991 (WA)*, sec. 13). South Australia requires contracts to specify whether the price is fixed or an estimate (*Building Work Contractors Act 1995 (SA)*, sec. 29(6)), while Victoria, Queensland, Western Australia and New South Wales impose strict limits on deposit amounts to prevent excessive upfront payments (*Domestic Building Contracts Act 1995 (Vic)*, sec. 11; *Domestic Building Contracts Act 2000 (Qld)*, sec. 64; *Home Building Act 1989 (NSW)*, sec. 8(1); *Home Building Contracts Act 1991 (WA)*, sec. 10(1)(a)).

Consumer protection mechanisms such as cooling-off periods are mandated in Queensland, Victoria and New South Wales, allowing homeowners to withdraw from contracts within five business days of signing (*Domestic Building Contracts Act 1995 (Vic)*, sec. 34; *Domestic Building Contracts Act 2000 (Qld)*, pt. 6; *Home Building Act 1989 (NSW)*, sec. 16DBA). Western Australia goes further by prohibiting unconscionable contract terms (*Home Building Contracts Act 1991 (WA)*, sec. 15).

Compounding these issues is the continued use of "**pay when paid**" clauses in construction contracts between contractors and their subcontractors. These provisions that attempt to make a party's payment obligations conditional on receiving payment from another party higher up the chain. While such clauses may appear to offer protection for head contractors managing cash flow, they are rendered void or of no effect under Security of Payment legislation in every jurisdiction (*Building and Construction Industry (Security of Payment) Act 1999 (NSW)*, sec. 12; *Building and Construction Industry Security of Payment Act 2002 (Vic)*, sec. 13; *Building and Construction Industry (Security of Payment) Act 2009 (ACT)*, sec. 14; *Building and Construction Industry (Security of Payment) Act 2009 (SA)*, sec. 12; *Building and Construction Industry Security of Payment Act 2009 (Tas)*, sec. 16; *Building and Construction Industry (Security) Act 2021 (WA)*, sec. 14; *Building Industry Fairness (Security of Payment) Act 2017 (Qld)*, sec. 74; *Construction Contracts (Security of Payments) Act 2004 (NT)*, sec. 12). This means that parties cannot rely on upstream payment delays as a legal justification for withholding payment. Despite their legal invalidity, these clauses persist in practice and contribute to confusion, misaligned expectations and further breakdowns in trust between contracting parties.

While these regulatory measures are designed to safeguard consumers, they can also introduce administrative complexity, reduce pricing flexibility and delay contract execution. Builders must navigate a range of additional compliance obligations before work can commence, including insurance approvals, documentation requirements and staged payment protocols. In periods of economic volatility, these constraints can exacerbate financial pressures and contribute to insolvency risk, particularly for SMEs operating on thin margins.

The regulatory environment governing **residential construction contracts** plays a critical role in shaping project delivery timelines and financial viability. Although these frameworks provide important consumer protections, they may also inadvertently contribute to insolvency risk by limiting contractual adaptability and increasing compliance burdens. A more harmonised and risk-responsive approach to contract regulation could help balance consumer safeguards with the operational realities of the residential construction sector.

4.2.4.1.1 Victoria: *Domestic Building Contracts Amendment Act 2025* (Victoria)

The *Domestic Building Contracts Amendment Act 2025* introduces significant reforms to the regulation of residential construction contracts in Victoria (Parliament of Victoria, 2025). The Act passed both Houses of Parliament and received Royal Assent on 16 September 2025, with the new laws scheduled to take effect by 1 December 2026. Its full impact on the industry remains uncertain, as the accompanying regulations, which are expected to contain the bulk of operational detail, have yet to be released.

Notably, cost escalation clauses will be permitted in domestic building contracts valued at $1 million or more, subject to strict conditions. These clauses must be in a prescribed form, signed or initialed by the building owner, and capped at a maximum 5% increase (Parliament of Victoria, 2025, sec. 11).

This reform aims to provide builders with limited flexibility to manage input cost volatility while maintaining consumer safeguards.

The Act also removes the application of the DBC Act to the preparation of plans, specifications and bills of quantities for domestic building work (Parliament of Victoria, 2025, pt. 2 s6). This change is expected to be welcomed by industry, as it allows design work to proceed without the administrative constraints previously imposed by the Act.

Variation procedures will also be streamlined. The current prescriptive regime, which varies depending on whether the builder or owner initiates the change, will be replaced by a single process requiring written agreement from both parties. Exceptions will apply for variations mandated by building surveyors or those required urgently (Parliament of Victoria, 2025, sec. 17).

The Act simplifies the process for terminating contracts where there are significant cost or time overruns. While the thresholds remain unchanged, 15% for price increases and 50% for time extensions, the requirement for the owner to prove that the overruns were unforeseeable by the builder will be removed (Parliament of Victoria, 2025, sec. 19). This change is intended to reduce disputes and improve clarity for consumers.

Finally, the Act proposes relocating the limits on deposits and progress payments from the DBC Act into regulations (Parliament of Victoria, 2025, sec. 23(2)). This will allow for more flexible updates in future and lays the groundwork for differentiated progress payment structures based on the use of modern construction methods. A general proportionality requirement will also be introduced, prohibiting builders from claiming payments that do not correspond to actual progress on site (Parliament of Victoria, 2025, sec. 25(4)).

While these reforms signal a shift towards a more flexible and risk-responsive regulatory framework, their practical impact, particularly on insolvency risk and contract administration, will depend heavily on the detail and implementation of the forthcoming regulations. Until these are released, the full benefit or detriment to the industry remains to be seen.

4.2.4.2 Security of Payment Legislation

As the discussions of financing structures in section 4.1 illustrates, poor cashflow practices are widely recognised as a key driver of insolvency. When examining the flow of payments within the construction landscape, subcontractors occupy a particularly vulnerable position within the industry's hierarchical structure. Their risk of insolvency often stems not from poor business practices, though this may be the case at times, but from cascading financial failures higher up the contracting chain. In response to this systemic fragility, all Australian States and Territories have introduced Security of Payment (SOP) legislation aimed at safeguarding subcontractor entitlements.[13] These laws establish a statutory right to claim progress payments, impose strict timeframes for payment responses and provide rapid adjudication mechanisms to resolve disputes without resorting to costly litigation.

Research suggests that the clearest indicator of a business's financial distress is the failure to pay money owed (Ernst & Young, 2025). From this perspective, SOP legislation is not an immediate safeguard from insolvency, but rather a warning signal to regulators of potential business failure and a safety net for the cascading effects of insolvency, particularly for subcontractors.

Despite the national presence of SOP legislation, there is no nationally consistent approach to implementation, monitoring, or enforcement. A clear delineation exists between the East Coast

[13] Building and Construction Industry (Security of Payment) Act 1999 (NSW); Building and Construction Industry Security of Payment Act 2002 (Vic); Building and Construction Industry (Security of Payment) Act 2009 (ACT); Building and Construction Industry (Security of Payment) Act 2009 (SA); Building and Construction Industry Security of Payment Act 2009 (Tas Building and Construction Industry (Security) Act 2021 (WA); Building Industry Fairness (Security of Payment) Act 2017 (Qld); Construction Contracts (Security of Payments) Act 2004 (NT).

Model, adopted by most states and territories, and the West Coast Model, used in Western Australia and the Northern Territory (see Table 2: Security of Payment Regimes: East Cost vs West Coast Models). These models differ significantly in how payment claims are initiated, processed and enforced – differences that have material consequences when combined with banking practices that delay fund disbursement.

Table 2: Security of Payment Regimes: East Cost vs West Coast Models

Feature	East Coast Model	West Coast Model
Contractual override	Statutory scheme overrides inconsistent contract terms	Legislative terms implied only if contract is silent
Payment claim procedure	Formal payment claim served to the respondent under the terms of the Act	Follows contract procedure; adjudication only if dispute arises
Scope of claims	Limited to progress payments up the contractual chain	Broader scope, including debts and damages
Default penalty	Failure to respond results in liability for full claimed amount	No equivalent penalty
Timeframes for payment	Varies by jurisdiction (e.g. 10–30 business days)	Payment must occur within 50 days (WA) or 28 days (NT) if contract exceeds limits
'Pay when paid' clauses	Void in all jurisdictions	Void in all jurisdictions

Under the East Coast Model, the legislation establishes a statutory payment scheme that overrides any inconsistent contractual provisions. A claimant must formally endorse their payment claim as being made under the relevant Act (except in New South Wales) and serve it on the respondent. If the respondent fails to issue a payment schedule within the required timeframe, they become liable to pay the full claimed amount. This model is designed to create a clear, enforceable pathway for recovering progress payments up the contractual chain.

In contrast, the West Coast Model operates more as a legislative safety net. It does not override contractual terms but instead implies payment provisions only where the contract is silent (Society of Construction Law Australia, 2014, p. 15). Payment claims are made in accordance with the procedures set out in the construction contract, and statutory adjudication is only available if a dispute arises during that process. This model allows either party to initiate adjudication, including for claims involving debts or damages, but lacks the automatic enforcement mechanisms found in the East Coast approach.

Despite the procedural differences, both models face a common challenge: the misalignment between regulatory payment timelines and banking practices. Under the East Coast Model, for example, jurisdictions like the Australian Capital Territory and Queensland require payment within 10 business days (*Building and Construction Industry (Security of Payment) Act 2009 (ACT)*, sec. 13(1)(b); *Building Industry Fairness (Security of Payment) Act 2017 (Qld)*, sec. 73(2)), while subcontractors may have to wait up to 25 days in Western Australia (*Building and Construction Industry (Security of Payment) Act 2021 (WA)*, sec. 20(b)). These statutory deadlines are intended to ensure prompt payment and protect subcontractor cash flow, however, workshop participants noted that financial institutions frequently delay the release of funds, often beyond 30 days, regardless of the statutory requirements. This delay undermines the effectiveness of the legislation. Even when payment claims are valid and adjudicated, subcontractors may still face late payments due to banking processes that are not aligned with the regulatory framework.

Furthermore, if a head contractor is planning on disputing a payment claim, the notice of the dispute must be submitted from between 10 days and 20 days after the claim is served (depending on the

jurisdiction). This is particularly relevant for practitioners who work in the East Coast model jurisdictions, as failure to serve a payment schedule or dispute within this time frame is held to be liable to pay the claimed amount in full, regardless of whether there is a genuine dispute. However, both workshop participants and case law highlighted builders lack of understanding as to their obligations under SOP legislation when disputing a payment claim. In particular, in a recent case, *Turnkey Innovative Engineering Pty Ltd v Witron Australia Pty Ltd [2023] NSWSC 981*, the NSW Supreme Court found that the payment schedule (dispute) served to the contractor did not address all of the reasons for withholding payment as required under section 14(3) of the *Building and Construction Industry (Security of Payment) Act 1999 (NSW*) and therefore did not constitute a valid payment schedule. Notably, while the legislation and relevant case law requires that the payment schedule address every aspect of the payment claim, the NSW Act does not require '*that the reasons given be correct, justified or adequate'* (*Turnkey Innovative Engineering Pty Ltd v Witron Australia Pty Ltd [2023] NSWSC 981*, sec. 42).

The complexity inherent within the terms as well as the fragmented nature of SOP legislation between jurisdictions means that its protections remain underutilised in many states, with workshop participants stating that awareness of the existence of SOP remains low. In cases where subcontractors are aware of these provisions, they may still be reluctant to enforce their rights under the act due to a culture of intimidation (Australian Government, 2015). In further submissions to the Senate Economics References Committee, stakeholders highlighted that

> *'You would not dare take one of these builders to court, for fear that they turn it back around and make you public enemy number 1. You would never work again. You would never receive a contract and your name would be mud if you dragged these people out into the media and showed what they had done'* (Australian Government, 2015, p. 141)

These behaviours and fears are culturally embedded in the dynamics and hierarchical contracting structure of the construction sector (see section 3.1).

Further to the regulatory complexity of the SOP legislation, requirements for payment schedules, payment due date and payment claims vary between jurisdictions contributing to SMEs' increasing regulatory burden and highlighting further regulatory inefficiencies in Australia's construction regulation framework. Several reports and academic publications have considered the efficacy of multiple SOP regimes and have ultimately recommended that SOP legislation be harmonised at a national level (Australian Government, 2015; Bell and Vella, 2010; Coggins et al., 2020). In particular, the 2015 Senate Economics References Committee noted:

> *'It is absurd that in this day and age there are eight separate SOP regimes which differ markedly from one another. Some of the differences are small while some are large and significant, but what they all do is present manifold difficulties for construction industry businesses that routinely operate in more than one state. This has resulted in a great deal of wasteful litigation in which parallel points of law are raised in the different jurisdictions.'* (Australian Government, 2015, p. 156)

However, consideration must be given to how such a national scheme would feasibly operate within the confines of constitutional powers.

The combined effect of legislative inconsistencies, procedural complexity, cultural fear and misaligned payment schedules contributes significantly to insolvency risk, particularly for subcontractors who lack the financial resilience to absorb late payments. This is also echoed in NCIF's (2025) Blueprint for the Future and in Queensland's Productivity Commission Inquiry into Construction Productivity (Department of Employment and Workplace Relations, 2025a; Queensland Productivity Commission, 2025). These reports highlight an urgent need to explore

modern/collaborative forms of industry contracts and to protect the security of payments for contractors down the supply chain.

As highlighted in workshop discussions, these challenges point to a need for clearer legislation, better regulatory alignment between jurisdictions and clearer guidance around legislative obligations under the SOP Acts. Without these reforms, subcontractors will continue to bear the brunt of systemic inefficiencies that threaten their financial viability.

4.2.4.2.1 Project Trust Accounts vs Retention Trust Accounts: A Queensland Perspective

As part of SOP frameworks, some states implement trust accounting mechanisms with the intention of protecting subcontractor disbursements.

Queensland's Project Trust Account (PTA) regime represents the most comprehensive trust account framework in Australia. However, its application is limited to projects exceeding $1 million in value, excluding the majority of residential construction contracts. Nonetheless, a high-level assessment of the PTA's impact on insolvency rates offers a useful indication of whether such a framework could be effectively extended to residential sector contracts with a threshold below $1 million in value.

Across Australia, trust account regimes vary in design and implementation (see Table 3: Project vs Retention Trust Accounts in Australian States). Queensland is the only jurisdiction to have fully implemented both PTAs and Retention Trust Accounts (RTAs), applying to head contractors and certain subcontractors on large-scale projects. New South Wales mandates RTAs for contracts over $20 million and has introduced a digital portal to improve transparency. Victoria is reviewing the introduction of "construction trusts" but currently relies on adjudication. Western Australia uses Project Bank Accounts for government contracts over $1.5 million, though audits have revealed weak oversight. Other jurisdictions such as Tasmania, South Australia, the Australian Capital Territory and the Northern Territory, have no legislated trust account regimes, though reform discussions are underway.

Table 3: Project vs Retention Trust Accounts in Australian States

Jurisdiction	Trust Type	Thresholds & Scope	Key Features / Notes
QLD	PTAs & RTAs	PTAs: Gov contracts > $1M; private/local gov > $10M RTAs: Required when PTA applies	Most comprehensive regime; applies to head contractors and certain subcontractors
NSW	RTAs only	Contracts > $20M (excludes owner-occupier residential)	Centralised digital portal for retention funds; PTA-style reforms under consultation
VIC	None (under review)	No trust account thresholds currently	Considering "construction trusts" with reduced admin burden; relies on adjudication
WA	Project Bank Accounts	Gov contracts > $1.5M	Similar to PTAs; audit found weak controls and lack of enforcement mechanisms
TAS, SA, ACT, NT	None	No trust account regime	Reform discussions underway due to subcontractor payment concerns

Despite Queensland's leadership in trust account legislation, the framework has not demonstrated a meaningful impact on reducing insolvency rates. While insolvencies declined between FY19 and FY22, similar trends were observed nationally due to federal COVID-19 support measures such as wage subsidies, rent relief and loan deferrals. Once these interventions ended, insolvency rates in

Queensland rose sharply, suggesting the decline was macroeconomic rather than a result of the trust account regime (Ernst & Young, 2025; Reserve Bank of Australia, 2023).

