ProjectPay

Global Economic Impact Report

Australia • September 2024

Construction Payments

Addressing payment challenges of builder collapse and slow payments with fintech solutions for the construction industry.

Contents

Executive Summary

Australia's construction industry, a vital sector contributing 7.1% to the national GDP and employing over 1.3 million people, is grappling with significant challenges. In recent years, government stimulus packages aimed at boosting economic activity have had a number of consequences, fuelling inflationary pressures and destabilising the industry.

Following the Global Financial Crisis, the "Building the Education Revolution" program injected billions into the construction of school infrastructure, stimulating demand but also increasing costs for private sector projects. The COVID-19 pandemic stimulus also exacerbated these issues, with schemes like HomeBuilder nationally and the Building Bonus grants in Western Australia further driving up demand and pricing.

These measures, combined with global supply chain disruptions, led to sharp increases in material prices and labour costs. Many construction firms, particularly those with fixed-price contracts, found themselves in financially precarious positions, resulting in widespread project incompletions. Some projects funded by tax-payer grants have waited more than four years for completion. This has also contributed to record rates of building business collapses further exacerbating the skills shortage crisis in the sector.

Australian Securities & Investment Commission (ASIC) data reveals a sharp rise in construction insolvencies, peaking at 2,975 in 2023/24, up from a pre-COVID average of 1,570 annually. The sector now accounts for 26.9% of all insolvencies in Australia, outstripping all other industries. Australia has experienced the biggest increase in construction insolvencies worldwide with losses to Australian homeowners, small business subcontractors and Australian taxpayers estimated to be over $20 billion so far this year. These figures make it clear that measures to protect payments from building business collapses are of paramount importance to the viability of the sector and the Australian economy which will also help to solve the sector's cash flow and slow payments issues.

In contrast, the United States of America (USA) has long-established protective measures, particularly construction trust fund statutes. These require contractors to hold payments received from property owners in an 'implied' trust for subcontractors and suppliers, preventing fund diversion and losses from the insolvency administration process, and protecting vulnerable parties. United States trust funds are generally protected in insolvency administration and bankruptcy proceedings, ensuring subcontractors can still receive payment even if the contractor files for voluntary administration or bankruptcy, meaning projects can finish to completion without losses even if the builder collapses. This system has resulted in significantly lower insolvency rates and builder collapses in the USA, compared to Australia.

Despite promises to introduce similar statutory trust laws over the past decade, Australia has yet to implement comparable national protections as outlined and recommended in the Commonwealth government's own Murray Review. State governments have been using Project Bank Accounts to provide some protections for themselves but have left the private sector and consumers unprotected and exposed to the financial losses of building business collapses.

As the dire impacts of builder collapses are felt in Australia, there is an urgent need for an industry-supported approach combining the promised regulatory reform of statutory trusts, technological innovation, along with financial solutions. This approach is crucial to addressing industry cash flow challenges and fostering a more resilient and equitable construction industry. To ensure that builders and their subcontractors can succeed.

The industry is in agreement that 'ring-fencing' project funds is not the solution, as this makes worse the working capital shortfalls for the sector, with the builders lobby complaining that builders and subcontractors should not be expected to bankroll projects which makes operating a viable business challenging.

However it is agreed that huge rates of criminality in the sector do need to be addressed by statutory trusts to stop the high rates of builder collapses, with homeowners funds and payments to subcontractors disappearing. With statutory trusts making owners of building companies personally liable for these funds if it is shown they have misdirected the use of funds for their own personal enrichment instead of paying subcontractors.

This lack of safeguards has led to a power imbalance disadvantaging subcontractors, who often face payment delays of up to 120 days or don't get paid at all if the builder collapses and exposes homeowners to financial losses.

The construction industry operates on a "Buy Now, Pay Later" (BNPL) model, but without the safeguards present in retail BNPL systems. Subcontractors and builders often finance projects upfront, waiting extended periods for payment. Subcontractors are extending interest-free credit on projects without having any opportunity to ensure the property owner will pay and due to the contractual relationship being between the owner and the builder, which does not include the subcontractor they have limited ability to enforce their right to be paid by owners. This leaves them suffering the cost of slow payments should the builder choose to not pass on timely payments to them (once owners have paid them) and vulnerable to financial losses due to builder insolvencies.. Many resort to high-interest credit options or loans backed by personal assets, such as the family home to manage cash flow, creating an unsustainable financial burden and debt trap which undermines the very viability of their businesses.

In this context, innovative fintech solutions like ProjectPay are emerging to address the sector's pressing structural and cashflow issues. ProjectPay's closed-loop, business-to-business payment system enables immediate payment to contractors, mitigating risks associated with builder collapses and payment delays. By potentially saving subcontractors and builders over $1 billion in interest payments and contributing an estimated $5.6 billion to Australia's GDP, such solutions demonstrate the transformative potential of combining technology with financial innovation to tackle the industry's longstanding cashflow problems by helping them succeed rather than burdensome legislation or requirements that further weaken the viability of the sector.

The construction sector plays a crucial role in Australia's economy contributing

7.1% to our national GDP.

It employs a diverse workforce of

over **1.3** million across **445,000** businesses.

Key Findings

Government Stimulus Impact: Government stimulus packages, while intended to boost economic activity, inadvertently contributed to inflationary pressures and industry instability in Australia's construction sector.

