

"I just want to be paid" - security of payment in the Australian construction industry

18 March 2016

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In December 2015, the Department of Housing and Public Works Queensland released a discussion paper seeking feedback on the issue of security of payment in the building and construction industry. The paper seeks feedback from the widest possible cross section of the building and construction industry on the following identified issues:

- Insolvency in the contractual chain which leaves subcontractors unpaid for work already completed
- Retention money being used as cash flow by contractors instead of being kept aside for defects or security for performance
- Protracted and unjustified delays in payment for work done
- A lack of financial management skills in the industry

Coincidentally, in December 2015, the Senate Economics References Committee released its report on insolvency in the Australian construction industry titled "[I just want to be paid](#)".

This report makes 44 recommendations aimed at dealing with the challenges of insolvency in the construction industry.

As the report points out, businesses operating in the Australian building and construction industry face an unacceptable higher risk than any other standalone industry of either entering insolvency themselves or becoming the victim of insolvency somewhere in their contractual relationship. The report points out that over the past decade the building and construction industry has accounted for between 8% and 10% of annual GDP but over the same period, the construction industry has accounted for between one fifth and one quarter of all insolvencies in Australia.

It is impossible to forecast what the final outcome of the Senate enquiry or the Queensland process will be. Unfortunately, this is not the first time that governments have sought to address the issue. The fact that the current inquiries are necessary perhaps indicates the limited success of such previous inquiries. What is probable is that unless radical and alternative options are considered and implemented, the problem will continue to exist.

However, those involved in the building and construction industry should be encouraged by the actions taken by the Senate and the Queensland Government. There is clear recognition that there is a problem.

For more information or discussion, please contact HopgoodGanim Lawyers' [Construction](#) team.

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