The framework also introduces financial tensions for head contractors. Under the Minimum Financial Requirements (MFRs) set by the Queensland Building and Construction Commission (QBCC), PTA funds are excluded from allowable assets, limiting contractors' financial flexibility (Queensland Parliament, 2024). Although the Building Industry Fairness (Security of Payment) Act 2017 permits withdrawals under certain conditions, this has led to a practice where PTAs are emptied when possible and only replenished when payments are due. This undermines the framework's core purpose of safeguarding subcontractor payments and exposes a reinforcing design flaw: restricting access creates cash flow strain, while allowing withdrawals compromises payment security.

Further, the framework does not address upstream payment delays from clients to head contractors, often the root cause of subcontractor non-payment. Despite a mandated 15-day payment timeframe under the Queensland Building and Construction Commission Act 1991, stakeholders report frequent breaches, particularly in projects involving complex financing.

Although the framework has incidentally improved financial record-keeping among smaller builders, this was not its intended purpose (Ernst & Young, 2025). Insolvency rates remain high and the framework has proven ineffective during actual contractor collapses. Its provisions for fund distribution during insolvency are vague and sometimes conflict with federal legislation, leading to delays, legal disputes and idle trust funds. The collapses of St Hilliers Contracting, PBS Building (Qld) and GCB Constructions (Qld) illustrate these shortcomings, showing that the framework does not reliably protect subcontractors when insolvency occurs.

Critically, the recent decision in *Re PBS Building (Qld) Pty Ltd [2024] QSC 108* found that the proceeds of trust accounts are not available to its liquidators, citing that the intention of the Building Industry Fairness legislation was to preserve the monies in trust accounts for the benefit of subcontractors. Of course, external administrators can seek recovery of their renumeration on the basis of *Re Universal Distributing Co Ltd (in liq) (1993) 48 CLR 171*, however, as a result, the external administrator of a head contractor who acts as trustee is unlikely to take any steps to administer the trust account in the absence of directions from the Court that they are entitled to be renumerated from trust account monies. The costs of the directions application and the external administrators renumeration likely means that subcontractors would end up receiving 'cents on the dollar', thus undermining a key purpose of the project trust account regime.

Queensland's trust account framework is the most developed in Australia, but its practical impact on insolvency prevention and payment security remains limited. Structural and legislative refinements are needed to ensure the framework delivers on its intended protections. Notably, on 31 January 2025, the Queensland Government paused the planned rollout of phases 3 (contracts $3 million >) and 4 (contracts $1million >) of the Project Trust Account framework, citing a number of risk factors that challenged the effective implementation, including difficult financial conditions and continued insolvency risk within the construction sector (Department of Housing and Public Works, 2025, 2023; Property Council of Australia, 2025)

4.3 Regulatory Complexity

The regulatory landscape governing residential construction is fragmented and often contradictory, creating confusion and compliance burdens for builders. Licensing, insurance and dispute resolution frameworks frequently overlap, with conflicting requirements across jurisdictions.

4.3.1 National Construction Code

At the national level, the National Construction Code (NCC), administered by the Australian Building Codes Board, sets essential standards for building safety, health, accessibility and sustainability. However, the NCC has grown to over 2,000 pages with frequent updates every three years, and its

broad policy objectives combined with state-by-state enforcement, as well as additional state and local government regulations, create challenges for compliance and consistency.

One major issue lies in the technical complexity of the NCC, which our workshop participants report demands specialist knowledge to interpret and implement correctly. This complexity is compounded by the fact that enforcement is conducted by different state and local authorities, leading to variations in interpretation and application across jurisdictions. Businesses, particularly SME builders and subcontractors, face uncertainty around compliance expectations, increasing the risk of costly delays, rework and potential legal liabilities.

Although the NCC operates at a national level, each state and territory enforce its own regulations related to licensing, building approvals, inspections and enforcement, with local councils often involved in planning and zoning approvals. This further adds complexity to the administration of the NCC. Failure to secure necessary permits can cause costly delays and disrupt project timelines. Additionally, laws related to workplace health and safety, environmental protection, industrial relations and security of payments further intersect with the construction sector.

The overlapping rules and inconsistent enforcement across jurisdictions can lead to delays, increased costs and compliance uncertainty, particularly impacting smaller firms. This regulatory environment can discourage innovation and hinder productivity by forcing businesses to focus on navigating compliance rather than improving productivity or advancing new methods or technologies.

4.3.2 Licensing and Registration

In a sector characterised by tight profit margins, significant risk asymmetries and low barriers to entry, a robust licensing regime is critical to protect both consumers and the wider economy from the flow-on effects of exploitative and inexperienced operators. Yet, while licensing is essential, it is not a panacea – it's limitations must be acknowledged and it should be viewed within a broader framework of industry reform.

In Australia, each state and territory independently set its own licensing and registration requirements for those operating within the construction sector.[14] Despite the fragmented regulatory landscape and the apparent variation in requirements (see Appendix B), many of the entry requirements are broadly consistent with the model guidance set out in the National Registration Framework for Building Practitioners (NRF) (Australian Building Codes Board, 2021). Developed in 2021 by the Australian Building Codes Board following recommendations made by the Shergold Weir Building Confidence Report, the NRF sets out model guidance for minimum qualifications and experience, with the aim of promoting consistency and facilitating practitioner mobility across jurisdictions (Shergold and Weir, 2018). Although the NRF is non-binding and implementation remains at the discretion of individual jurisdictions, most states and territories' licensing and registration schemes reflect its core principles. The key variation lies not in the baseline requirements themselves, but in how jurisdictions assess whether those requirements - particularly practical experience - have been met.

Under the NRF, the minimum qualification requirements for registration as a Builder – Low Rise/Residential include a Certificate IV in Building and Construction (Building) paired with experience requirements, although jurisdictions may accept alternative qualifications deemed equivalent. Though it should be relatively easy to assess the achievement of this qualification, the reliability of qualifications and the capability of those awarded construction qualifications has been called into question with recent regulatory action by the Australian Skills and Qualifications Authority (ASQA) highlighting gaps in VET models (see section 4.4.2.1 for further discussion).

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[14] (*Building Act 1993 (Vic)*, n.d.; *Building Act (NT)*, 1993; *Building Act (Tas)*, 2016; *Building Services (Registration) Act (WA)*, 2011; *Building Work Contractors Act (SA)*, 1995; *Construction Occupations (Licensing) Act (ACT)*, 2004; *Home Building Act (NSW)*, 1989; *Queensland Building and Construction Commission Act 1991 (Qld)*)

In addition to formal education and training, the NRF recommends a minimum of three years' full-time, recent and relevant practical experience in the core work and functions of the occupation, under the direct supervision of a registered or licensed builder (Australian Building Codes Board, 2021). While most jurisdictions have adopted experience requirements broadly consistent with the NRF, the specific duration required varies - ranging from two to seven years depending on the state or territory and the qualifications held by the applicant.

Importantly, the critical divergence lies not in the stated experience thresholds, but in how practical experience is assessed. Some jurisdictions apply more rigorous evaluation processes, including structured interviews, examinations, or detailed portfolio reviews. Workshop participants expressed concern that there is a variation in how "recent and relevant" experience is interpreted - whether it is treated as a measure of time served or as evidence of demonstrable competency under supervision. These differences in assessment methodology may materially affect practitioner eligibility and mobility across jurisdictions.

Further complicating the landscape, some jurisdictions permit alternative pathways to registration (see Appendix B). Under this model, the regulator may grant an application for an occupational licence if satisfied that an applicant's combination of qualifications, accreditations, memberships and experience is equivalent to the prescribed criteria, even if the applicant does not hold a qualification explicitly referenced in the NRF or regulations. This variability in application and assessment underscores the broader challenge of achieving national consistency in builder registration and competency assurance and undermines the overarching goal of the NRF.

4.3.2.1 Mutual Recognition Scheme – A Loophole

In response to the fragmented nature of Australia's state-based licensing regimes, the federal government introduced the *Mutual Recognition Scheme* (MRS) codified under the *Mutual Recognition Act 1992* (*Cth*). The scheme was originally designed to facilitate workforce mobility across state and territory borders by allowing a person licensed in one jurisdiction (the "first state") to apply for registration in another (the "second state"), relying on their existing licence as evidence of their qualifications, experience and fitness to practise. Under this process, the practitioner is formally applying for registration in the second state, and the host regulator may conduct its own assessment of eligibility, albeit typically limited to verifying equivalence rather than reassessing qualifications or experience in detail. In 2021, the Mutual Recognition Act was amended to introduce Automatic Mutual Recognition (AMR), a distinct national scheme that enables individuals to work across participating jurisdictions without applying for a new licence (*Mutual Recognition Act 1992*, 1992, pt. 3A). Under AMR, a practitioner who holds a valid registration in their home state is automatically deemed registered in another participating state or territory, subject to notification requirements and limited exceptions. This process does not require the practitioner to undergo further scrutiny or satisfy the host jurisdiction's licensing criteria. As of the time of writing, all states and territories except Queensland have adopted AMR into their licensing frameworks (Department of Employment and Workplace Relations, 2025b).

While MRS streamlines mobility, it has also reduced significant regulatory vulnerabilities. Workshop participants and industry stakeholders have expressed concern that MRS facilitates jurisdiction shopping, where individuals strategically obtain licences in states with less onerous requirements and then operate in more regulated environments without meeting local standards. The ability to bypass stricter licensing regimes not only undermines the intent of mutual recognition but also contributes to uneven enforcement, reduced accountability and potential insolvency risks.

When considering the process of MRS, regulators in the host jurisdiction typically only receive the licence/registration classification from the originating state, not the details of the contractors initial licensing application, including qualifications or financial probity assessments. This lack of transparency and verification weakens the integrity of the licensing system and erodes trust in regulatory safeguards. The ability to bypass stricter licensing regimes not only undermines the intent

of mutual recognition but also contributes to uneven enforcement, reduced accountability and potential insolvency risks.

Without addressing the underlying implications of the MRS, any attempt to tighten or relax licensing requirements within a single jurisdiction is unlikely to have any material effect on insolvency rates across states, as the ease of jurisdiction shopping under current MRS mechanisms effectively neutralises state-based reforms and perpetuates systemic vulnerabilities.

4.3.2.2 Minimum Financial Requirements

Stakeholders have also raised the potential benefit of aligning other states licensing requirement with Queensland's stringent financial probity assessments. A Trades Union of Australia and Cbus Superannuation Government report entitled 'Insolvency in the Australian construction industry', suggested that an appropriate licensing regime should provide evidence that a licenced builder has adequate capital backing for a proposed project and require business or financial skills training - similar to the financial probity requirements in Queensland (Australian Government, 2015). While other states apply the fit and proper person test (financial and personal probity), provide requirements for net assets, or operate financial assessments through insurance regimes, Queensland's financial probity requirements are more expansive.

However, notwithstanding those requirements, in their report on the benefits of Queensland's Minimum Financial Requirements for Licensing, Ernst and Young found that an analysis of insolvency data did not provide evidence that Queensland performed better in terms of construction insolvencies than other jurisdictions (in terms of number and size), as might be expected under the MFRs (Ernst & Young, 2022). Therefore, there do not appear to be associated insolvency benefits from Queensland's stringent financial probity regime compared to regimes in other jurisdictions.

Critically, the conversation around the licensing and registration of builders often serves as a proxy for deeper concerns about insolvency, yet it risks becoming a strawman in the broader policy discourse. The diversity of licensing regimes across jurisdictions does not cause insolvency, but neither have they demonstrably mitigated insolvency rates as one might expect stringent 'barriers to entry' to have achieved. This disconnect may be partially attributable to the operation of the MRS. The lack of robust mechanisms to verify and assess experience weakens the gatekeeping function of the licensing system. While this report does suggest further research be undertaken into the minimum standards and requirements for a nationally consistent licensing regime (see Chapter 5), it makes no further recommendations as to what these standards should include other than the consideration of additional business education (explored further in section 4.4)

4.3.3 Insolvency Regulation

Builders also face challenges in understanding their obligations under insolvency law. Many are unaware of thresholds for voluntary administration, director duties and the implications of trading while insolvent. This lack of clarity contributes to delayed responses to financial distress and increases exposure to legal and financial penalties.

Australia's insolvency regime warrants reform and reconsideration. No insolvency regime, however well designed, can offer redress for all wrongs or adversities (Murray and Harris, 2022 p4), and must inevitably make hard decisions regarding which interests to prioritise. However, the current bifurcated Australian insolvency regime has numerous unnecessary complexities born from decades of piecemeal reforms and the absence of any clear legislated objectives provision (Bull, 2025, pp. 82–83; Parliamentary Joint Committee on Corporations and Financial Services, 2023, pp. xxv – xxvi, 82; Streten, 2024a, pp. 47, 48). In 2023, the Parliamentary Joint Committee on Corporations and Financial Services released a report on corporate insolvency in Australia (the PJC 2023 Report) acknowledging this complexity and recommending that as soon as practicable the Australian government commission 'a comprehensive and independent review of Australia's insolvency law, encompassing both corporate and personal insolvency' (Parliamentary Joint Committee on Corporations and Financial Services, 2023, pp. xiii–xvii). This holistic review is well overdue, although it remains unactioned as at the time of writing. This leaves Australian corporate

and personal insolvency law in a state of '*complexity and, in places, inconsistency in the system, making it harder and more costly for all to navigate'* (Parliamentary Joint Committee on Corporations and Financial Services, 2023, p. xxvi).

The ongoing complexity and costliness of insolvency law is particularly concerning for SMEs, many of which operate within the residential construction sector.[15] The Australian Small Business and Family Enterprise Ombudsman has expressed concerns that SMEs in Australia '*often face high costs in insolvency processes, and a lack of certainty regarding insolvency practitioner fees'* (Parliamentary Joint Committee on Corporations and Financial Services, 2023, p. 44). Similar concerns have also been raised by the New South Wales Small Business Commissioner (Parliamentary Joint Committee on Corporations and Financial Services, 2023, p. 44).

While these issues remain pressing concerns for SMEs, particularly in sectors such as residential construction, recent legislative reforms were introduced with the aim of overcoming these concerns. Specifically, the small business restructuring pathway under Part 5.3B (n.d., pt. 5.3B), and the simplified liquidation pathway under Part 5.5 (n.d., pt. 5.5, Division 3, Subdivision B), were designed to reduce regulatory complexity, lower costs and provide more accessible insolvency pathways for small businesses. (Parliamentary Joint Committee on Corporations and Financial Services, 2023, p. 132).

However, both pathways experienced low and slow uptake following their introduction in 2021, leading to early criticisms regarding their effectiveness. This criticism remains valid in relation to the simplified liquidation pathway, which has seen limited adoption despite broad eligibility. In contrast, the small business restructuring pathway has gained significant traction since mid-2023 and now surpasses voluntary administration appointments. Initial statistics maintained by the relevant regulator, the Australian Securities and Investments Commission (ASIC), showed only 82 restructuring practitioner appointments, resulting in 72 restructuring plans during the first 18 months of the small business restructuring regime (January 2021 to July 2022) (Australian Securities & Investments Commission, 2023b, pp. 4–6; Bull, 2025, pp. 78, 176–177, 242.). More recent figures indicate strong growth, with 448 appointments in 2022-23 and 1,425 in 2023-24 with more anticipated in 2025 (Australian Securities & Investments Commission, 2025c, pp. 3–4). Subject to our comments at 2.3, Part 5.3B therefore does present a more cost-effective restructuring option than voluntary administration under Part 5.3A of the Corporations Act (n.d., pt. 5.3A).