Rising Insolvencies: Construction insolvencies in Australia have sharply increased, peaking at 2,975 in 2023/24, up from a pre-COVID average of 1,570 annually. The sector now accounts for 26.9% of all insolvencies in Australia.

United States Trust Fund Statutes: The United States has long-established protective measures, particularly construction trust fund statutes, which have resulted in significantly lower insolvency rates compared to Australia.

Lack of National Protections: Despite promises, Australia has yet to implement comprehensive national-level protections similar to the United States trust fund statutes, leaving the private sector and consumers vulnerable to financial losses.

Payment Delays: Subcontractors in Australia often face payment delays of up to 120 days, forcing many to rely on high-interest credit options and putting their personal assets, such as the family home, at risk.

Technology Adoption: The construction industry is gradually embracing technological solutions, which have the potential to streamline processes and improve payment efficiency. However, there is yet to be a cash flow solution that solves the working capital challenges for all stakeholders in the industry, while removing the risk that funds can be lost to builder collapse.

Holistic Industry Supported Approach Needed: Addressing the industry's challenges requires a combination of technological innovation, regulatory reform, and financial solutions to properly address the sectors payment challenges.

ProjectPay as a Solution: ProjectPay offers an innovative approach to mitigate risks associated with builder collapses and payment delays, saving billions in interest payments for contractors and contributing significantly to Australia's GDP and job market. It solves the sector's cash flow challenges and ensures all parties are protected from financial losses in the absence of the required laws in Australia.

These findings highlight both the challenges facing the construction industry and the potential solutions, emphasising the need for both regulatory and technological interventions to create a more stable and efficient sector.

Australia’s Construction Industry

Construction Industry Overview

The construction sector plays a crucial role in Australia’s economy contributing 7.1% to our national GDP. It employs a diverse workforce of over 1.3 million across 445,000 businesses, ranging from large, complex building companies to small businesses, allied fields and subcontractors. This spectrum of enterprises supports ongoing construction investments in both public and private sectors. Importantly, all entities, regardless of size, must adhere to strict building safety standards and regulations.

Challenges to the Industry

In recent years, the Australian construction industry has encountered significant challenges, largely stemming from economic interventions in response to global events. The aftermath of the Global Financial Crisis saw the implementation of the “Building the Education Revolution” program, a government initiative that injected billions into the construction of school infrastructure. While this stimulated demand across the building sector, it simultaneously increased cost pressures on private sector projects and resulted in high rates of builder collapse, with state governments compensating subcontractors for some of their losses and as a result implementing the use of Project Bank Accounts on state government projects to protect governments from future losses.

Contributing factors

Despite industry warnings and the findings of their own Murray Review in 2018, the Morrison government in response to the COVID-19 pandemic further compounded the challenges already faced by the industry and announced HomeBuilder stimulus grants nationally. Western Australia’s McGowan government also, despite their own Fiocco Review and having promised and then taken out statutory trusts from their new Security of Payments legislation announced the Building Bonus stimulus. While intended to support the industry, as predicted and warned by industry stakeholders drove up demand and pricing to unsustainable levels.

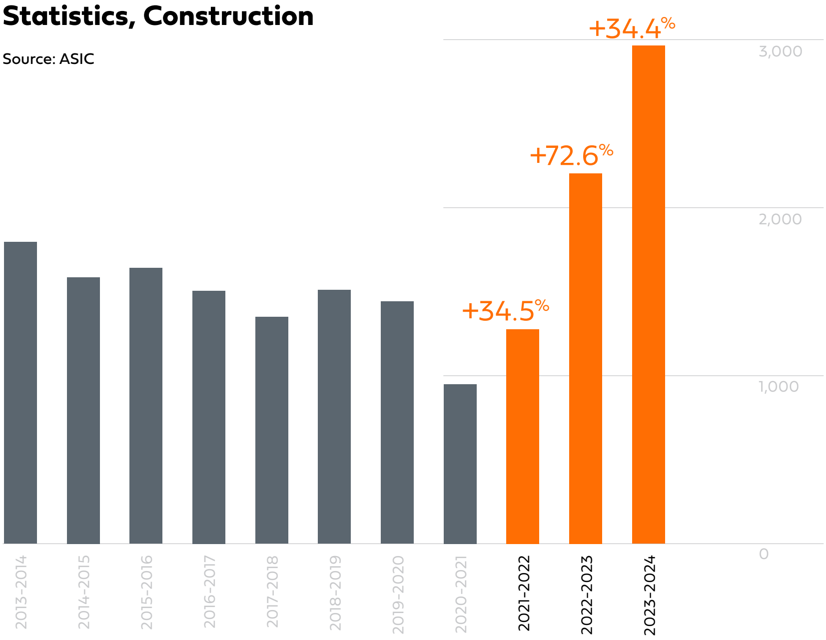
The cumulative effect of these factors led to widespread project incompletions as costs soared, rendering many ventures and fixed price contracts economically unfeasible. The volatile combination of government stimulus packages, fluctuating material costs, and a persistent skills shortage culminated in the collapse of numerous construction businesses across Australia. This series of events has highlighted the industry’s vulnerability to external shocks and the need for more robust safeguards, consumer protections and sustainable practices to ensure its long-term stability and growth.

ASIC data reveals the severe impact of recent challenges on the construction industry. Insolvencies have risen sharply for three consecutive financial years, peaking at 2,975 in 2023/24, up from a pre-COVID average of 1,570 annually. The construction sector makes up 26.9% of all insolvencies recorded in Australia during this period, these results outstripping all other industries.