There are cost concerns which can result in a consequent hesitancy of business owners in seeking legal and/or accounting advice, notwithstanding concerns of their financial distress. Any such delay in residential construction business owners seeking legal or accounting assistance in an endeavour to avoid '*admission of personal failure and the cessation of their business*' (Parliamentary Joint Committee on Corporations and Financial Services, 2023, p. 13), may contribute to the failure of business rescue attempts (Ghio and Thomson, 2023a, pp. 404–405; Rajaram et al., 2018). Further obstacles include the '*sense of stigma surrounding insolvency and business failure*' (Ghio and Thomson, 2023b, pp. 391, 392)[16], and the fear of reputational and relationship harm which might arise from entering any external administration, be it rescue or otherwise (Ali et al., 2015, pp. 1575, 1575–7, 1575–6). Indeed, the 'damage' to reputation '*may make it more difficult for the struggling business to raise new financing*' or to pursue alternative rescue options (Ghio and Thomson, 2023b,

[15] The Reserve Bank of Australia has reported that more than three-quarters of recent insolvencies pertain to small businesses: see Reserve Bank of Australia, *Financial Stability Review 2025* (Review, April 2025) Chapter 4.3 Focus Topic: The Recent Increase in Company Insolvencies and its Implications for Financial Stability < https://www.rba.gov.au/publications/fsr/2025/apr/focus-topic-the-recent-increase-in-company-insolvencies-and-its-implications-for-financial-stability.html#:~:text=Risks%20to%20the%20financial%20system,Graph%204.3.7> (Reserve Bank of Australia, 2025)

[16] Reputation of the builder is also a significant consideration by homebuyers in deciding whether to enter into an arrangement with the contractor/developer, see: Ahmad Taufik Nursal, Mohd Faizal Omar, Mohd Nasrun Nawi and Mazlan Mohd Sappri, 'The Importance of Developer Reputation Criteria in House Purchase Decision Making' (2019) 8(1) *Int J Sup Chain Mgt* 697, 697-8 (Nursal et al., 2019); Amanda Bull, Destined to Fail or Supported to Thrive (PhD Thesis, 2025) p 163, 223. (Bull, 2025).

p. 404). Concerns regard cost, stigma and reputational harm converge with the complexity of Australian insolvency regulation and can have the unfortunate result of delaying or preventing residential construction business owners from seeking out much needed timely legal or accounting advice.[17]

4.3.3.1 The interaction between Insolvency Regulation and Licensing

In many Australian States and Territories, entering a formal insolvency proceeding, such as voluntary administration, liquidation or small business restructuring, can trigger the suspension or cancellation of a building licence. Without a licence, the company is unable to operate, which can significantly impact its ability to be rescued under one of the formal restructuring regimes, most notably the small business restructuring regime under Part 5.3B of the *Corporations Act 2001* (Cth).

These regulatory responses, especially in the small business restructuring space, are a product of the language used in legislative drafting. Jurisdictions where the language is broadly drafted to include an "insolvency event" tend to capture all forms of insolvency appointments, including newer regimes like small business restructuring (Bull, 2025, pp. 151–152; *Queensland Building and Construction Commission Act 1991 (Qld)*, n.d., sec. s49A (*reasonable grounds to believe serious financial loss to stakeholders, which QBCC interprets narrowly to exclude small business restructuring*)). Some jurisdictions, like Victoria, have also amended their licensing regimes to expressly include restructuring in the definition of external administration (*Building Act 1993 (Vic)*, n.d., sec. s 180(a)). In contrast, jurisdictions where the legislative provisions are more precisely drafted may exclude some of the newer restructuring pathways, such as small business restructuring, allowing licences to remain in place.(*Building Services (Registration) Act 2011 (WA)*, n.d., sec. s63A (does not cover restructuring); *Construction Occupations (Licensing) Act 2004 (ACT)*, n.d., sec. s 55(1)(e) (limited to schemes of arrangement, receivership and liquidation); *Home Building Act 1989 (NSW)*, n.d., sec. s22(1)(d) and (e) (winding up order) and s22B (appointment or controller or administrator)). While the legislative drafting aims to protect consumers and industry integrity, they may inadvertently undermine the ability of a residential construction company to benefit from one of the restructuring regimes because of their inability to continue trading during critical recovery phases. As a result, companies in jurisdictions with more narrowly drafted legislation may survive, while identical companies elsewhere may be forced into liquidation, due to regulatory rigidity.

There are also risks with respect to insolvent trading, such as under s588G of the *Corporations Act 2001* (Cth). These risks can arise from a failure to enter a formal insolvency administration, perhaps in an endeavour to avoid the consequence of a suspension or cancellation of a building licence. However, a director of a company has a duty to prevent the incursion of debts by an insolvent company and failure to do so can have severe civil and even criminal penalties. While a safe harbour for directors was introduced by the *Treasury Law Amendments (2017 Enterprise Incentive No 2) Act* (Cth), coming into effect on 19 September 2017, it only applies in limited circumstances; "*if, at the time of suspecting that the company was insolvent or was likely to be insolvent, the director sought timely advice from an 'appropriately qualified professional' and developed one or more courses of action that were reasonable likely to occasion a better outcome for the company, as opposed to the immediate appointment of an administrator or liquidator*" (*Corporations Act 2001* (Cth) s588GA; Roberts and Marsh, 2017; Streten, 2024b, pp. 132–133 referencing Roberts and Marsh 2017 p612; *Treasury Law Amendments (2017 Enterprise Incentive No 2) Act (Cth)*). This results in an impasse which cannot necessarily be resolved easily, especially without expertise and acumen in the legal, accounting and business complexities involved.

[17] For a discussion of the psychology involved in providing insolvency advice from the perspective of insolvency practitioners, see Elizabeth Streten, *Legal and Ethical Standards in Corporate Insolvency* (Routledge, 2024) 165-6.

4.3.4 The Burden of Compliance on SMEs

Another critical consideration in regulatory complexity is that SMEs bear a disproportionate compliance burden. Reporting requirements, insurance obligations and dispute resolution processes consume significant time and resources, diverting attention from core business activities. In contrast, larger firms often have dedicated compliance teams, enabling them to navigate regulatory complexity more effectively. This imbalance contributes to financial fragility among smaller operators and reinforces systemic inequities (Productivity Commission, 2013).

SMEs in construction often operate across multiple jurisdictions, each with its own licensing requirements, building codes and compliance procedures. This regulatory fragmentation adds complexity and increases the risk of non-compliance, particularly for businesses trying to expand or work across state borders. The lack of harmonisation not only creates administrative inefficiencies but also undermines the intent of national reforms like the Mutual Recognition Scheme, which aims to facilitate mobility but inadvertently enables jurisdiction shopping and inconsistent standards (see discussion on MRS at section 4.3.2.1).

These regulatory frameworks also often impose uniform requirements across businesses, regardless of size. For SMEs in construction, this means they must comply with the same licensing, safety, environmental and reporting obligations as large firms, despite having fewer resources and less administrative capacity. This disproportionate burden can divert attention from core business activities and increase operational costs, particularly for sole traders and small contractors who lack dedicated compliance teams. Unlike large firms, which can employ dedicated compliance staff or even establish entire departments to manage regulatory obligations efficiently, SMEs often rely on the owner/operator to handle both business operations and compliance tasks. This lack of specialisation limits opportunities to benefit from scale efficiencies and the learning curve effect, which can reduce per-unit compliance costs over time (Douglas and Pejoska, 2017).

Survey data further underscores this disparity. A 2013 study revealed that in 75% of small and micro businesses, tax compliance was carried out by owners and unpaid helpers, whereas medium-sized businesses more commonly delegated this work to employees (Lignier et al., 2014). This study also highlighted that tax-related compliance costs in Australia are disproportionately higher for smaller businesses compared to their larger counterparts (Lignier et al., 2014).

However, it's important to note that tiered regulatory approaches can unintentionally discourage growth (Douglas and Pejoska, 2017). SMEs may choose to remain below certain thresholds to avoid triggering more onerous compliance obligations (Douglas and Pejoska, 2017). In construction, this could mean limiting the scale of operations or avoiding certain types of projects, which in turn affects competitiveness and innovation.

Moreover, compliance fatigue is a real concern. The cumulative effect of overlapping regulations, frequent changes in policy and inconsistent enforcement can erode trust in the system and reduce the likelihood of voluntary compliance. For SMEs already operating on thin margins, this creates a precarious environment where regulatory risk becomes a barrier to sustainability.

4.4 Limited Business and Financial Acumen

A recurring and critical theme emerging from this project is the widespread lack of financial literacy and business acumen among licensed builders, particularly those operating as SMEs. Stakeholders consistently expressed concern that many builders are ill-equipped to manage the increasingly complex financial, contractual and operational demands of the modern construction environment (Australian Government, 2015). This includes interpreting and negotiating contracts, managing cash flow and risk exposure, responding strategically to cost pressures and supply chain disruptions, and navigating staffing and workplace health and safety obligations.

Workshop participants repeatedly identified this deficit in business capability as a foundational issue underlying many of the sector's financial vulnerabilities. The absence of core business skills not only impairs firms' ability to comply with regulatory obligations, but also limits their capacity to plan for growth, respond to adversity, or implement long-term financial strategies. The problem is particularly acute among sole traders and family-run businesses, who often lack access to in-house expertise or external professional advisory services. These operators frequently struggle to balance technical work with administrative and strategic responsibilities, leading to poor invoicing, inadequate payment collection practices (see section 4.2) and ultimately financial distress.

This lack of financial literacy significantly increases the likelihood of insolvency, especially under conditions of tight margins, delayed payments and prolonged approval timelines. Many licensed builders operate reactively rather than strategically, with limited capacity to build financial resilience or forecast risk. The introduction of this section identified poor strategic management, weak financial control and trading losses as three of the most common causes of financial distress – each directly linked to gaps in business capability.

4.4.1 Licensing Education Requirements and the Business Literacy Gap

Licensed builders in Australia face a persistent and systemic gap in business acumen, driven by the absence of mandated financial and management competencies within licensing and continuing professional development (CPD) frameworks. This deficiency contributes directly to financial distress and insolvency across the sector, particularly among small-to-medium enterprises operating in volatile market conditions.

Across jurisdictions, licensing regimes consistently overlook the need for formal business training. While most states and territories require a minimum qualification - typically a Certificate IV in Building and Construction or equivalent - these VET programs often provide limited instruction in core business areas such as cash flow planning, operational management and strategic risk mitigation (see section 4.4.2; Appendix B). The assumption that these qualifications inherently equip practitioners with sufficient business literacy is increasingly misaligned with the operational realities of the construction industry (see section 4.4.2).

The NRF offers model guidance intended to promote consistency in qualification and experience requirements. For the Builder – Low Rise Residential category, the NRF recommends a minimum AQF Level 4 qualification, typically the Certificate IV in Building and Construction (Building), alongside at least three years of recent and relevant supervised experience, however the Certificate IV does not include the breadth of training required to navigate the complexity of the residential construction sector (see section 4.4.2). Moreover, the NRF does not prescribe specific business competencies, and its adoption remains discretionary, further limiting its impact on sector-wide capability uplift.

South Australia stands alone in explicitly requiring demonstrated competency in business management as part of its licensing criteria. In contrast, other jurisdictions do not mandate business or financial literacy training within their legislative frameworks. This omission reflects a broader regulatory blind spot: the failure to recognise business acumen as a core competency for builders operating in a high-risk, commercially complex environment.

This fragmented approach to licensing qualification requirements contributes to uneven preparedness across the sector. Builders licensed in one state may have significantly different levels of business literacy than those in another, despite holding equivalent licences. The lack of national consistency in business education requirements not only undermines regulatory coherence but also increases systemic risk, particularly in a sector where financial fragility is a leading cause of business failure.

4.4.1.1 Continuing Professional Development in Licensing

Workshop participants highlighted the importance of embedding continuing professional development (CPD) into builder licensing frameworks. CPD is widely recognised as a mechanism

for improving practitioner capability and reducing business management risks. Despite its significance, only two Australian jurisdictions, New South Wales and Tasmania, currently mandate CPD as a condition of licence renewal for builders.

In New South Wales, CPD is a compulsory condition of licence renewal for individual contractor licences and qualified supervisor certificates in general building work and swimming pool building. The *Home Building Act 1989* (NSW) mandates that licence holders earn CPD points each year and empowers the Commissioner to set point totals and approved activity types.[18] Licence holders must declare compliance with these CPD requirements on their renewal application but are not required to lodge certificates or detailed evidence at the time of renewal. Instead, they are required to maintain a CPD diary or portfolio containing activity details and supporting documents for at least five years. These diaries are subject to random audits by the Building Commissioner at any time to verify compliance. Approved CPD activities span a broad range of topics, including sustainability, compliance obligations, communication skills, dispute resolution, contractual issues, safety, technical skills and business management practices.

Tasmania also enforces mandatory CPD through a subordinate instrument made under the *Occupational Licensing (Building Services) Act 2005*. Section 19(1)(f) empowers the Director of Consumer, Building and Occupational Services (DCBOS) to attach CPD conditions to licence renewals. Those conditions are set out in the Occupational Licensing (Building Services) Work Determination 2024, which prescribes annual point requirements (12 for builders) and a five-year record keeping obligation. As in New South Wales, the DCBOS may verify that completed activities are both approved and relevant to each holder's scope of work (Clause 9). Recognised CPD streams include technical skills and knowledge, business management including finance and IT, workplace health and safety, personal development activities and mentoring within the industry.

Outside of New South Wales and Tasmania, no state or territory has mandatory CPD requirements for residential building licences embedded in their legislation. While some jurisdictions have made preliminary moves towards CPD integration, none have implemented enforceable schemes applicable to the broader residential building sector.

The *Building Act 1993* (Victoria) was amended in 2017 to allow the regulator to consider CPD compliance at licence renewal, but no in-force regulations prescribe CPD hours, topics or point systems. Draft CPD regulations released for consultation in 2024 remain un-enacted (Victoria State Government, 2024).

In Queensland, the *Building Act 1975* and the *Queensland Building and Construction Commission Act 1991* impose professional training conditions on specific licence classes of building practitioner – namely building certifiers and pool safety inspectors. However, there is no general CPD framework for residential builders, and ongoing education remains voluntary for that cohort.

South Australia, Western Australia and the Northern Territory do not prescribe CPD obligations for residential building licence holders. In these jurisdictions, professional development remains optional and unregulated.

Even in jurisdictions where CPD is mandatory, oversight remains limited. Licence holders in both New South Wales and Tasmania self-declare compliance at renewal without submitting supporting documentation. Annual CPD requirements are relatively modest – 12 hours per year – and practitioners retain broad discretion in selecting activities. This limited regulatory oversight may undermine the effectiveness of CPD as a tool for improving industry capability and resilience.

[18] The quantitative requirements appear in Schedule 3 of the Design and Building Practitioners Regulation 2021, which requires Pathway 2 practitioners to complete at least 3 hours of Secretary-approved training and accrue 12 CPD points annually.

4.4.2 Business and Financial Competencies in Builder Qualifications

Many licensed builders in Australia enter the industry through a technical pathway, gaining hands-on experience and technical skills in carpentry or related trades before progressing to supervisory or contractor roles. This vocational trajectory is deeply embedded in the culture of the sector and is often preferred over academic routes such as bachelor-level construction management degrees. As a result, many builders do not receive formal business education beyond what is embedded in Certificate IV or Diploma-level qualifications in Building and Construction.

While these qualifications provide essential operational and technical competencies, they fall short in preparing builders for the financial, legal and systemic complexities of running a construction business. The absence of advanced business training, especially in strategic cash flow planning, insolvency risk and regulatory navigation, leaves many SME builders vulnerable to failure, particularly in volatile market conditions.

For example, the Certificate IV in Building and Construction comprises 19 units (11 core and 8 electives) and is generally considered the minimum qualification for entry into licensed building work. Completion of this qualification in some jurisdictions, (or all when considering the application of the Mutual Recognition Scheme) will enable an individual to apply for a builders' licence to run a small to medium building business. The business, legal and financial-related units in the Certificate IV in Building and Construction course are:

- Select, prepare and administer a construction contract
- Identify and produce estimated costs for building and construction projects
- Produce labour and material schedules for ordering
- Apply legal requirements to building and construction projects.

While these units introduce basic financial, contractual and business management concepts, they do not equip builders with the skills needed to manage complex financial systems, forecast risk, navigate insolvency scenarios, or understand payment dispute protocols (see section 4.2). There is no dedicated unit on financial literacy, cash flow management, or strategic business planning.

In some jurisdictions, the Certificate IV does not meet minimum qualifications threshold, requiring instead that builders hold a Diploma of Building and Construction (Building) (again see discussion on jurisdiction shopping at 4.3.2.1).

The Diploma of Building and Construction (Building) requires completion of 27 units (24 core and 3 electives), with a broader scope that includes both technical and managerial competencies. Among the units, several directly address business and financial skills:

- Manage business risk
- Manage building and construction business finances
- Monitor costing systems on complex building and construction projects
- Prepare and evaluate tender documentation
- Select and manage building and construction contractors
- Administer the legal obligations of a building and construction contractor
- Apply legal requirements to building and construction projects.

These units provide better exposure to business and financial management, contract administration and legal compliance than the Certificate IV. However, the Diploma still significantly favours technical competence over proactive business strategy or resilience-building. Notably, according to the

National Centre for Vocation Training, privately operated RTOs currently have the highest enrolment numbers for this Diploma (n=38,392)[19] (National Centre for Vocational Education Research, 2025).

Both qualifications offer a baseline understanding of business operations, but they fall short of preparing builders for the financial and regulatory complexity of the contemporary construction system. This concern is compounded by the fact that practitioners may at times obtain these qualifications via Recognition of Prior Learning (RPL), a pathway that, while valid, raises questions about the depth and consistency of competency assessment. For further discussion on the limitations and risks associated with RPL, including its impact on licensing integrity and practitioner preparedness, see section 4.4.2.

Licensed builders are expected to manage multi-million-dollar projects, navigate layered contractual obligations and comply with evolving regulatory frameworks, yet the training they receive rarely includes structured education in financial resilience, insolvency risk, or strategic planning. This gap is particularly problematic for SME operators, who often lack access to external advisory services and must rely solely on their own knowledge to manage business viability (see discussion at sections 4.3 and 4.4.2).

Additionally, many licensed builders operate as company directors without a clear understanding of their legal responsibilities under the Corporations Act, including fiduciary duties and the risks associated with trading while insolvent. The absence of targeted education in these areas increases exposure to personal liability and regulatory breaches, further exacerbating insolvency risk.

Despite the importance of a rigorous educational foundation, any reform to builder education must ensure timely and fulsome training and education across legal, accounting and business management, without becoming overburdensome. The construction sector has long prioritised technical building proficiency over business and legal acumen, and there is a cultural undervaluing of education to improve business management skillsets, particularly among tradespeople who enter the industry through on-site experience rather than higher education pathways. At the same time, the increasing complexity of the construction ecosystem demands stronger financial and strategic capabilities.

As workshop participants noted, there is a disconnect between the VET training programs provided (and required for builder licences) and builders' ability to meaningfully engage with it. While these programs may, on paper, aim to provide the necessary education, they fall short in equipping construction business owners or builders to run financially viable businesses in a volatile, highly cultural and highly regulated environment (further discussion at sections 3.1 and 4.2).

Caselaw, such as *Newstart Homes Australia Pty Ltd v Kodiak Concrete Pty Ltd* [2024] QSC 129 demonstrates the need for education with respect to insolvency and other laws. This case demonstrates how complexities in the law can result in costs and other potentially serious consequences for residential construction businesses. In this case a statutory demand was issued notwithstanding that it was an abuse of process and not an appropriate course of action, because the debt and its amount were not due and owing. Further, even though the issue of a statutory demand was not an appropriate course of action, the receiving party failed to properly oppose the statutory demand within the 21-day timeframe for compliance under s459G of the Corporations Act, which could have resulted in significant consequences from the automatic triggering of a presumption of insolvency under s459C of the Corporations Act which could support a compulsory winding up application. Residential construction business owners must have the requisite knowledge to understand significant laws which apply to them, and to know when legal advice should be urgently sought. In this case complexities arose even with legal counsel for both parties.

[19] n = 38,392 refers to enrolments in the Diploma of Building and Construction with private Registered Training Organisations (RTOs) over the period 2015–2023 (calendar years). For comparison, total enrolments in the Diploma across all provider types during this period were n = 60,895.

This is not an isolated case, and similar recent case law demonstrates the evidentiary, contractual and other legal complications which can arise in residential construction disputes and litigation (see for example *Grandview Ausbuilder Pty Ltd v Budget Demolitions Pty Ltd [2019] NSWCA 60, Re J Build Developments Pty Ltd* [2022] VSC 434, *CM Luxury Pty Ltd v Menzies Civil Australia Pty Ltd* [2023] WASC 340, *In the matter of VO Group Australia Pty Ltd [2023] NSWSC 852* with respect to complications regarding statutory demands and winding up applications alone).

Educational reform must be fit-for-purpose: rigorous enough to build resilience and reduce insolvency risk, but not so onerous as to create insurmountable barriers to entry for the very individuals who form the backbone of the industry. Modular, peer-led and contextually relevant training, especially in financial literacy, digital tools and regulatory navigation, could help bridge this gap without alienating the workforce. Reform should aim not to professionalise out of reach, but to empower builders with the tools they need to thrive.

4.4.2.1 Registered Training Organisations and the delivery of training and assessment

The delivery of training and assessment within vocational education plays a pivotal role in shaping the capabilities of builders entering the residential construction sector. However, workshop participants have highlighted that current practices, particularly around recognition of prior learning (RPL), assessment provider standards and competency verification, may inadvertently contribute to systemic vulnerabilities that increase insolvency risk.

RPL is intended to validate the skills and experience of individuals who have gained competencies outside of formal education. When implemented rigorously, this mechanism can support workforce mobility and acknowledge practical expertise, however, its application without rigorous oversight poses significant risks (Australian Skills Quality Authority, 2025a). Students who receive RPL for business-related units within VET building and construction qualifications may bypass structured learning in financial literacy, legal obligations and strategic planning. This creates a scenario where individuals are credentialed without engaging with the foundational knowledge required to operate a financially resilient business. Notably, the Australian Skills Quality Authority (ASQA) has identified RPL as a key regulatory risk priority, citing unethical marketing, inadequate assessment practices and the issuance of fraudulent qualifications as persistent threats to the integrity of the vocational education system (Australian Skills Quality Authority, 2025a). The regulator has warned that “RPL mills”- high-volume, low-quality assessment models - are distorting the VET market, particularly in mandatory qualification areas linked to licensing, skills shortages and migration pathways (Australian Skills Quality Authority, 2025a). These practices compromise student work readiness and introduce risk into workplace settings because students are not meaningfully engaging with these critical training units before entering the workplace (Australian Skills Quality Authority, 2025b).

Compounding this issue is the variability and lack of transparency of assessment practices across Registered Training Organisations (RTOs). Workshop participants noted that commercial pressures and inconsistent standards mean that some providers may prioritise completions over competency. This reflected in AQSA’s regulatory actions and risk priorities (Australian Skills Quality Authority, 2025c). As a result, students may be deemed to have the knowledge in business and financial units without demonstrating applied understanding. This is particularly problematic in abstract domains such as strategic cash flow planning, insolvency risk management and legal compliance. Builders entering the licensed scheme with qualifications that suggest readiness may, in reality, lack the skills to manage complex financial systems, interpret contractual obligations, or respond appropriately to legal threats. The disconnect between qualification and capability undermines business viability and increases exposure to insolvency.

The interplay between RPL and assessment practices creates a feedback loop of vulnerability. Builders may enter the licensing scheme with strong technical skills but without the strategic foresight or legal literacy needed to run a viable business. This lack of preparedness can lead to mismanagement of cashflow, underestimation of project costs and failure to respond appropriately to legal challenges (*Newstart Homes Australia Pty Ltd v Kodiak Concrete Pty Ltd [2024] QSC 129*;

Turnkey Innovative Engineering Pty Ltd v Witron Australia Pty Ltd [2023] NSWSC 981), each of these factors could contribute to business failure. The system then reinforces this vulnerability by continuing to credential individuals without addressing the underlying educational gaps.

These concerns are further amplified by the presence of non-genuine providers and bad-faith operators within the VET system, in both the construction sector and VET more broadly (Australian Skills Quality Authority, 2025d). Recent regulatory action taken by ASQA highlights this issue, with several RTOs across industries, including the construction sector, found to be critically non-compliant against the requirements of standards for RTOs. Between November and December 2024, ASQA cancelled over 21,000 qualifications and statements of attainment issued by four RTOs, including 1,220 qualifications in construction related fields, due to systemic failures in training delivery and assessment integrity (Australian Skills Quality Authority, 2025e). Evidently, this issue broadly impacts several industries and is not constrained to just the construction sector. What is particularly striking is the scale of damage caused by a small number of critically non-compliant providers. These four RTOs, representing a fraction of the sector, were responsible for issuing tens of thousands of invalid credentials. Investigations revealed that some providers had issued qualifications based on grossly inadequate RPL models and without ensuring students had met competency requirements (Australian Skills Quality Authority, 2025f). This regulatory crackdown underscores the risks posed by non-genuine providers and highlights the fragility of qualification integrity in the sector.

Beyond this immediate concern of poorly trained builders entering the workforce, the cancellation of qualifications has created a secondary disruption: a lag in the supply of credentialed professionals. Individuals whose qualifications have been revoked must re-engage with the training system to regain formal recognition (Australian Skills Quality Authority, 2025g). This requalification process delays workforce entry or progression into a builder license, creating bottlenecks in labour availability at a time when the sector is already grappling with skills shortages and high demand.

Media coverage and public inquiries have further drawn attention to the prevalence of bad faith operators within the VET system, specifically in relation to the construction sector. Reports from the Australian Broadcasting Corporation (ABC) and Victoria's Independent Broad-based Anti-corruption Commission (IBAC) have documented cases of fraudulent qualifications, unethical conduct and exploitation of students, raising serious concerns about the credibility of training outcomes and the broader implications for workforce capability (Adele Ferguson, 2025; Independent Broad-based Anti-corruption Commission, 2023).

The reputational damage to the VET sector undermines stakeholder confidence in qualifications as reliable indicators of capability or readiness for occupational licensing. Workshop participants highlighted that employers and regulators may be hesitant to trust credentials from certain providers. The erosion of trust in the credentialing system risks entrenching inefficiencies and perpetuating uneven standards across the building industry. While a comprehensive analysis of the standards of training and assessment within RTOs are outside of the scope of this report, it is noted as a critical area for further research.

It is important to emphasise that not all RTOs engage in poor practices. Many VET providers deliver high-quality, industry-aligned training and uphold rigorous assessment standards. The issue lies not with the structure of RTO's or the concept of RPL itself, but with misuse of the system by bad-faith actors operating outside the spirit of competency-based education. A rigorous and targeted review of these operators, particularly those exploiting RPL pathways, should be prioritised to restore confidence in qualification integrity and protect the broader construction ecosystem.

4.4.3 Business Competencies of Advisors

In addition to a critical gap in the financial and business literacy among builders, workshop participants also raised concerns that lawyers and accountants are not always aware of the issues that relate specifically to the residential construction sector. This can often result in business owners

receiving general business advice that does not recognise the unique challenges faced by those operating in the residential construction industry.[20]

As set out in section 3.2, there are clear complications that may arise because SME owners in the residential construction industry may have an informal culture and that such culture may 'hinder successful advisory relationships' where lawyers are not sensitive to the acumen, context and cultural values of SME clients, and do not adopt a practice that is empathetic and attractive to such clients (see Clarke, 2024, 4; Dyer and Ross, 2007 131-2).

Workshop participants broadly agreed that strengthening financial education, improving access to tailored risk management training and expanding business advisory services are essential for building a more resilient construction sector. These interventions would not only reduce insolvency rates but also enhance productivity, improve trust and support long-term sustainability across the industry.

4.5 Data Limitations

Inadequate data availability for analysis to identify and support policy problems and inform policy and legislative decisions is a long-standing issue, particularly in relation to insolvency. Such concerns can be traced back to before the 1988 *Harmer Report* into Corporate insolvency and have been reiterated by the *Parliamentary Joint Committee on Corporations and Financial Services* in their Final Report on Corporate Insolvency in Australia (2023). ((The issue was raised as one of the major handicaps to the *Harmer Report*, 1988; Parliamentary Joint Committee on Corporations and Financial Services, 2023, para. [6.3]). While some improvements have been made over the years, most notably in relation to ASIC's insolvency data set (Australian Securities & Investment Commission, 2024, p. 1), significant challenges remain.[21]

In the context of this project, we have identified key data gaps that have made data analysis more difficult than it should be. These limitations include:

1. **Retrospective Reporting:** Insolvency data is generally reported retrospectively and therefore cannot be used to predict insolvency rates or emerging trends in real time.
2. **Absence of Early Warning Indicators:** There is a lack of publicly available 'red flags' or 'early warning indicators' to assist stakeholders in identifying financial distress before it escalates. While some industry bodies, including some of the Project Partners, are starting to develop tools for internal use, these are not publicly accessible for broader analysis or industry-wide preventative strategies.
3. **No Public Register of Builder Defaults or Qualifications:** There is no centralised public register that allows stakeholders to verify a residential builder's financial standing, regulatory compliance, or qualifications prior to engagement, limiting transparency and risk mitigation.
4. **Insufficiently Granular and Integrated Data:** Publicly available statistics often do not distinguish between the different subsections of construction. For example, some datasets report on insolvency rates in the residential construction industry, while others aggregate data across the construction industry as a whole.(Bull, 2025, pp. 22–23; Cook and Horspool, 1998, p. 20; *Harmer Report*, 1988, para. [40]; Harris, 2021, p. 30; Herzberg et al., 2010; Parliamentary Joint Committee on Corporations and Financial Services, 2023, chap. 6;

[20] It is outside the scope of this project to investigate the educational opportunities in this regard. However, we note that on 29 August 2025, upon invitation from the Law Society of New South Wales, Dr Elizabeth Streten, a principal investigator in this project, provided a 1 hour presentation on navigating residential construction insolvency litigation at the Law Society of New South Wales' accreditation conference. Her presentation acknowledged data from this project to support that presentation. It is our hope that this report may provide a basis for further understanding and education for business, legal and accounting advisors in the residential construction insolvency sector (Streten, 2025).

[21] Most recently highlighted in: Parliamentary Joint Committee on Corporations and Financial Services, 2023, chap. 6

Wellard, 2013, pp. 7–8, 25–26). Industry statistics provide greater granularity but are not publicly available, are jurisdiction specific and focus on specific insolvency events (liquidation, winding up and deregistration).