In Australia, the absence of laws requiring builders to use homeowners’ money solely for project expenses and subcontractor payments has created a significant vulnerability in the

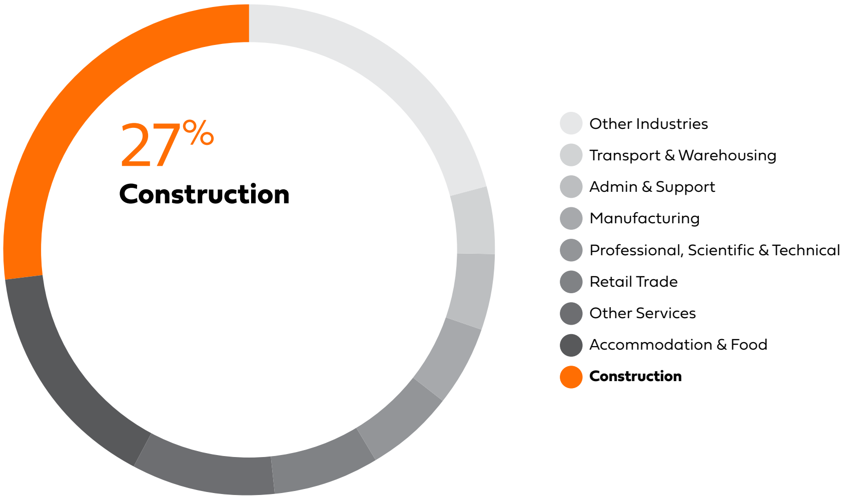
Australia’s Insolvency Statistics, Construction

Source: ASIC



Australia's Insolvency Statistics by industry, 2023/24

Source: ASIC



construction industry. This legal gap allows builders to spend funds freely, potentially leading to insolvency without accountability, resulting in financial losses for homeowners, subcontractors, and taxpayers. While the U.S. has long-established statutory trusts that prevent such misuse of funds and provide criminal penalties for violations, Australian governments have been slow to implement similar protections despite numerous reports recommending their adoption. The contrast is stark: Australian government projects often use Project Bank Accounts for protection, yet private homeowners remain exposed.

Australia has experienced significant population growth over the past three years, which, combined with high rates of builder collapse has had a domino effect with a large number of subcontractors also going out of business. This instability has led to a widespread housing shortage across all states, with the Australian construction workforce substantially reduced as a result.

The nation now faces an urgent need to address this shortfall to ensure that the builders and subcontractors remaining and any new entrants can succeed, with projections indicating a requirement for 1.2 million new homes to be built within the next five years. However, the construction sector's overall activity across Australia continues to be hampered. Small businesses and subcontractors offering specialised skills face ongoing viability challenges as they grapple slow payments with rising operational costs. Adding to this is the high risk they won't be paid as an increasing number of builders collapse, threatening the longevity of many enterprises in the industry.

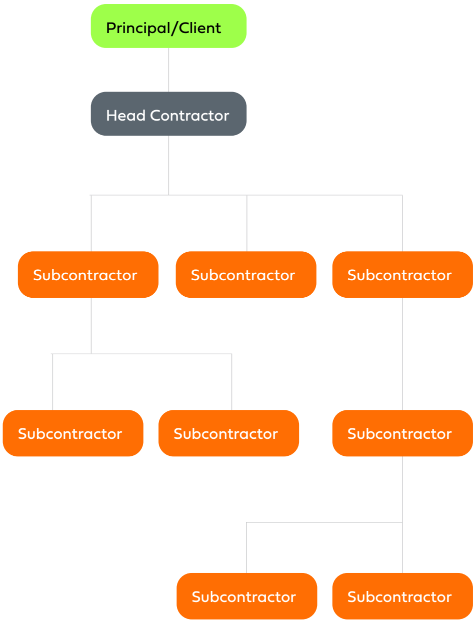
The subcontractor burden

A significant burden and losses fall on subcontractors, who are often required to finance project delivery upfront, including materials and labour costs, while enduring payment delays of up to 120 days upon project completion. This payment structure forces many smaller businesses to rely heavily on lines of credit, loans, and credit cards, often secured against personal assets like family homes, to maintain operations. This financial pressure places immense strain on business owners and their livelihoods, highlighting the stark imbalance between subcontractors and head contractors or builders.

The industry power imbalance

The very structure of the construction industry perpetuates a power imbalance that disadvantages subcontractors. They are typically compelled to conform to whatever contractual terms the head contractor has agreed upon with the client. Consequently, if a head contractor accepts onerous provisions in a client contract, they often seek to transfer the associated risks to their subcontractors. Likewise, the risk of slow payments is passed onto subcontractors who are expected to carry the cost of delivering on projects and hope that builders will pass on timely payments to them. There is currently no law that compels builders to use the money they have been paid by property owners, intended to pay the subcontractors on their projects, Bad actor builders can instead use this money for their own personal enrichment without consequence instead of paying subcontractors. This systemic issue and criminality further exacerbate the challenges faced by smaller players in the construction sector, creating a cycle of financial vulnerability and operational instability.

Various Australian states have taken steps that attempt to address these pressures however they have failed



to address the financial losses as a result of builder collapses. With over a decade of government commissioned reports recommending following the USA and implementing statutory trusts to remove this element of criminality in the sector.

ASIC data shows New South Wales leads in construction insolvencies, with its share growing as other markets see compression. This trend underscores the need for targeted interventions to support the industry's stability and growth.