5. **Exclusions Due to Data Constraints:** Although this study aims to explore insolvency within the residential construction sector, the analysis is constrained by the nature of available data. Specifically, the report focuses on **corporate insolvencies**, excluding bankruptcies and, in relation to industry-specific data, our analysis is limited to Victoria. These exclusions were necessary to maintain academic rigour and reflect the limitations of the current datasets.
6. **Inconsistent Definitions of SMEs**: Variations in how government agencies such as the Australian Taxation Office, Australian Bureau of Statistics and Australian Small Business and Family Enterprise Ombudsman define and report on SMEs introduce inconsistencies in insolvency statistics and business profiling. These definitional discrepancies complicate analysis and policy formulation.

These data limitations have wide-ranging implications for consumers, regulators, financial institutions and policymakers. They hinder the development of effective early intervention strategies, make it difficult to identify sector-wide vulnerabilities and limit the capacity for evidence-based reform.

These limitations highlight the urgent need for improved data collection, integration and transparency to support more effective insolvency prevention and policy development in the residential construction sector.

This project has sought to address some of the identified gaps by conducting stakeholder workshops and interviews to identify the primary drivers of insolvency in the residential construction industry, as reported by those most involved in the sector. This qualitative approach has provided the research team with valuable insights into issues that are not captured in the existing statistical or industry datasets, offering a more nuanced and grounded understanding of the challenges faced by the sector.

4.6 Mapping Insolvency Drivers

Insolvency in the residential construction industry does not stem from one isolated failure but from a web of pressures that interact to drive poor financial resilience. Complex regulation creates a difficult landscape for builders to understand and comply with. When business owners lack the acumen to interpret those rules, they struggle to plan cashflow and meet financial obligations on time. This gap in business acumen is exacerbated by the well-established payment structures within the sector. These intertwined drivers form reinforcing loops. Cash shortfalls often lead to compromises in quality and compliance, triggering disputes and payment delays that further erode financial reserves. As financial buffers shrink, firms lose the capacity to invest in training or absorb costs, at times passing down financial distress to subcontractors, further perpetuating this cycle.

The four loops identified in this report – funding structures, regulatory complexity, limited business acumen and data limitations – all interact to create a dynamic system that embeds insolvency risk as a structural feature rather than the exception. Each loop contains causal mechanisms that amplify stress: limited control over financing, exacerbated by limited understanding of financial and regulatory obligations, trigger delayed payments and undercapitalisation; the resulting poor cashflow triggers defects and quality issues; defects delay certification; certification delays restrict cashflow; cashflow pressures reduce compliance capacity (exacerbated by limited initial business understanding); compliance failures trigger regulatory penalties; penalties accelerate insolvency. This is only one model of the seemingly endless loops inherent in navigating the drivers of insolvency in the residential construction sector as illustrated in Figure 18.

Insolvency in the residential construction sector is not the result of isolated missteps but the product of reinforcing pressures that interact across the system. The loops identified in this report reveal how cashflow constraints, compliance challenges and limited business capability compound over time,

embedding insolvency risk as a structural feature. Understanding these dynamics is essential for designing targeted, system-aware interventions that support long-term industry resilience.

4.7 Chapter Overview

This chapter documents research findings regarding the core drivers of financial distress in the residential construction sector, reframing insolvency as a systemic outcome rather than an isolated business failure. Through a systems-level analysis, it identified four interrelated drivers – funding structures, regulatory complexity, limited business and financial acumen, and data limitations – that consistently undermine financial resilience across the industry.

Each of these drivers contributes to reinforcing feedback loops that compound risk and restrict recovery. For example, poor cashflow triggered by delayed payments can lead to quality issues and compliance failures, which in turn delay certification and further erode financial reserves. These loops are not anomalies – they reflect structural conditions embedded in everyday business practices, regulatory obligations and informal norms unique to the sector.

By mapping these loops and surfacing their causal mechanisms, the chapter provides a deeper understanding of how insolvency risk becomes entrenched. This analysis moves beyond surface-level explanations and offers a practical foundation for reform. These findings are central to the report's objectives: they highlight the need for targeted interventions that address root causes rather than symptoms – particularly in areas of financial literacy, regulatory clarity and industry support.

The next chapter builds on this analysis by exploring practical recommendations for regulatory improvement, educational enhancement and industry support mechanisms – each aimed at reducing insolvency risk and strengthening the long-term viability of the residential construction sector.

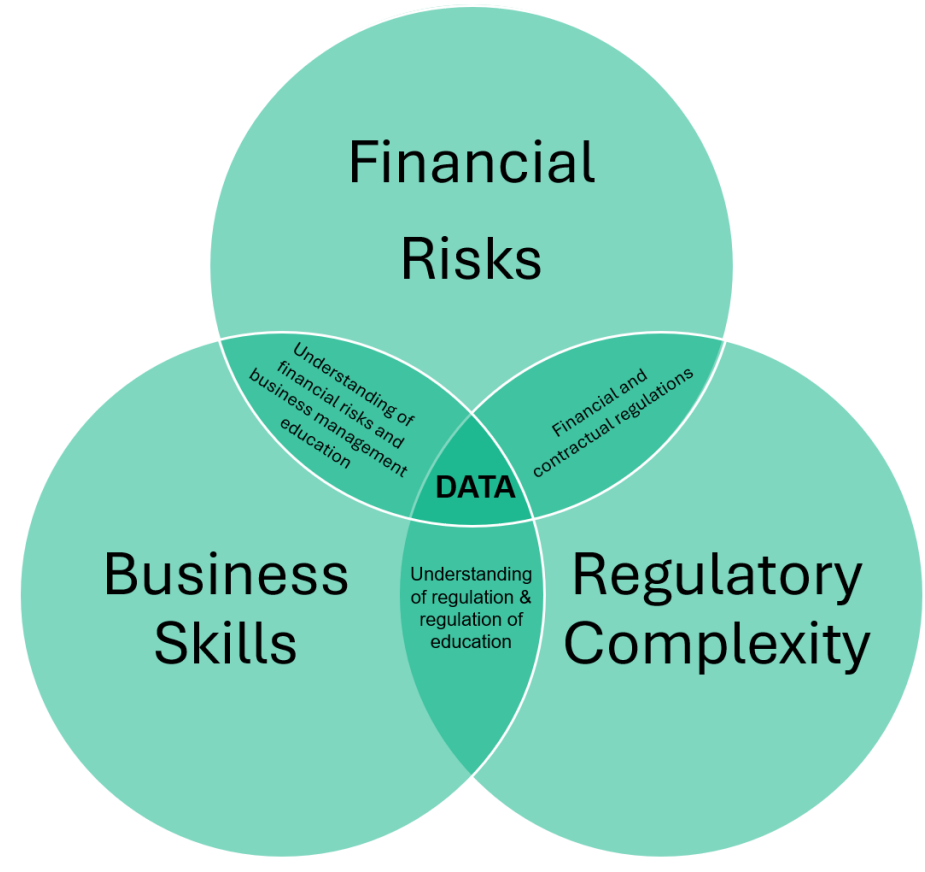

Figure 22: Drivers of Insolvency - Workshop Findings

5 RECOMMENDATIONS

This chapter moves from analysis to action, presenting **23** ***tiered, tailored and targeted*** recommendations designed to disrupt the reinforcing cycles that drive insolvency in the residential construction sector. Addressing Objective 3 of this research, these evidence-based proposals aim to reduce insolvency rates by targeting key leverage points across regulatory, educational and operational domains. These reforms are designed to interrupt reinforcing feedback loops, such as undercapitalisation and regulatory burdens, and replace them with stabilising mechanisms that support early intervention, informed decision making and equitable risk distribution.

5.1 Address systemic flaws in funding/financing structures

The current financial architecture of residential construction embeds risk asymmetries that disproportionately affect SME builders and subcontractors. These vulnerabilities are amplified by rigid progress payment models, limited access to pre-construction funding, low deposit caps and banking practices that classify construction as inherently high-risk.

Recommendations:

1. **Engage with financial institutions to reassess construction sector risk classification,** exploring how banks can meet prudential obligations without over-penalising builders or constraining project viability for consumers (by failing to accommodate the realities of construction cost overruns). Australia's Prudential Regulatory Authority (APRA) requires banks to act prudently, rather than reasonably, when issuing home loans meaning that banks are reluctant to approve loans where construction costs are uncertain. However, due to the nature of the industry, supply volatility, cost overruns and delays due to weather are not uncommon, but may result in the financial infeasibility to complete a project. There is a need to review banks' overarching regulatory frameworks to allow for more adaptive models of lending. This reassessment could form part of a broader national inquiry into construction finance and regulatory coherence, with the goal of fostering a more resilient, responsive and equitable housing sector

2. **Conduct a national inquiry into progress payment schedules in contracts and regulations**, assessing their alignment with contemporary construction practices. Such an inquiry should assess whether current practices strike an appropriate balance between banks' prudential obligations and operational flexibility and explore reforms into the progress payment schedule that better aligns with the reality of construction work. ***This recommendation would be subordinate to recommendation 1 and should be implemented together for maximum impact and benefit***.

3. **Introduce adaptive financing models, such as milestone-based payments** tied to collaborative and verified progress payment schedules, aligned with the realities of the construction process, to reduce cashflow gaps and improve liquidity. ***This recommendation follows from recommendations 1 and 2*** to propose updated progress payment schedule within contracts or the introduction of easier negotiation pathways towards fit-for-purpose progress schedules tied to the actual progress of construction for each build.

4. **Undertake a review of existing Security of Payment (SOP) legislation across states to determine best practices, and consider the development of a federal or nationally consistent SOP regime**. This will not only ensure that payments will flow as required, but will also reduce the regulatory burden for SME operators and subcontractors, and the educational load in understanding and applying SOP obligations across eight jurisdictions.

5. **Amend Security of Payment legislation in Queensland to require the external administration of trust accounts**, ensuring that funds allocated to subcontractors are safeguarded and used solely for their intended purpose. This recommendation would help address issues associated with incorrect administration of trust accounts (i.e. removing funds from one project account to pay for another), protect subcontractors and help ameliorate issues associated with external administrators at liquidation.

5.2 Strengthen business acumen, contract literacy and dispute resolution mechanisms

Limited business and financial capability among builders contribute to poor risk management, contractual disputes and delayed responses to financial distress. Cultural norms that prioritise technical skills over strategic planning further entrench these vulnerabilities.

Recommendations:

6. **Mandate formal business education** as part of licensing requirements, with emphasis on legal and financial obligations and risks, cash flow planning, contract negotiation, risk management and directorship duties under the Corporations Act . ***This recommendation is made subject to, and in connection with, recommendations 10 and 14 below***. It is recommended that these requirements form part of nationally aligned requirements to obtain a license and as part of continuing education obligations with respect to renewal of licenses. If there is no national oversight to the inclusion of mandatory business education at licensing for entry, then the net benefit of this reform would be undermined by the Mutual Recognition Scheme.

7. **Mandate Continuing Professional Development and tie completion to builder licence renewal**, ensuring mandatory, ongoing competency in business, legal and financial management, and regulatory compliance. Ensure that CPD units are prescribed and not selectable by builders based on preference, prioritising regulatory changes, managing business solvency and understanding builders' financial obligations under regulations. These CPD courses should be provided by industry bodies and training organisations accredited by ASQA, to ensure that reliable and rigorous CPD training is being provided to builders. ***This recommendation should be implemented in parallel or in consideration to recommendations 6 and 14.***

8. **Develop targeted education programs to address cultural factors** that discourage timely engagement with qualified professionals and reinforce informal practices. These education programs should be fit-for-purpose and designed to engage culturally with builders. Authors suggest creating collaborative education groups with industry leaders such as Master Builders Australia, Bunnings and TotalTools, together with financial associations such as BUSSQ Superannuation and Queensland Government Department of Trade, Employment and Training to host educational information sessions delivered in a format that builders will engage in, such as a financial awareness session followed by a breakfast barbecue on site on the last Friday of the month. The education piece should target cultural factors such as financial and risk awareness, the preference for cash/ no contract jobs, the stigma in asking for help and other cultural dynamics as discussed in section 3.2.

9. **Establish or expand access to low-cost, independent dispute resolution services** tailored to construction contracts. While regulatory bodies such as the QBCC handle disputes, they have no power to require someone to pay or refund monies, give orders about contracts, or force parties to comply with the agreement. Payment claims made under Security of Payment legislation or through small claims court are costly and further entrench cultural and financial difficulties for builders. Implementing accessible, affordable and fast dispute resolution mechanisms, through a construction Ombudsman or other adjudication panel would allow stakeholders to resolve disputes more efficiently and equitably (see for example Figure 23).

Farm Debt Mediation (FDM) in Australia is a legislated process designed to provide a structured, fair and timely mechanism for resolving disputes between farmers and their creditors before enforcement action is taken. Under FDM schemes, which are mandated in most Australian states and territories, creditors are required to offer mediation before initiating enforcement or recovery proceedings. The process is facilitated by an independent mediator and aims to help both parties reach a mutually acceptable agreement, often involving debt restructuring, repayment plans, or asset sales. FDM has been widely regarded as a successful model for balancing the interests of lenders with the need to protect vulnerable businesses in a high-risk sector. Given the parallels between agriculture and residential construction – both being sectors dominated by SMEs, subject to volatile market conditions and exposed to significant financial risk – we recommend exploring whether a similar mediation framework could be applied to the residential construction industry. In particular, a **Construction Debt Mediation scheme** could offer a proactive, non-litigious pathway for resolving financial distress among builders and subcontractors, potentially reducing the incidence of insolvency. Such a model could improve transparency, preserve business relationships and provide earlier intervention opportunities, especially in a sector where insolvency often has cascading effects across supply chains and communities.

Figure 23: Farm Debt Mediation

10. **Undertake a comprehensive review of the business and competency units provided by Registered Training Organisations**, assessing the quality and consistency of the training provided. In particular, such a review should audit the business and finance models specific to the construction industry for relevance, rigour, and adaptability to frequent regulatory change; as well as the standards of competency verification. These units include:
11.
    - Select, prepare, and administer a construction contract
    - Identify and produce estimated costs for building and construction projects
    - Produce labour and material schedules for ordering
    - Apply legal requirements to building and construction projects
    - Manage business risk
    - Manage building and construction business finances
    - Monitor costing systems on complex building and construction projects
    - Prepare and evaluate tender documentation
    - Select and manage building and construction contractors, and
    - Administer the legal obligations of a building and construction contractor.

5.2.1 Enhance Professional Advisor Capacity

SME builders often avoid early professional advice because accountants and lawyers lack construction specific expertise. This gap slows crisis detection and weakens the stabilising effects of external counsel.

Recommendations:

12. To improve compliance with sector-specific financial and regulatory requirements, governments and industry bodies should **develop accredited Continuing Professional Development modules** for professional advisors, such as lawyers, accountants, and financial advisors, who support residential builders. These modules should focus on the unique operational, contractual, cultural, and regulatory nuances of the construction industry. Implementation should involve collaboration with state regulators, industry associations, and professional bodies to co-design CPD content that is jurisdictionally specific, scenario-based, and embedded in existing accreditation pathways.

13. **Establish a publicly accessible register of "Construction Financial and Legal Advisors"** listing accountants and lawyers who have completed relevant construction industry CPD/training. A verified register would help builders identify advisors with demonstrated sector competence, reduce the risk of misinformed guidance, and promote accountability across the advisory ecosystem. This recommendation would need to be **implemented simultaneously with recommendation 11** to support the credibility of the professionals listed on this register.

14. **Co-create sector specific toolkits (checklists, traffic light systems),** with industry associations and culturally embedded companies such as Master Builders, Bunnings, and/or TotalTools, circulate them through professional and social networks, and make them available in a centrally accessible location for builders and consumers. This approach leverages the trust and reaches of these institutions to bridge the gap between regulatory complexity and on-the-ground decision making. By embedding this guidance in familiar environments and formats, it supports early and culturally appropriate intervention, reduces educational fatigue, and fosters a culture of proactive compliance.