Looking to Australian states and territories

As construction industry insolvencies continue to plague Australia, New South Wales emerges as a focal point, accounting for nearly half of all such cases nationwide. Victoria has seen a slight decrease in its share of insolvencies, however, the absolute number of builders facing financial collapse has still increased currently representing 947 indicating persistent challenges in the industry.

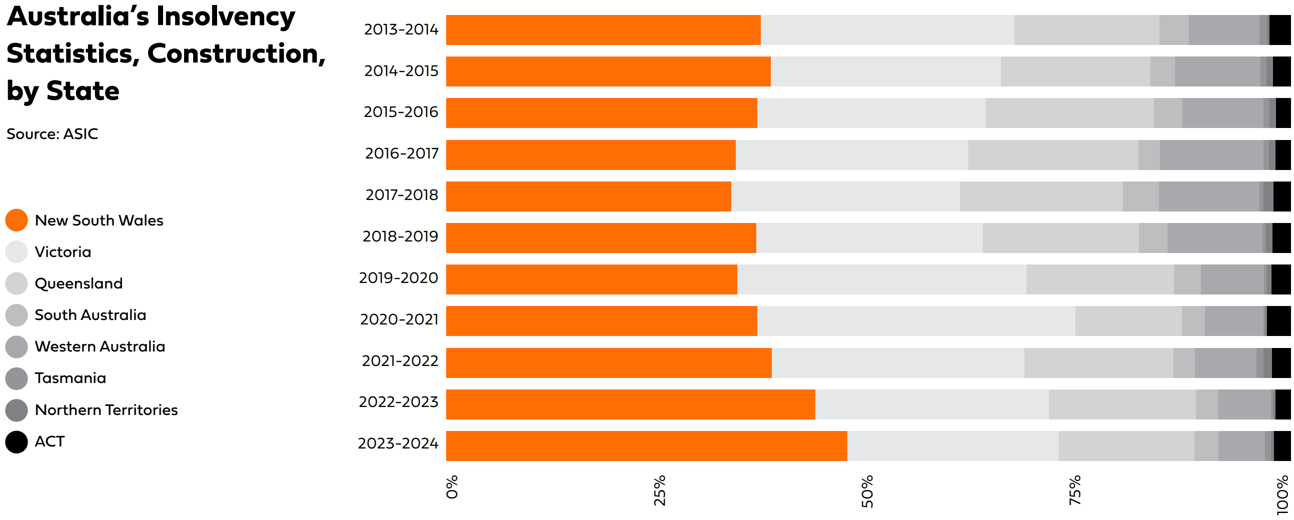
The gravity of the situation prompted a Victorian Parliamentary inquiry into payment refusal for completed works by employers and contractors - this was entitled Inquiry into Employers and contractors who refuse to pay their subcontractors for completed works. This investigation highlighted the longstanding issue of inequitable payment practices in the construction sector. The inquiry's findings emphasised that payment problems can have far-reaching consequences, including business closures, compromised build quality, and negative impacts on the state's broader economy.

The problem is not confined to the eastern states. Western Australia has witnessed a tripling of construction insolvencies since 2020/21 to 208, while Queensland, despite a reduction in its share of insolvencies, has witnessed a prolonged upward trend in the number of affected businesses (607 in 2023/24). In response to these challenges, Queensland implemented the Building Industry Fairness (Security of Payment) Act 2017 while intended to improve payment practices, it disadvantages subcontractors and builders in several ways. Notably by complicating rather than simplifying the payment process for subcontractors and builders and potentially causing confusion and payment delays. The Act makes the working capital challenges for builders and subcontractors worse by its complexity and requiring funds to be ring-fenced, without addressing the cash flow challenges for the sector, as a result it is not supported by the industry. It also fails to sufficiently address the power imbalance with principal contractors or provide strong deterrents against late payments.

For Western Australia, the surge in builder insolvencies has largely been attributed to the combined effect of the state government's Building Bonus grants and the federal government's HomeBuilder grants. The additional Building Bonus grant funding provided by the WA government contributed to the biggest building cost increase of 18.9 per cent compared to any other state. Despite the McGowan government's initial commitment to implement

Australia's Insolvency Statistics, Construction, by State

Source: ASIC



statutory trusts as recommended by the John Fiocco review in 2018 to protect against financial losses from builder collapses, these protections were unexpectedly removed from the new Security of Payments legislation enacted in 2021 without industry consultation. This decision, coupled with the introduction of building bonus grants, has led to a crisis where thousands of homes remain incomplete, with some homeowners waiting over four years for completion.

The situation has been exacerbated by cases of alleged misuse of funds, such as the Niche Living controversy, where the WA building company received an estimated $12 million in government funds but failed to complete 250 homes, while its director reportedly built a multi-million dollar personal residence. WA Homeowners who have suffered significant hardship and financial losses have commenced a class action against large builder, BGC which is owned by one of WA's wealthiest families, which benefited from an estimated $22.5m in grants paid, but are yet to deliver these homes. Attempts to address the crisis, including the recent offer of interest-free loans to builders from the WA government, have largely been unsuccessful. This has prompted calls for urgent reform to address the power imbalance in the sector and provide better financial protections for homeowners and trade subcontractors. Industry experts argue that implementing statutory trusts or utilising platforms like ProjectPay could provide the necessary financial safeguards and improve cash flow in the absence of effective government action, echoing successful measures taken in other countries to protect the construction supply chain and ensure project completion.

The Commonwealth Government's 2018 Murray Review aimed to establish best practices and promote consistency in Security of Payment legislation across Australia. Drawing inspiration from the United States, the review recommended implementing statutory trusts to mitigate the significant financial losses associated with builder collapses and enhance consumer protections. Despite widespread industry support for a harmonised approach across all states, and an industry supported solution such as statutory trusts that do not require funds to be ring-fenced, the implementation of national regulations and consumer protections against builder collapse remains in limbo. This delay perpetuates a climate of uncertainty, distrust and vulnerability within the construction sector, as stakeholders await much-needed and promised reforms to address long-standing issues of financial security, consumer protections and fair payment practices.

Building insolvency in the United Kingdom

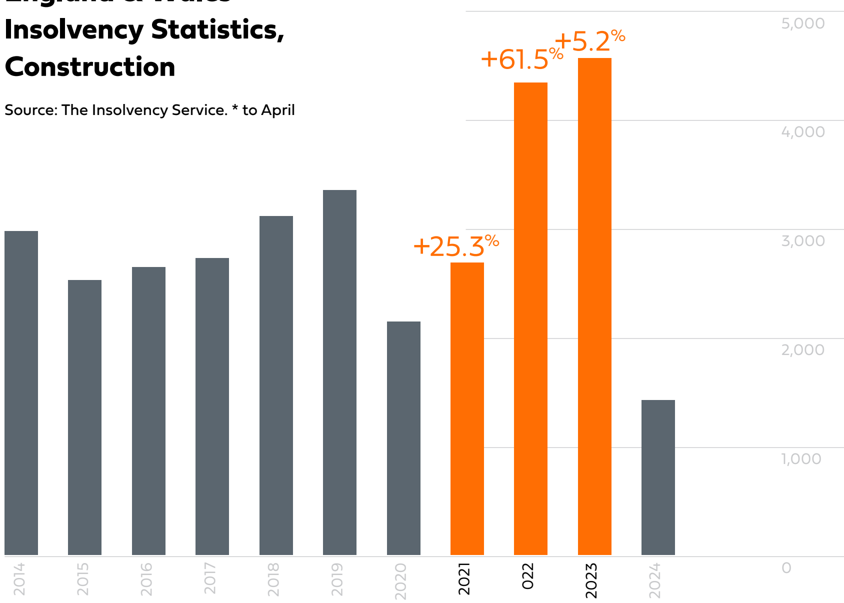
The construction sectors in both the United Kingdom and Australia are grappling with similar challenges, particularly regarding insolvencies. As the post-pandemic era unfolds, a complex set of circumstances has emerged, creating a challenging environment for construction companies. This includes the repayment of pandemic-era loans and government support schemes, coupled with persistent economic pressures and the lifting of protective measures such as the ban on winding-up orders.

A recurring issue in both countries' construction sectors revolves around payment practices. With work required to be completed upfront and payments being made in arrears, this creates ongoing cash flow problems for many construction firms. Late invoice payments and bad debts are commonplace, serving as primary catalysts for insolvencies within the industry. The financial strain is further exacerbated by mismanagement and misappropriation of payments and by debt repayments and tax arrears, pushing some companies to the brink of collapse.

While fixed-price contracts emerged as a significant challenge in both the United Kingdom and Australia, these were made worse in Australia due to symptomatic inflationary pressures of the Australian government stimulus growing construction demand. Many construction project costs were agreed upon before the pandemic and changing market fundamentals. Consequently, these contracts fail to account for the record-high inflation rates now experienced in both countries. This discrepancy is severely impacting profit margins, echoing a sentiment shared across the construction landscapes of both nations. The UK construction sector is recovering much faster than Australia due to not having suffered the negative impact of government grants as the Australian sector has.

England & Wales Insolvency Statistics, Construction

Source: The Insolvency Service. * to April



The construction industry in England and Wales has experienced a significant surge in insolvencies over the past few years. In 2022, there was a dramatic 61.5% increase in construction business failures compared to 2021. This upward trend continued into 2023, with a staggering 4,384 construction companies ceasing operations. The first four months of 2024 indicate a continuation of this troubling pattern, with an average of 442 business insolvencies per month, suggesting that the annual total may match the high levels seen in 2023.

Instead of stimulus grants like in Australia, the previous UK government has invested in innovation grants to address the sector's payment challenges of slow payments, cashflow issues and high rates of builder collapse.

The UK government, like its US counterpart, has recognised the critical need to improve access to funding for small business contractors in the construction sector. This acknowledgment comes in response to rising construction insolvencies and the challenges faced by smaller operators in securing reliable cash flow or accessing appropriate finance options. To address these issues, the government has been providing grants to innovative digital solutions like ProjectPay, which aim to solve the sector's funding and cash flow challenges while simultaneously mitigating the payment default risks associated with builder collapses. This approach ensures that funding does not trap subcontractors in a cycle of debt, particularly in cases where they might otherwise be left unpaid due to builder insolvencies, yet are still required to pay back loans or finance taken out.