5.3 Reduce regulatory complexity and compliance burden

The fragmented regulatory landscape creates confusion, duplication, and compliance fatigue, particularly for SMEs. Variability of licensing requirements, insolvency-triggered license suspensions, and overlapping codes undermine business continuity and sector stability.

Recommendations:

15. **Undertake a review of licensing and registration requirements between jurisdictions and review the National Registration Framework** to reduce regulatory arbitrage under the Mutual Recognition Scheme. This evaluation should also include a review of the approach taken in regard to assessment of eligibility for a builder licence across the jurisdictions. The alignment of initial licensing and registration requirements, together with the aligning of the renewal of licensing requirements, across Australia would facilitate consistency and minimise 'jurisdiction shopping' with respect to people seeking a builder licence, taking advantage of any variation in licensing and registration requirements between jurisdictions which may have a lower threshold or less 'burdensome' assessment approaches than the jurisdiction which they later obtain a builder licence to pursuant to the Mutual Recognition Scheme.

16. **Clarify insolvency regulation obligations**, including thresholds for voluntary administration and director duties. The current bifurcated Australian insolvency regime has numerous unnecessary complexities born from decades of piecemeal reforms (Parliamentary Joint Committee on Corporations and Financial Services, 2023, pp. xxv–xxvi, 82; Streten, 2024a, p. 47,48). In 2023, the Parliamentary Joint Committee on Corporations and Financial Services released a report on corporate insolvency in Australia acknowledging this complexity and recommending that as soon as practicable the Australian government commission '*a comprehensive and independent review of Australia's insolvency law, encompassing both corporate and personal insolvency'* (Parliamentary Joint Committee on Corporations and Financial Services, 2023, pp. xiii–xvii). The project team supports a holistic review of the Australian insolvency regime and any corresponding clarity regarding insolvency mechanisms and director duties. ***This recommendation is made in conjunction with the recommendations in 5.1.2 above regarding the strengthening of business and legal acumen.***

17. **Review state and territory legislation and regulations to identify any unintended adverse consequences arising from the appointment of a restructuring practitioner to a residential construction SME under Part 5.3B of the Corporations Act 2001 (Cth).** In

particular, attention should be given to provisions that may result in the cancellation or suspension of licences, insurance or other documentation essential to the SME's continued operation. Such cancellation or suspension may effectively prevent SMEs in certain jurisdictions (such as Victoria) from accessing the restructuring regime, thereby creating inequities between businesses based solely on geographic location (Bull, 2025, pp. 151–152, 224–225, 230).

18. **Streamline compliance processes for SMEs operating in the construction industry**, including simplifying (and reducing costs and complexity associated with) reporting, insurance, and dispute resolution mechanisms. This could include introducing tiered compliance models based on business size and risk profile. However, while tiered regulation can offer benefits, consideration must be given to increasing the complexity of the regulatory environment and inadvertently discouraging growth to stay under a compliance threshold (Douglas and Pejoska, 2017).

19. **Conduct periodic, co-designed reviews of relevant regulations,** and identify and repeal or simplify requirements that add cost or delay but deliver minimal safety or consumer benefit**.** This may include the embedment of sunset provisions into new and existing building laws. Such sunset provisions are already embedded in Australia's regulatory landscape, both at a federal level and in some state jurisdictions, however, the construction sector and surrounding regulation, culture, and dynamics moves too quickly for regulations to be justified after 10 years (see provisions in *Legislation Act 2003* (Cth), p. 200; *Statutory Instruments Act 1992* (Qld)). In some other jurisdictions, while there are no explicit sunset provisions, legislation provides for periodic review mechanisms (*Interpretation Act 1978 (NT)*; *Legislative Instruments Act 2023 (SA)*). Regulations that expire unless re-justified force policymakers to demonstrate ongoing value and benefit to the sector and to the wider stakeholder network.

20. **Create a well-regulated public database of licensed builders (and other construction professionals if relevant)**, including a **default register**, to improve transparency and accountability across the supply chain and to protect consumers. Existing databases such as Independent Construction Industry Rating Tool (iCirt) have been criticised for being overly rigorous and penalising builders who have payment defaults unrelated to their building work, and for being largely unregulated (Building 4.0 CRC#80 Workshop Findings). This database would require regulatory oversight to ensure accurate and effective reporting of residential construction related defaults which could then appropriately inform consumers regarding known financial risks associated with builders. Such a database should be maintained in conjunction with the inclusion of a specific financial distress option on the relevant ASIC form that reflects stakeholder insolvency further up the chain.

21. **Rebalance deposit cap regulations** to reflect actual upfront costs and reduce liquidity gaps for builders. Workshop participants also highlighted the insufficiency of existing deposit amounts, noting that after the preliminary costs and insurance premiums have been accounted for, there is very little working capital available to fund the next stages of the project. The caps on deposits in the regulation also do not consider the operational realities of construction work including the long lead times on products like windows, subcontractors deposit expectations, and modern forms of construction like prefabrication which requires a significantly larger deposit (as most construction is completed off-site). In the case of new building modes such a prefabrication a more realistic deposit amount would be closer to 20%, while for standard home builds the amount should be increased to at least 10% (Building 4.0 CRC#80 Workshop Findings). Further consideration should be given to whether insurance can be included as an addition to the deposit amount, rather than included within the deposit cap.

5.4 Enhancing Data Collection and Predictive Capability

Data limitations constrain the sector's ability to identify early warning signs, evaluate policy effectiveness, and design targeted interventions.

Recommendations:

22. **Establish a well-regulated national insolvency data platform**, integrating data from the Australian Securities and Investments Commission, the Australian Financial Security Authority, industry bodies, and other relevant regulators. Harmonising and linking these datasets will enable more robust predictive modelling of insolvency risk and facilitate early intervention strategies. Access to comparable and comprehensive data will support deeper analysis of the causes of insolvency and inform more effective, evidence-based approaches to mitigating insolvency risk.

23. **Require consistent data collection and publication across all regulatory bodies** to improve transparency, comparability and early intervention to mitigate residential construction insolvencies. It is recommended that all regulatory bodies involved in construction oversight adopt consistent data collection and reporting standards including standardising the reporting formats of 'early warning sign' data such as:

    - Turnover and financial performance
    - License suspension or cancellation
    - Definitions and reporting of insolvency events
    - Insurance eligibility, claims or cancellation
    - Dispute resolution outcomes, and
    - Key personnel health issues.

    These standards should be adopted by **state-level construction regulators** including the Queensland Building and Construction Commission, the Building Commission NSW, the Building and Plumbing Commission in Victoria, the Director of Building Control in Tasmania, and their equivalents in other jurisdictions, and ideally extended to **statutory insurers, dispute resolution bodies, WorkSafe authorities**, and other relevant agencies that collect early warning data. These may include state revenue offices, which may hold data on tax arrears; local councils which issue building permits and may track project delays or compliance issues; superannuation regulators which may identify non-payment of superannuation obligations; and consumer protection agencies which may identify patterns of dispute or complaint escalation. Importantly, report formats should include structured free-text fields to allow for contextual information that enhances the granularity, comparability and interpretability of statistical data. To ensure early warning signs lead to meaningful action, regulatory and oversight bodies should be empowered to respond with targeted interventions. These may include:

    - **Regulators** issuing conditional licences, conducting financial audits or requiring remedial action plans
    - **Insurers** adjusting coverage terms or offering risk mitigation support
    - **Dispute resolution bodies** flagging systemic issues for regulatory review, and
    - **WorkSafe** authorities initiating workplace health assessments or support programs.

    These coordinated responses can help prevent insolvency escalation, protect consumers, and maintain stability across the residential construction supply chain.

24. **Invest in technology integration across the construction system**, enabling real-time tracking of financial health, project progress, and risk exposure. Enhanced digital infrastructure will support early identification of financial distress, improve transparency across the supply chain and strengthen the resilience of SMEs operating within the sector.

Reforming a System – Loops, Flows, and Impacts

No single fix can restore residential construction sector health. Understanding insolvency as a system of linked pressures shows why recommendations must address multiple challenges within the residential construction sector – strengthening education, simplifying regulation and improving financial structures simultaneously – while also improving data capture for effective design of early intervention measures.

Intervention must be approached holistically, recognising that changes to financial architecture will only be effective if accompanied by improvements to regulatory coherence, business capacity, and data transparency; and vice versa. Such change also requires the collaboration of the multitude of actors within a construction system.

5.2 Chapter Overview

This chapter presents a coordinated set of recommendations designed to address the systemic nature of insolvency in the residential construction sector. As demonstrated in earlier analysis, insolvency is not a linear failure, it emerges from reinforcing feedback loops involving funding structures, regulatory complexity, capability gaps, and institutional pressures. Effective reform must therefore target these interconnected drivers, not in isolation, but as part of a broader systems response.

The recommendations outlined in this chapter aim to break the cycles that erode financial resilience by strengthening five key dimensions: funding mechanisms, regulatory clarity, business and financial capability, access to trusted advisory support, and improved sector-specific data. Each recommendation is designed to reinforce the others, creating stabilising mechanisms that replace fragility with resilience.

By addressing these structural vulnerabilities in concert, the residential construction sector can move towards greater transparency, improved risk management, and long-term viability. These reforms are not just reactive – they are strategic interventions that support sustainable growth and reduce the likelihood of insolvency becoming a default outcome for small and medium operators.

6 FUTURE RESEARCH DIRECTIONS

While this report has identified several systemic drivers of insolvency in the residential construction sector, workshop discussions and stakeholder feedback have underscored the need for targeted, evidence-based research to inform future reform. The following areas represent high-impact opportunities for further inquiry and policy refinement.

1. **Subcontractor Environment**

The subcontractor ecosystem remains one of the most vulnerable segments of the sector. Further research is needed to examine payment practices, contractual risk exposure, and the cascading effects of head contractor insolvency on subcontractor viability. This includes exploring the adequacy of current protections under Security of Payment legislation and the role/impact of trust accounting mechanisms.

2. **Education Accreditation and Business Competency Frameworks including Builder-centred Education**

There is a pressing need to evaluate the accreditation standards applied to construction training and education providers. Research should assess the integrity and consistency of business competency units delivered across Registered Training Organisations, and their alignment with the operational realities of running a construction business. This includes identifying the impact of low-quality training on builder preparedness.

To improve uptake and relevance of business education, empirical research should be conducted to understand how and when builders prefer to engage with training. This could include exploring delivery formats, timing, and perceived barriers to participation, particularly among sole traders and SME operators.

3. **National Licensing Regime including Educational Requirements and CPD**

The fragmented nature of builder licensing across states and territories raises critical questions about the effectiveness and efficiency of existing licensing frameworks. Though this project provided a high-level review of licensing frameworks between jurisdictions and their general relationship to insolvency, research into the high rates of insolvency in the residential construction sector would benefit from a more detailed and in-depth analysis of licensing, including qualification pathways, educational requirements (***linked to Future Research Direction 2***), and mutual recognition mechanisms. This research would also help identify gaps and opportunities for deregulation, and assist in identifying a link, if any, between licensing and insolvency (***assisted by data analysis from Future Research Direction 6***). This work could also assess the potential benefits and implementation pathways for a national licensing regime above and beyond the existing National Registration Framework.

Further research into the educational requirements contained within the licensing legislation and deeper analysis on the potential benefits of CPD tied to licence renewal would provide context to reform discussions around licensing, education, and insolvency. (***This research direction would also benefit, and benefit from Future Research Direction 3***) This research could include evaluating whether current requirements correlate with insolvency rates between jurisdictions (***necessarily supported by Future Research Direction 5***).

4. **Mental Health and Insolvency Risk**

The connection between financial strain, job insecurity and mental health is a critical issue that is often overlooked but has been raised as an area of significant concern during our workshops. Mental health is a workplace health and safety issue, a particularly important one in the construction industry. The suicide rate of male construction workers was 26.1/ 100,000 – almost twice the suicide rate for male workers in other occupations in Australia 13.5 per 100,000 (King et al., 2022). Notably, builders are six times more likely to die by suicide than from a workplace accident. ISO 45003:2021 Occupational health and safety management — Psychological health and safety at work, provides a

set of guidelines for managing psychosocial risks. Construction business companies are legally required to provide physically and psychologically healthy and safe work environment for employees (Safe Work Australia, 2022). In June 2022, the model Work Health and Safety Regulation was amended to incorporate psychosocial risk management requirements.

Mental health condition is found to have a direct relationship with productivity. The most obvious form is through employee absenteeism and presenteeism. It is estimated that AUD 11 billion a year is lost in Australia due to poor mental health condition of employees (PriceWaterhouseCoopers, 2014). AUD146 million a year is paid out in workers' compensation claims for poor mental health. In 2018-19, median time lost for mental stress claims (27 working weeks) vs all claims (7 weeks). In 2018-19, median payment for mental stress claims (AUD 46,400) vs all claims (AUD 14,500). Suicide and suicidal behaviour in the Australian construction industry is estimated to cost AUD 1.57 billion each year (Doran and Ling, 2017).

The construction industry, traditionally and continuously demanding, is predominantly male dominated (with only 21% female employees) and characterised by a strong macho culture. The nature of the business necessitates transient or project-based opportunities. This work environment engenders a high level of psychosocial risk, which adversely impacts the mental well-being of the workforce (Hon, 2021). For SMEs and subcontractors in the residential construction industry, the pressures associated with insolvency including unpaid debts, delayed projects and the weight of responsibility for employees and families can compound existing stresses. The stigma of financial failure, combined with cultural norms in male-dominated industries that discourage help-seeking, creates a high-risk environment where psychological distress often remains hidden until crisis point. In fact, as mentioned afore, suicide rates in the construction industry are reported as being more than twice that of the general male population, highlighting the urgent need for further research in this area to assist with targeted mental health support and systemic reform (Catanzariti, 2025).

5. Jurisdictional Data Analysis

A coordinated review of insolvency data synthesised from regulatory bodies, insolvency practitioners and government statistics (i.e. ASIC and ABS) in each jurisdiction would provide critical context to future research on insolvency. ***This Future Research Direction is contingent on the adoption of Recommendations 21 and 22***. Such a jurisdictional analysis would enable the development of more tailored and targeted recommendations. This research could include identifying regional insolvency trends, compliance bottlenecks and best practice mechanisms.

6. Future Projections and Economic Modelling of Insolvency Impacts

Further research is needed to model the economic impacts of insolvency within the residential construction industry, with a particular focus on quantifying the broader productivity drag associated with business failure in this sector. Noting that the 2015 Senate Committee report (Australian Government, 2015) mapped some of the effects of insolvency, further economic modelling can help estimate the cumulative costs of these disruptions, including lost output, underutilised labour, and delayed infrastructure (for a brief discussion on the relationship between insolvency and productivity see O'Neill et al., 2025).

7. Practitioner-led Empirical Studies

This project identified drivers of insolvency in context to the broader literature and workshops with industry stakeholders including regulators, insolvency practitioners, and industry associations. This inquiry would benefit further from empirical research designed to capture builders understanding and experience of insolvency drivers. This research could include phenomenological qualitative interviews and case studies that explore lived experiences of insolvent company directors to understand decision making under financial stress and perceived regulatory barriers.

8. Phoenixing Activities

The prevalence of phoenixing activities in the construction sector, though outside the scope of this project, warrants investigation due to the impact insolvency has on broader economic and social

productivity. Research could examine structural enablers, regulatory loopholes, and the role of regulators in addressing phoenix behaviour.

9. Expand on this research beyond SMEs and Residential Construction

Future research could extend beyond the SME-focused, small to medium rise residential construction segment to explore insolvency dynamics across a broader spectrum of the built environment. This includes high density apartment developments, large scale commercial and civil infrastructure projects, and the operation of subcontractor networks. Such expansion would enable comparative analysis of insolvency risk exposure, regulatory responsiveness at scale, and productivity impacts across different project types, firm sizes, and contractual structures. ***This research would contribute to Future Research Direction 5 and 6***.

10. Mapping Builder Entry Pathways and Regulatory Gaps

Future research could investigate the entry pathways of licenced builders who have experienced insolvency, with a focus on their educational background, licensing route, and use of the Mutual Recognition Scheme. By mapping these trajectories, including qualifications, awarding institutions, licensing pathway, and cross-jurisdictional access, this study would offer critical insights into whether current licensing and educational frameworks adequately prepare builders for the financial and contractual complexities of the industry, and would allow regulators to better understand how, when, and where unprepared builders are finding their way into a builders licence. ***This research has the additional benefit of providing the necessary context to provide targeted reforms, in line with Future Research Directions 2 and 3, and Recommendations 10 and 14***.

7 CONCLUSION

Insolvency in the Australian residential construction sector is not an island, isolated from its surroundings. It is a systemic outcome shaped by a complex interplay of regulatory, financial, educational, and cultural factors as well as unpredictable and unmitigable external pressures. The high and increasing insolvency rates in the residential construction sector cannot be ignored due to the associated economic contagion effects, drag on productivity and impact on much needed housing supply. Urgent policy action is required.

This report has traced the contours of that complexity, offering a high level, yet multi-layered analysis of how insolvency, emerges, spread, and persists across the sector. Drawing on regulatory data, stakeholder insights, and systems mapping, it has sought to move beyond surface level diagnoses, towards a deeper understanding of the structural conditions that enable insolvency to permeate.

At the heart of this inquiry lies the contagion effect. This phenomenon is not incidental but rather embedded in the sector's financing structures, subcontracting practices, and regulatory fragmentation. When a builder collapses, the impact reverberates through unpaid contractors, stalled developments, and disrupted housing supply. These ripple effects are amplified by the sector's reliance on informal practices, asymmetric risk allocation, and limited early warning mechanisms. The result is a system in which insolvency is not only frequent but disproportionately and widely damaging.

The drivers of insolvency identified in this report are diverse but interconnected. Financial fragility, disproportionate risk allocation in contracts, and inflexible progress payment structures are compounded by regulatory complexity and the burden of compliance for SMEs. Many builders enter the market with limited business acumen, while navigating a regulatorily complex industry that nonetheless prioritises technical competence over financial literacy. Meanwhile data limitation, both in granularity and consistency, hinder the sector's ability to monitor risk, evaluate interventions, and learn from failure. These drivers do not operate in isolation but rather form feedback loops that reinforce vulnerability and challenge resilience. In this context, insolvency is not merely a business failure- it is a systemic blind spot that reflects deeper misalignments in how this sector is regulated, educated, and financed.

While recommendations outlined in Chapter 5 offers key interventions and critical pathways to reinforce sector stability, this report does not claim to provide a definitive solution. Rather, it positions itself as a foundation for ongoing inquiry- one that invites further research, policy consideration, and stakeholder engagement. Several promising avenues exist for extending this work: comparative analyses of licensing regimes, deeper exploration of builder education opportunities, and expanding the scope to include large operators and the construction sector as a whole. These additional research avenues will be critical for designing better interventions that are not only effective but contextually grounded in the realities of a complex system.

For industry and policymakers, the implications are clear. Addressing insolvency in the residential construction sector requires more than reactive enforcement or isolated campaigns- it demands a systems-oriented approach that recognises interdependencies and cultural dynamics embedded in the sector. It calls for better data, clearer and less burdensome regulation, and a cultural and financial reshaping of risk. Above all, it requires a shared commitment between government, industry, and builders to understanding insolvency not as an endpoint but as a signal of where the residential construction sector requires support.

The challenges are significant and inextricably intertwined, but so too are the opportunities. By confronting insolvency in the residential construction sector as a systemic issue, stakeholders can begin to reimagine a construction system that is not only more stable, but more transparent, accountable, and adaptive.

8 APPENDICES

Appendix A: Stakeholders in the Residential Construction Industry

Internal Stakeholders

Internal stakeholders are directly engaged in the planning, design, financing, construction, and delivery of housing. Their roles are not only interdependent but also often bound by contractual, financial, and logistical relationships.

HOMEOWNERS (CLIENTS)	As end consumers, homeowners are at the centre of demand in the system. Their financial commitment underpins the viability of residential developments. However, they are also the most vulnerable when builders or developers become insolvent, often left with incomplete projects, financial loss, or lengthy legal disputes
BUILDERS AND HEAD CONTRACTORS	Builders are responsible for project coordination and delivery. Their success relies on stable financing, timely payments from clients or lenders, and the performance of subcontractors. Builders are often the 'middle link' in the construction hierarchy, managing risk both upstream (with clients and financiers) and downstream (with trades and suppliers).
SUBCONTRACTORS AND TRADES	Subcontractors provide the skilled labour and specialist services required to complete construction. Their dependency on timely payments from builders makes them highly exposed to cash flow disruptions. Insolvency at the builder level often leads to financial distress for these smaller operators, who lack negotiating power and financial buffers.
DESIGN AND TECHNICAL PROFESSIONALS (ARCHITECTS, ENGINEERS, SURVEYORS)	These professionals are responsible for designing compliant and structurally sound buildings. Their work is regulated and subject to review by authorities and insurers. They rely on stable workflows from developers and builders and are often involved early in the process, with long-term exposure to legal liability.
SUPPLIERS AND MANUFACTURERS	Material and product suppliers depend on predictable project timelines and payment reliability. Delays, variations, or insolvency higher up the chain can leave them unpaid or holding excess inventory. Their capacity to meet demand is also influenced by global supply chain constraints.
DEVELOPERS	Developers are the strategic coordinators of residential projects, responsible for land acquisition, planning, finance, and often project management. They are heavily dependent on external finance and regulatory approvals, and their business models assume coordinated execution by all downstream stakeholders.

External Stakeholders

External stakeholders influence how construction is governed, financed, and monitored. Though not physically involved in building, their policies, decisions, and services shape the operating environment and can either support or destabilise the industry.

LOCAL COMMUNITIES	Neighbours and community groups can influence planning outcomes and may raise concerns about traffic, noise, environmental impacts, or aesthetics. While not contractual stakeholders, their engagement is often a determining factor in project approval and ongoing social licence.
GOVERNMENT AND REGULATORY BODIES	This includes local councils, state planning authorities, and building regulators (e.g. VBA, QBCC). These bodies set and enforce planning, zoning, safety, environmental and construction standards. Their decisions affect every stage of a project, from feasibility to certification, and any misalignment or delay in approvals can cascade through the construction timeline. o *Planning Authorities and Local Councils:* Control zoning, development approvals, and infrastructure conditions. o *Building Surveyors:* Issue permits and conduct inspections to ensure compliance with codes and safety standards. o *Policymakers:* Influence industry behaviour through legislation, such as security of payment laws or insolvency reforms.
FINANCIAL INSTITUTIONS (BANKS AND LENDERS)	These institutions underpin the industry's financial viability. Developers, builders, and buyers all rely on access to finance, whether through construction loans, bridging finance, or mortgages. Loan disbursements tied to construction milestones introduce liquidity risks when delays or disputes occur. Banks, in turn, are dependent on borrower performance and market stability.
REAL ESTATE AGENTS	These professionals facilitate the sale and marketing of completed residential properties. Their role connects market demand to project feasibility, impacting developers' willingness to commence or complete construction.
INSURANCE COMPANIES	Insurers offer coverage for builders, developers, and homeowners (e.g. home warranty insurance, construction works insurance, professional indemnity). They are exposed to claims when defects or insolvency occur, and their willingness to underwrite risk affects project viability and professional practice.
ENVIRONMENTAL AND SUSTAINABILITY GROUPS	These stakeholders advocate for responsible land use, sustainable materials, and low-impact construction. Their influence is seen in policy development, environmental assessments, and public sentiment. Projects may face delays or redesigns due to environmental objections or evolving standards.
DISPUTE RESOLUTION AND APPEALS BODIES	Entities such as Queensland Civil and Administrative Tribunal (QCAT the Victorian Civil and Administrative Tribunal (VCAT), the Building Appeals Board (BAB), and ombudsman services provide mechanisms for resolving disputes, enforcing contracts, or appealing regulatory decisions. Their capacity to handle high volumes of cases affects legal certainty and confidence in the system.
STATE BUILDING AUTHORITIES (E.G., BUILDING AND PLUMBING COMMISSION, QUEENSLAND BUILDING AND CONSTRUCTION COMMISSION)	These agencies license practitioners, investigate misconduct, and enforce compliance. Their role is pivotal in maintaining quality standards, upholding consumer protections, and improving industry accountability.

Appendix B: Overview of Jurisdictional Licensing Requirements

A comparison of all the licence types and their requirements is outside of the scope of this project. This analysis compares the requirements of interstate licences/registrations that are considered to be equivalent to the class of **domestic builder (unlimited) in Victoria**, sourced from the *Mutual Recognition (Equivalence of Gaming and Other Occupations) Declaration 2009* as amended, made under s32 of the *Mutual Recognition Act 1992* (see Chapter 4 for related discussion):

State/ Territory	Licence Name	When licence is required	Scope of work	Issuing of licence	Required qualifications and experience (natural person)

VIC	Domestic builder (unlimited)	Must be registered to carry out, manage or arrange the carrying out of all components of domestic building work where the cost (including labour and materials) exceeds $10,000.	Carrying out of all components of domestic building work in relation to a home (i.e., class 1, 2, and 4 buildings, and associated class 10 buildings). Work includes the erection or construction of a home; the renovation, alteration, extension, improvement or repair of a home).	Under s171(1)(a) of the *Building Act 1993* , the Building and Plumbing Commission (BPC) must be satisfied that an applicant for registration holds relevant qualifications and experience (among other requirements) before it can grant the application . For each category or class of registration, there are two options:
				• a prescribed qualification, being a combination of an academic course and a practical experience component as prescribed in the *Building Regulations 2018*,
				• another combination of study, experience and any other factors that can be considered equivalent to the prescribed qualification.
				The prescribed qualification is set out in Schedule 9 to the Regulations, and is made up of an academic and experience component.
					• The successful completion of:
					  • a Bachelor of Construction Management and Economics from Holmesglen Institute; **or**
					  • a Bachelor of Construction Management (Honours) from Deakin University; **or**
					  • a diploma of building and construction (building) (CPC50210) from a Registered Training Organisation; **and**
					• At least 3 years of practical experience (which must have been gained in the 7 years prior to the application for registration being made).

NSW	Endorsed Contractor Licence – General Building Work	Must have a contractor licence to carry out, advertise or contract for residential building work in NSW that is valued at more than $5000 in labour and materials (including GST).	A general builder can do any work that is residential building work.
			An individual holding an endorsed contractor licence can supervise the work of a person
				Section 20(1) of the *Home Building Act 1989* provides that the Secretary must refuse an application for a contractor licence if not satisfied certain criteria are met (e.g., that the applicant is a fit and proper person to hold the licence etc.). The criteria do not refer to standards for qualifications and experience.
				Section 20(2) provides that the regulations may fix or provide for the
					• **VET qualifications and units of competencies:**
					  ○ CPC40120 Certificate IV in Building and Construction, **or**
					  ○ CPC40320 Certificate IV in Building Project Support, **or**
					  ○ CPC40110 / CPC40108 / BCG40106 Certificate IV in Building and Construction (Building), **or**
					  ○ CPC40208 / BCG40206 Certificate IV in Building and Construction (Contract Administration), **or**

State/ Territory	Licence Name	When licence is required	Scope of work	Issuing of licence	Required qualifications and experience (natural person)
NSW (cont)		Endorsed contractor licences are issued to individuals that hold the required qualifications and experience needed to be a qualified supervisor.	who has a trade certification provided the licence holder is present, can direct the work when required and ensures the work is compliant	Secretary to determine additional standards or other requirements that must be met before any contractor licence is issue, and s20(3) provides that the Secretary may refuse an application if not satisfied that any such requirement would be met. The *Home Building Regulation 2014* does not prescribe qualification and experience requirements, however, these are specified on the NSW Fair Trading website.	○ CPC40308 / BCG40306 Certificate IV in Building and Construction (Estimating), **or** ○ CPC40508 / BCG40506 Certificate IV in Building and Construction (Site Management) which must include the specified units of competency, **and** any of the following: ○ a current contractor licence or qualified supervisor certificate for carpentry or bricklaying, or an approved qualification that would allow the issue of such a licence, **or** ○ Diploma of Building and Construction (Building) - CPC50220 / BCG50206 / CPC50208, **or** ○ Diploma of Building and Construction (Building) CPC50210, and including the following units: ○ CPCCBC5004 / CPCCBC5004A Supervise and apply quality standards to the selection of building and construction materials, **and** ○ CPCCBC5005 / CPCCBC5005A Select and manage building and construction contractors, **and** ○ CPCCBC5007 / CPCCBC5007A / CPCCBC5007B Administer the legal obligations of a building and construction contractor, **and** ○ CPCCBC5009 Identify services layout and connection methods for Type B and C constructions / CPCCBC5009A Identify services layout and connection methods to medium rise construction projects, **or** • Bachelor of Housing from an Australian university or a degree in civil engineering, structural engineering, architecture, housing, construction, construction management, construction project management, construction economics, applied science (building) or quantity surveying from an Australian university. **OR** • **University degree:** A degree in building, construction, construction management, construction project

State/ Territory	Licence Name	When licence is required	Scope of work	Issuing of licence	Required qualifications and experience (natural person)
NSW (cont)					management, construction economics, applied science (building), or quantity surveying from an Australian university which requires the applicant to undertake the equivalent of four years' full-time study and a mandatory work placement. **OR** • **University degree plus Certificate IV:** The completion of a Bachelor of Housing from an Australian university or a degree in any of the following: Civil Engineering, Structural Engineering, Architecture, Housing, Construction, Construction Management, Construction Technology, Construction Project Management, Construction Economics, Applied Science (Building) or Quantity Surveying, from an Australian University, **and** • Completion of Certificate IV in Building and Construction: o CPC40110 / CPC40108 / BCG40106 / (Building); o CPC40208 / BCG40206 (Contract Administration); **or** o CPC40308 / BCG40306 (Estimating); **or** o CPC40508 / BCG40506 (Site Management) which must include specified units of competency. **AND** • Demonstrate at least 2 years' relevant industry experience in a wide range of building construction work, where the majority of that experience was obtained within 10 years of the date on which the application is made.
QLD	Builder – Open – Contractor Grade	Entitles the licence holder to carry out building work.	Includes building work on all classes of buildings, and preparation of plans and specifications that are for the licensee's personal use or for use in building work to be	Section 31 of the *Queensland Building and Construction Commission Act 1991* provides that a person is entitled to a contractor's licence if the Commission is, on application by that person, satisfied that the applicant (among other things) has the qualifications and experience	Any one of the following technical qualifications: 1. successful completion of Advanced Diploma of Building and Construction (Management) CPC60220; 2. successful completion of a course the Queensland Building and Construction Commission considers is at least equivalent to the course mentioned at (a) 3. a recognition certificate as a qualified builder to carry out the scope of work for the licence class;