In recent years, the UK government has shown a preference for supporting innovative startups through its Innovate UK arm rather than resorting to legislative intervention. While Project Bank Accounts (PBAs) were previously mandated for public entity projects, their effectiveness in protecting and expediting payments to lower-tier contractors has been questionable. The complexity of PBAs and the construction sector's aversion to ring-fencing head contractor payments have led to a decline in their use. Recognising these shortcomings, the government has begun investing in technology solutions like ProjectPay to replace the outdated PBA system. This shift, coupled with the new procurement bill requiring 30-day payment terms throughout the supply chain, demonstrates the government's commitment to improving payment practices and accountability in the construction industry. As the new government focuses on delivering housing and infrastructure projects, it is anticipated that stronger interventions may be implemented to protect worker payments throughout the supply chain, aiming to drive economic growth without replicating the negative impacts seen by Australia's construction stimulus programs.

Lessons learnt from The United States

The USA has long recognised the devastating impact of builder insolvencies on subcontractors and homeowners. To address this issue, they implemented construction trust statutes, which mandate that payments made to builders are held in 'implied' trust specifically for subcontractors and suppliers. These laws hold company directors personally liable for subcontractor debts if funds are misused and impose criminal penalties for fraud and theft. Crucially, in the event of a business collapse, these trust funds are protected from the insolvency process, safeguarding the interests of homeowners and subcontractors.

US State governments provide compensation funds to homeowners who have suffered financial losses due to builders who have stolen their payments instead of paying their subcontractors if funds cannot be recovered under trust statute laws. If Australian state governments were to compensate Australian homeowners, it would likely run into the billions in compensation due to not having the protections of statutory trusts.

Although trust statutes have substantially reduced builder insolvencies and protects homeowners and subcontractors from financial losses, cash flow remains a challenge with slow payments still a problem in the American sector.

ProjectPay having already developed technology to simplify and streamline the payment processes in Australia and the UK, is removing any need for complex and despised sector payment enforcement mechanisms in the USA such as mechanics liens. By ensuring subcontractors are paid before owners are required to pay, it eliminates the need for lien waivers and removes any need for the complex and time-consuming paperwork that delays payments for owners, their lenders, builders and subcontractors. This approach also protects general contractors and owners from double liability. Consequently, builder insolvency rates in the USA are significantly lower than in Australia.

US governments now recognising that the working capital and cashflow issues caused by slow payments still needs to be addressed are supporting with grants and working capital solutions targeted at small businesses

Recognising the crucial role of small businesses in delivering housing and infrastructure, the United States government has taken additional steps to address cashflow issues. The $27 billion Greenhouse Gas Reduction Fund (GGRF) aims to mobilise capital for green infrastructure and housing projects. A significant portion of these funds is dedicated to supporting small construction businesses, acknowledging that lack of capital is the primary constraint in building green infrastructure.

ProjectPay is collaborating with various organisations and government entities to facilitate faster distribution of these funds to small business contractors. This approach not only helps capitalise these businesses but also insulates them from slow payments from owners or builders, enabling them to focus on delivering necessary construction projects. By addressing both the trust fund issue and providing direct financial support, the United States is creating a more stable and efficient construction industry, offering valuable lessons for countries like Australia grappling with similar challenges.

United States regulations

In the USA, the construction industry has implemented a comprehensive framework of legal protections and financial safeguards to address the persistent challenges of payment delays and insolvencies. At the forefront of these measures are construction trust fund statutes, which have become a cornerstone in ensuring fair payment practices within the sector.

These trust fund statutes, require contractors to hold payments received from property owners in 'implied' trust for the benefit of subcontractors and suppliers who have contributed labour or materials to a project. There is no requirement for funds to be ring-fenced. The primary aim is to prevent the diversion of these funds for purposes other than paying for the work completed by making directors of building companies personally liable for these funds should they misuse them. While the specifics of these statutes differ across jurisdictions, their overarching goal remains consistent: to protect the financial interests of subcontractors and suppliers who are often the most vulnerable parties in the construction payment chain.

A crucial aspect of these trust fund statutes is their interaction with insolvency and bankruptcy proceedings. Generally, funds held in trust are protected from becoming part of a contractor's insolvency process or bankruptcy estate, ensuring that subcontractors can still receive payment even if the contractor files for insolvency or bankruptcy.

While offering substantial protection, these statutes also impose significant responsibilities on contractors. Compliance is paramount, as mismanagement of trust funds can lead to personal liability for contractors and is considered a felony in some states. This dual nature of protection and accountability contributes to maintaining a balanced and fair payment ecosystem within the construction industry.

The 2023 National Subcontractor Market Report, conducted by Billd, reveals significant challenges and opportunities facing subcontractors in the United States construction industry. The survey of nearly 900 subcontractors highlights the economic realities and industry trends impacting business growth, profit margins, and relationship dynamics.

Key Findings:

1. Financial Burden:

Subcontractors bore an extra **$97 billion**

in materials and labour costs than expected in 2022, **effectively financing the $1.8 trillion construction industry**.

2. Revenue Growth vs. Profitability:

While **61% of businesses experienced revenue growth**,

57% reported a decline in profitability.

This discrepancy is largely due to rising input costs outpacing bid prices.

3. Material and Labour Costs:

material costs increased by **26%** and labour costs by **15%**

On average, in 2022.

These increases significantly impacted subcontractors' profit margins.

4. Payment Cycles:

Subcontractors face an

average wait time of **74** days to receive payment

after starting work, with some waiting up to 120 days. This delay puts considerable strain on cash flow.

5. Supplier Relationships:

53% respondents reported material price volatility

negatively impact their relationships with suppliers. 32% had their supplier terms reduced in 2022.

6. Financing Challenges:

Nearly a quarter

of subcontractors continue to face obstacles in securing financing for their businesses.

A federal framework regulation Prompt Payment for Construction Contracts, 2017 emphasizes the importance of timely payments to subcontractors according to their contract terms. While not directly regulating payment timing, this regulation, along with others by its state counterparts, creates an environment that encourages prompt payment practices.

Collectively, these legal mechanisms and regulations are an attempt at creating a robust system designed to protect the financial interests of all parties involved in construction projects, particularly homeowners, subcontractors and suppliers. However a digital solution that supports the sector is still required. One that provides easy compliance, reduces complexity and gives small businesses access to low cost affordable working capital to be able to deliver on projects without getting into a debt trap.

This framework has achieved its aim to mitigate the risks associated with the misappropriation of project funds by builders for their personal enrichment resulting in much lower contractor insolvencies, fostering a more stable and equitable construction industry ecosystem that understands robbing Peter to pay Paul only ever ends up in business failure and can result in criminal penalties.

How does this relate to Australia?

The construction industry in Australia and the USA face similar challenges, including labour shortages, problematic payment practices and fluctuating material costs. Both countries' sectors heavily depend on subcontractors to essentially finance projects, forcing these smaller entities to shoulder the burden of extended payment cycles while covering upfront expenses for materials and labour. This practice places significant strain on small businesses and Australian government stimulus grants have contributed to the recent spike in construction insolvencies and financial losses to homeowners, subcontractors and Australian taxpayers.

However, the two countries differ significantly in their approach to protecting industry stakeholders. The USA has had trust statutes in place since the 1900s, which provide crucial protections for both homeowners and subcontractors against financial losses resulting from builder collapses. Additionally, many state governments maintain recovery trusts to compensate homeowners in cases where builders have fraudulently misappropriated payments and funds cannot be recovered through other means.

The USA system also offers stronger support for subcontractors regarding timely payments and fund recovery, including mechanisms such as property liens, which have been called unconstitutional in the unfair risk burden they place on homeowners, with subcontractors able to register a security interest over a homeowner's property without being required to first prove the validity of the debt. This differs from those available in Australia but there are some similarities to the requirements for payment schedules to be issued in response to a payment claim - this is considered a fairer mechanism for enforcement of outstanding debts, but also serves to speed up payment approvals under the security of payments acts.

However as a result of statutory trusts, insolvency issues in the USA construction industry are less pronounced and subcontractors, plus homeowners are protected from financial losses, unlike in Australia, although in the USA cash flow and slow payments remain a significant issue for subcontractors.

In contrast, Australia has yet to implement comparable protections. Despite the Albanese government's election promise to introduce statutory trust laws similar to those in the USA, progress has been limited. The implementation of project bank accounts for government projects only affords protections for top-tier contractors with lower-level subcontractors still exposed to the risks of payment default due to businesses above failing and slow payments, as shown by the actions taken by the former UK government. However, this still leaves the private sector and consumers unprotected. Consequently, Australia continues to witness an escalation in builder collapses, highlighting the urgent need for comprehensive reform to stabilise the industry and protect all stakeholders involved in construction projects and provide Australian homeowners with the consumer protections they need to protect them from financial losses when they build their home.

"Subcontractors are vital to the construction ecosystem, yet they face substantial financial pressures. These ongoing issues, particularly those related to cash flow, need urgent attention from the broader industry. Addressing these challenges is crucial for ensuring the long-term viability and growth of our construction industry."

Louise Stewart, Founder ProjectPay

Technology and the construction industry

The construction industry operates on an unsecured "buy now, pay later" (BNPL) model, placing an unfair burden on builders and subcontractors, especially small businesses that make up much of the sector. This system forces them to provide interest-free credit on projects without the means to assess the financial reliability of builders or the businesses that sit above them in the payment chain or control payment timing. The resulting financial strain often leads these businesses to resort to risky financing options, exposing them to potential ruin.

Late payments remain a persistent challenge in the industry, causing financial uncertainty for subcontractors despite global policy efforts. Small business owners often find themselves out of pocket, relying on personal funds or high-interest credit to bridge payment gaps. This precarious situation can lead to business closures and broader economic stagnation.

While government interventions are crucial, technological solutions offer promising avenues for mitigation.

The transition to digital payments is only one part of the solution. Whilst technological advancements and policy reforms are important to address builder collapses, providing small businesses with access to affordable cashflow will significantly alleviate the financial burdens on subcontractors and contribute to a more sustainable construction sector.

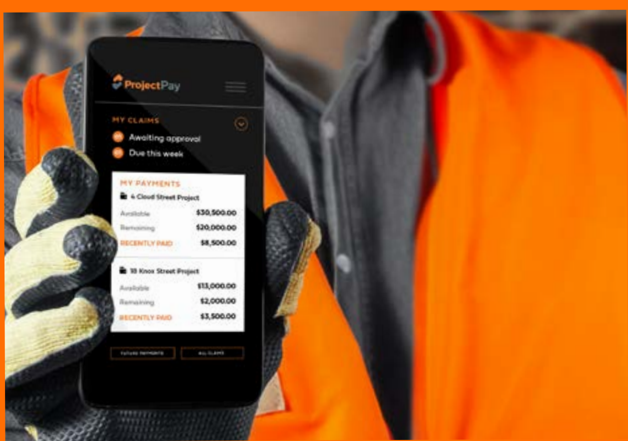
"Recognising the essential role of subcontractors and actively supporting their financial health is critical for the stability and success of the entire Australian construction industry. By leveraging technology, the industry can build trust, ensure timely payments, and maintain healthy business relationships. The single biggest contributor to the challenges of the industry is access to cashflow, by changing this dynamic we are ultimately driving towards a more robust and resilient construction ecosystem."