State/ Territory	Licence Name	When licence is required	Scope of work	Issuing of licence	Required qualifications and experience (natural person)
QLD (cont)			performed by the licensee personally. Does not include a completed building inspection for the building or personally carrying out building work for which an occupational licence is required (unless the licensee holds the occupational licence).	required by regulation in relation to a licence of the relevant class. For s31(1)(b) of the Act, the classes of licence and licence requirements are prescribed in the *Queensland Building and Construction Commission Regulation 2018* (Schedule 2 and 3). The required technical qualifications are those stated in the technical qualifications document for the licence class.	4. a qualification or statement of attainment of required competency for the class of licence. The required experience is: • 4 years experience in either: ▪ the licence class scope of work ▪ other work QBCC is satisfied is at least equivalent to experience in the scope of work for the class, **or** • 2 years experience in the scope of work (or equivalent) for the class, if the applicant is qualified in one of the following: ▪ bricklaying and blocklaying ▪ carpentry.
ACT	Builders Licence Class A (Unlimited)	A licence is required to provide a building service (i.e., the doing or supervising of building work).	Building work other than specialist building work (Occupation class: Class A)	Licenses for a construction occupation or occupation class are issued under the *Construction Occupation (Licensing) Act 2004*. Section 19(3) of the Act provides that the registrar must refuse to issue a licence if they are not satisfied the applicant is eligible to be licensed in the class applied for. Regulation 13 of the *Construction Occupations (Licensing) Regulation 2004* provides that the Minister may declare the qualification requirements necessary for a person to be eligible to be licensed. An entity is eligible to be licensed if they have (among other things): • a qualification declared by the Minister (specified in the Construction Occupations (Licensing) (Qualifications) Declaration 2024), and • the skills and knowledge reasonably necessary to satisfactorily exercise the	• Holds a tertiary qualification in building that the Australian Qualifications Framework Advisory Board has determined is a bachelor degree, graduate certificate, graduate diploma, masters degree or doctoral degree in the Australian Qualifications Framework System. **and** • Has undertaken and documented not less than 2 years full time building work experience where 1 year full time building work experience was undertaken after the date the qualification was issued. **and** • Undertakes and passes an assessment set by the construction occupations registrar

State/ Territory	Licence Name	When licence is required	Scope of work	Issuing of licence	Required qualifications and experience (natural person)
ACT (cont)				functions of the construction occupation or class. The regulations further provide that the registrar may require an applicant to undertake a skills assessment to find out whether the applicant has the skills and knowledge reasonably necessary to satisfactorily exercise the functions of a construction occupation or class of occupation under the licence applied for.	
TAS	Builder – General construction - Open	A licence is required to undertake building work. Different approvals are required depending on the category of risk work that is relevant to the building work.	Building work or demolition work on all classes of buildings of unrestricted sizes	The *Occupational Licensing Act 2005* provides for the licensing of building services providers. The Occupational Licensing (Building Services Work) Determination establishes mandatory requirements for licensing of building services providers including categories, classes and scopes of work of licensed building services providers; and minimum qualifications, experience and competence of persons who may be granted a building services provider licence. The Determination provides that the Administrator has the discretion (if exceptional circumstances exist) to accept an application for a building services licence that does not meet the minimum qualifications and experience requirements specified if satisfied the applicant has a combination of relevant knowledge, experience or qualifications that is equivalent to the minimum requirements of the Determination for the licence category or class applied for.	• Building Degree, **or** • Advanced Diploma in Building and Construction (Building) **And** • 3 years in the scope of work for applicants with a building trade qualification (i.e., attainment of at least a Certificate III qualification in either: carpentry/joinery, bricklaying/block-laying, shop-fitting, concreting. If the qualification was achieved more than 3 years before an application for a licence, and the applicant does not have evidence of experience of that trade gained in the past 5 years, the Administrator may require an additional competency assessment.), **or** • 6 years in the scope of work for applicants who do not have a building trade qualification.
WA	Registered Building Practitioner	A building practitioner registration allows a person to be the	Building practitioner: To act as a nominated supervisor for a	**Registration of building service practitioners** Section 17 of the *Building Services (Registration) Act 2011* provides that the	**Building practitioner - Set 1** • CPC50220 Diploma of Building and Construction (Building), **or**

State/ Territory	Licence Name	When licence is required	Scope of work	Issuing of licence	Required qualifications and experience (natural person)

WA (cont)	Registered Building Contractor	nominated supervisor of a registered building contractor and to use the title 'registered building practitioner'. A practitioner may not provide building services directly to another person.
		
		Building contractor registration is for individuals, partnerships and companies that intend to trade as builders. This registration allows a business to provide services as a builder for work that requires a building permit, has a value of $20,000 or more and is located within the area of the Building Services Board's jurisdiction.
			registered building contractor to manage and supervise building services. Can manage and supervise the construction, erection, assembly and placement of a building, and the renovation, alteration, extension, improvement or repair of a building.
			
			Building contractor: Building work for which a building permit is required, with a value of $20,000 or more, and which is caried out in a defined area of WA (area of jurisdiction). Can carry out building work relating to the construction, erection, assembly or placement of a building; renovation, alteration, extension, improvement or repair of a building.
				Building Services Board must register an applicant as a building service practitioner in the class of building service practitioner applied for if it is satisfied that the applicant has (among other things) the qualifications and experience prescribed by the regulations for that class.
				
				The prescribed qualifications and experience for registration are specified in the *Building Services (Registration) Regulations 2011*.
				
				The Board can accept qualifications that are equivalent to the prescribed qualification. In assessing equivalency, the Board is guided by a policy.
				
				For the purpose of assessing a person's knowledge and skills in relation to building work the Board may conduct such examinations as the Board considers appropriate. Successful completion of the series of Board examinations enables a person to apply for building practitioner registration under Set 4 or Set 5. Examinations must be passed in sequence *before* applying for registration.
				
				Registration of building service contractors
				
				Section 18 of the *Building Services (Registration) Act 2011* provides that the Board must register an applicant as a building service contractor if satisfied (among other things) that the applicant has arrangements to ensure that building services to be carried out by the applicant will be managed and supervised in a proficient manner.
					• CPC50210 Diploma of Building and Construction (Building) that includes specific units of competency relating to building and construction, **or**
					• an equivalent qualification as determined by the Board, **and**
					• carrying out or supervising building work for periods totalling at least the equivalent of 7 years full-time.
					
					Building practitioner - Set 2
					• Qualifications acceptable for the following, evidenced by membership or registration:
					  • Membership as a Member (Level 1 or Level 2) of the Royal Australian Institute of Architects, **or**
					  • Registration under the *Architects Registration Act 2004*, **or**
					  • Membership as Professional Engineer (MIEAust or FIEAust) of the Institution of Engineers Australia), **or**
					  • Membership as Fellow or Member of the Australasian Institute of Mining and Metallurgy, **and**
					• Experience supervising building construction for periods totalling at least the equivalent of 5 years full-time
					
					Building practitioner - Set 3
					• Qualifications acceptable for membership as Fellow or Member of the Australian Institute of Building evidenced by such membership, and
					• Experience carrying out, supervising or managing building construction for periods totalling at least the equivalent of 5 years full-time.
					
					Building practitioner - Set 4
					• Nil qualifications specified in the Regulations, however, Board's website advises of requirement to undertake a formal assessment of experience, either by successfully completing Board examinations, or by having experience assessed by an RTO as sufficient to obtain the Diploma of Building and Construction (Building) through RPL (based on experience only), **and**

State/ Territory	Licence Name	When licence is required	Scope of work	Issuing of licence	Required qualifications and experience (natural person)
WA (cont)					• Experience in supervising or managing building construction: (a) for periods totalling at least the equivalent of 5 years full-time; and (b) sufficient to gain knowledge and skills equivalent to those possessed by a person who has successfully completed a qualification referred to in Set 1. **Building practitioner - Set 5** • As per qualificaitons for required for Set 4, **and** • Experience in carrying out building work in Western Australia but outside the Board's jurisdiction (a) for periods totalling at least the equivalent of 7 years full-time; and (b) sufficient to gain knowledge and skills equivalent to those possessed by a person who has successful completed a qualification referred to in Set 1.

SA	Building Work Contractors Licence – Residential Building Work	A building work contractors licence is required to carry on business in carrying out any type and part of building work for others.
		
		All building work must be supervised by a registered building work supervisor.
			Must ensure there is a registered building work supervisor approved by the Commissioner in relation to the contractor's business at all times during the currency of the licence, and that building work of any kind performed under the licence is properly supervised by a registered building work supervisor who is approved in relation to the contractor's business and whose registration authorises the supervision of	Section 9 of the *Building Work Contractors Act 1995* provides that a natural person is entitled to be granted a licence if the person has (among other things):
				
				• the qualifications and experience required by the regulation [*Building Work Contractors Regulations 2011*] for the kind of work authorised by the licence; or
				• subject to the regulations, qualifications and experience that the Commissioner considers appropriate having regard to the kind of work authorised by the licence.
				
				Regulation 7(2) of the *Building Work Contractors Regulations 2011* provides that to be entitled to be granted a building work contractors licence, a natural person must have the qualifications experience, or qualifications and experience such that the person meets the performance criteria set out in Schedule 2 Part 1 to the satisfaction of the Commissioner in relation to that kind of work. The
					• Successful completion of a Bachelor of Construction Management and Economics degree, **or**
					• Successful completion of Bachelor of Built Environment or Bachelor of Construction Management (Honours) issued by the University of South Australia, **or**
					• Successful completion of a business, economics or accounting related degree or diploma from Australia or New Zealand, which includes completed competencies demonstrating sufficient financial and legal knowledge and has successfully completed the following units of competency:
					  ○ CPCCBC4007 Plan building or construction work
					  ○ CPCCBC4004 Identify and produce estimated costs for building and construction projects.
					  ○ CPCCBC4003A Select and prepare a construction contract or CPCCBC4003 Select, prepare and administer a construction contract.
					  ○ CPCCBC4024 Resolve Business Disputes, **or**
					• Currently holds a building work contractor licence or plumbing, gas fitting or electrical contractor licence **and** has successfully completed the following units of competency: (as per previous point), **or**

State/ Territory	Licence Name	When licence is required	Scope of work	Issuing of licence	Required qualifications and experience (natural person)
SA (cont)			building work of that kind.	performance criteria relate to business management and building work management. To meet the business knowledge and experience requirements, the applicant must meet published criteria, which includes specified qualificaitons and units of competency that will demonstrate competence against the performance criteria. An applicant without the qualification but considers they have equivalent knowledge can have that assessed by contacting an RTO that delivers an approved qualification and seek RPL for that qualification. A person can apply for a contractor licence and supervisor registration in the one application.	• Successful completion of the following units of competency issued by a RTO: o BSBESB407 Manage finances for new business ventures; or BSBESB403 Plan finances for new business ventures; or BSBESB401 Research and develop business plans, **and** o CPCCBC4009 Apply legal requirements to building and construction projects; or BSBESB402 Establish legal and risk management requirements of new business ventures, **and** o CPCCBC4007 Plan building or construction work o CPCCBC4004 Identify and produce estimated costs for building and construction projects, **and** o CPCCBC4003A Select and prepare a construction contract or CPCCBC4003 Select, prepare and administer a construction contract, **and** o CPCCBC4024 Resolve Business Disputes.
	Building Work Supervisors Registration	To act as a building work supervisor.	Organise, supervise and control the work of buildings and ensure that all building work meets building standards. The scope of work will be restricted based on the applicant's qualifications and experience (e.g., to residential building work limited to NCC Class 1 and 10 buildings).	Section 16 of the *Building Work Contractors Act 1995* provides that a person is entitled to be registered if they have (among other things): • the qualifications and experience required by regulation for the kind of work authorised by the licence; or • subject to the regulations, qualifications and experience that the Commissioner considers appropriate having regard to the kind of work authorised by the licence. Regulation 11(2) of the *Building Work Contractors Regulations 2011* provides that to be entitled to be granted registration as a building work supervisor, a natural person must have qualifications and experience, or qualifications and experience such that the person meets the performance criteria set out in Schedule 2 Part 2 to the satisfaction of	**With a condition limiting the registration to residential building work limited to NCC Class 1 and 10 buildings:** **Pathway 1** • Completion of an Australian-based trade apprenticeship (i.e., Carpentry & Joinery, Bricklaying, **and** • Holds a CPC40120 Certificate IV in Building and Construction or related higher-level qualification, **and** • Completion of all of the following units of competency: o CPCCBC5003 Supervise the planning of on-site building and construction work o CPCCBC5010 Manage construction work o CPCCBC6001 Apply building codes and standards to the construction process for large building projects o CPCCBC6014 Apply structural principles to the construction of large, high-rise and complex buildings, **and** • Minimum of 3 years' experience and 5 completed projects relevant to the scope of work.

State/ Territory	Licence Name	When licence is required	Scope of work	Issuing of licence	Required qualifications and experience (natural person)
SA (cont)				the Commissioner in relation to that kind of work. The performance criteria relate to building work management in relation to applying the principles of building work management in relation to the supervision of a building site, applying the principles of building technology to on-site building work, and legislative requirements in respect of on-site building work. The specific qualifications and experience required for registration is specified in the published *Building Work Supervisor Standard Registration Conditions* document. To determine competency an applicant may be required to attend an interview.	**Pathway 2** • Completion of an Australian-based trade apprenticeship (i.e., Carpentry & Joinery, Bricklaying, **and** • Minimum of 4 years' experience and 5 completed projects relevant to the scope of work. **Pathway 3** • Holds a CPC40120 Certificate IV in Building and Construction or related higher-level qualification (without a trade qualification), **and** • Minimum of 5 years' experience and 5 completed projects relevant to the scope of work. **Pathway 4** • Minimum of 6 years' experience and 5 completed projects relevant to the scope of work. **Pathway 5** • Held an equivalent registration within 12 months prior to the current application for registration.
NT	Building Contractor Residential - Unrestricted	Required for the construction of a residential building. A natural person or corporation can apply for the registration.	A building contractor residential (unrestricted) may, subject to any conditions imposed on the building contractor's registration, commence, carry out or supervise building work that is work for or in connection with the construction of any of the following: Class 1a detached house, a Class 1a attached dwelling or Class 2 building of any height, a	Section 24B of the *Building Act 1993* provides that after receiving an application by an individual, the Practitioners' Board must register the individual in the category applied for if satisfied they (among other things) has the relevant qualifications and experience (if any) determined by the Minister under s24G(a). The qualifications, experience and insurance requirements for registration in each category are listed in the Ministerial Determination No. S57 PDF (274.5 KB) gazetted on 5 September 2025.	• A Certificate IV I Building and Construction (Building) CPC40120 with the successful completion of the specified core units, each of the specified 6 building elective units, and any 2 of the specified general elective units, **or** • The successful completion of a course, or units of a course, that, in the opinion of the Building Practitioners Board, is at least equivalent to the qualifications in the previous point **and** • At least 3 years post-graduate practical experience, gained within 10 years before applying for registration, at least one year of which has been gained in the NT, in carrying out building work specified in regulation 41C of the *Building Regulations 1993*, **or** • Practical experience that, in the opinion of the Building Practitioners Board, is equivalent to the experience above, at least one year of which has been gained in the NT.

State/ Territory	Licence Name	When licence is required	Scope of work	Issuing of licence	Required qualifications and experience (natural person)
NT (cont)			Class 10 building attached to a Class 1a or Class 2 if it is constructed at the same time		If at the time of making the application for registration an applicant is registered as a building contractor residential (restricted), the qualifications and experience required are: • The qualifications and experience required for registration as a building contractor residential (restricted); **or** • The following: o The qualifications, if any, that were required for registration in that category when the applicant was first registered in that category, **and** o Substantial involvement in, and responsibility for, the design and construction of at least one building, under the supervision of a registered building contractor residential (unrestricted): • That involved carrying out building work specified in r41C of the Regulations; and • For which an occupancy certificate has been granted, and • In circumstances where no more than one other person had an equal or greater level of personal involvement in, and responsibility for, the design and construction of the building; **and** o Experience that demonstrates a comprehensive working knowledge and understanding of the regulatory and technical issues associated with the construction of buildings of more than 2 storeys, including the relevant requirements of the Building Code.

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