Louise Stewart, Founder ProjectPay

ProjectPay –
A Fintech solution

In the absence of comprehensive national regulations safeguarding subcontractors in the Australian construction industry, small businesses must take proactive measures to protect their financial interests. This includes implementing strategies to mitigate the impact of builder collapses, extended payment timeframes and maintain healthy cash flow. Additionally, homeowners need to exercise caution and adopt protective measures to shield themselves from potential financial losses that could result from builder insolvencies. The lack of uniform, robust protections across the country underscores the importance of self-reliance and vigilance for all parties involved in construction projects.

ProjectPay saves subcontractors and builders over $1 billion in (credit card, loan) interest payments getting them out of the debt trap and devastation of losing the family home. Also saving homeowners, subcontractors and taxpayers over $11.3 billion a year in lost payments due to builder collapses, enabling builders and subcontractors to take on more projects when receiving faster payments that are guaranteed, to cashflow the delivery of new projects. It is estimated this contributes $5.6 billion to Australia's GDP, supports over 445,000 jobs and provides greater capacity to deliver infrastructure projects and the 1.2 million houses needed to be built in the next five years.



Conclusion

The challenges facing Australia's construction industry demand a holistic, industry supported approach that combines technological innovation, regulatory reform, and financial solutions. The sector's vulnerability to economic shocks, as evidenced by the impact of government stimulus packages and the subsequent surge in insolvencies, underscores the need for a more resilient and equitable system.

Government regulation plays a crucial role in shaping the industry's future. The success of the USA construction trust fund statutes in protecting homeowners and subcontractors and reducing insolvencies provides a compelling model for Australia, which has been recommended to Australian governments in multiple reports they commissioned in the past decade. Implementing similar national-level protections could significantly mitigate the risks associated with builder collapses and payment delays and provide the consumer protections that homeowners need. However, regulation that is complemented by a new way to pay that solves the sector cashflow issues is required. Just as BNPL brought economic benefits to the retail sector, the solution lies in effectively reversing this model - getting small businesses out of a debt trap and providing homeowners with the consumer protections they need.

ProjectPay emerges as a proven solution that addresses many of the sector's pressing challenges. By creating a closed-loop, business-to-business payment system, ProjectPay offers immediate payment to contractors, effectively mitigating the risks associated with builder collapses and payment delays. This approach not only protects subcontractors from the current BNPL model that often leads to financial strain but also safeguards homeowners against losses due to builder insolvencies.

The platform's potential impact is significant. ProjectPay estimates it can save subcontractors and builders over $1 billion in interest payments, helping them avoid debt traps and the risk of losing personal assets. Moreover, by enabling faster, guaranteed payments, it could contribute $5.6 billion to Australia's GDP, support over 445,000 businesses, and increase capacity for infrastructure and housing projects.

As Australia grapples with the need to build 1.2 million homes in the next five years, solutions like ProjectPay, combined with regulatory reforms inspired by successful international models, could play a crucial role in stabilising and strengthening the construction industry. By addressing the root causes of financial instability and promoting fair payment practices, these integrated approaches can foster a more resilient, efficient, and equitable construction sector.

The path forward for Australia's construction industry lies in embracing this holistic industry-supported approach: leveraging technology, implementing protective regulations, and adopting innovative financial solutions. This multifaceted strategy holds the promise of transforming the sector, ensuring its long-term sustainability, and enabling it to meet the nation's growing infrastructure and housing needs.

Whilst there is a lack of government legislation to protect those at risk, ProjectPay provides that protection - for trade contractors, for builders and homeowners.

About ProjectPay and its Founder and CEO Louise Stewart

Louise Stewart is a construction payments expert and experienced fintech entrepreneur. After the successful exit of her first tech start-up she became aware of the payment problems in the construction industry when her husband's subcontracting business was not paid for work he did on Australian government projects due to several builders' businesses being placed in insolvency administration. The lack of consumer protection laws in Australia meant he was never paid.

She held the role of Chair of an Australian Subcontractors Association in Western Australia, where she worked with subcontractors to help them enforce their payment rights. She also worked with Australian governments to implement new laws alongside statutory trusts to protect subcontractors from builders misusing project funds.

In 2016, Louise set up her own licensed residential building company to deliver several luxury residential investment projects, the last building project she delivered sold for $8m. This gave her a deep understanding of the cashflow challenges faced by builders.

Louise is on a mission to solve the payment challenges in the industry and provide financial and economic inclusion for the small businesses that dominate the sector. She is a strong advocate for governments supporting contractors to succeed so that the housing, infrastructure and green projects required can be delivered to achieve an economically sound tomorrow and better standard of living for Australians.

Louise uniquely understands the payment challenges from a builder and a subcontractor perspective and has taken a detailed research and development approach, funded by UK government innovation grants and using her own funds from the sale of her previous start-up.

In 2020, Louise was selected by the UK Government's Global Entrepreneur program to receive assistance to set-up in the UK and ProjectPay has gone on to win the UK Building Innovation Awards and in 2022 won Best Small Business Payments award. Louise was also recently featured in the UK Women in Fintech Powerlist.

ProjectPay is leading the construction payments revolution, with the platform being embraced by subcontractors and builders who want to get paid now, not later and homeowners who want financial protections.

ProjectPay