5 Pillars of Productivity Inquiries

Submission to the Productivity Commission

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1. Introduction

This document is drawn from an active research project under the Building 4.0 Cooperative Research Council Funding Scheme Project #80 (B4.0CRC#80), *Why are insolvencies so high in the Construction Industry and what can be done about it?.* This research is being conducted by Queensland University of Technology (QUT) and by Dr Lyndall Bryant, Dr Amanda Bull, Dr Elizabeth Streten, Morgan O'Neill and Dr Fiona Cheung in collaboration with industry partners: the Building and Plumbing Commission (VIC), Master Builders Victoria and Holmesglen Institute.

The research investigates the drivers of high insolvency rates in residential construction, focusing on financial risk, policy, and regulatory impacts. By triangulating insolvency data, sector systems, and industry insights, it identifies key areas for reform to mitigate the economic fallout of residential construction company failures. This project's final report is due at the end of September 2025 and will provide evidence-based recommendations to help regulators, industry, and educators build a growth mindset in Australia's largest industry, strengthen sector resilience and support housing affordability. A copy of the final report will be available in October 2025 on the Building 4.0 CRC Project #80 webpage: https://building4pointzero.org/projects/80-why-are-insolvencies-so-high-in-the-construction-industry-phase-1-scoping-study/

Early research findings indicate that enhancing productivity and resilience will require a unified shift in approach, one that engages a multitude of stakeholders across a complex systemic web. Whether operating in policy, practice, education, or regulation, each actor has a role to play in driving meaningful change. By challenging outdated systems, supporting innovation in training and governance, and fostering collaborative risk sharing, the residential construction sector can better respond to economic pressures, reduce insolvency risk and increase productivity.

While the challenges are complex, the potential for positive impact is substantial. This document provides an overview of our key findings and responds to the following Productivity Commission's draft recommendations on three lines of inquiry:

- **Creating a more dynamic and resilient economy**
  - Regulating to promote business dynamism;
- **Building a skilled and adaptable workforce**
  - Fit for purpose occupational entry regulations
  - Building skills and qualifications for a more productive workforce
- **Harnessing data and digital technologies**
  - New pathways for data access

2. Insolvency in the Residential Construction System

This section provides a brief overview of insolvency in the Australian residential construction sector. It summarises concerns regarding increases in residential construction insolvencies and associated productivity concerns.

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 taking into account direct and indirect factors (Property Council of Australia, 2024). The construction sector underpins housing delivery, infrastructure expansion, and national productivity. And yet, Australia's residential 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, 2024). While COVID-19 disruptions are often blamed, the sector's financial instability long predates the pandemic and continues despite recovery efforts (Coggins et al., 2020; Reserve Bank of Australia, 2022).

Recent IBISWorld forecasts suggest moderate growth in Australia's residential construction sector through 2029–30, with annual increases of 1.4% in house construction and 4.4% in multi-unit developments (Kelly, 2024). However, this growth outlook masks deep structural issues - rising input costs, supply chain disruptions, labour shortages, and high interest rates - that are driving up insolvency rates. Many firms are operating on thin margins and facing cost volatility and delays, all of which threaten productivity and the sector's ability to meet future housing demand (Master Builders Australia, 2023).

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.

The key findings from this research project are:

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

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**: However, 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).

    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.

The findings from this research highlights that these issues contribute to widespread project disruption, increased costs, and reduced innovation. Insolvency is not just a business failure - it is a systemic risk that affects housing availability, economic productivity, and financial stability. Addressing these challenges through targeted policy reforms in financial safeguards, regulatory reform and building skills and qualifications for a more productive workforce, and is essential to unlocking the sector's full potential and to protecting all stakeholders, including vulnerable consumers.

3. Key Recommendations to Address Insolvency

There are clear opportunities to improve productivity and reduce insolvency risk in Australia's construction sector. This section provides a summary of preliminary recommendations from the Building 4.0 CRC research project. It sets out the key interventions required to mitigate against residential construction insolvency in Australia, and associated productivity concerns. These preliminary findings highlight the urgent need for targeted policy and program interventions to build business capability alongside technical skills. These insights inform a suite of recommendations aimed at strengthening financial structures, streamlining regulatory processes, and enhancing business support systems across the residential construction sector.

The following recommendations target key leverage points to enhance transparency, support early intervention, and promote long-term sector viability. More detailed information regarding final findings and recommendations will be provided in the research project's final report which will be presented to our project partners at the end of September 2025. These recommendations are based upon research pertaining to the drivers of residential construction insolvency, which are summarised in the below diagram.

Figure 1: Insolvency Drivers

Source: Authors

3.1. Financial Risks: addressing systemic flaws in funding structures

3.1.1 **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 requires banks to act prudently, rather than reasonably, when issuing home loans. This means 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, and 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.

3.1.2 **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 3.1.1 and should be implemented together for maximum impact and benefit.

3.1.3 **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 3.1.1 and 3.1.2 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.

3.1.4 **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 ameliorate 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.

3.2. Regulatory reform: reducing regulatory complexity and compliance burden

3.2.1 **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 and introduce mandatory Continuing Professional Education requirements tied to license renewal. This evaluation should also include a review of the approach taken in regard to assessment of eligibility 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 builders 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 builders later obtain entry to pursuant to the Mutual Recognition Scheme.

3.2.2 **Clarify insolvency regulation obligations**, including thresholds for voluntary administration and director duties. The current bifurcated Australian insolvency regime has unnecessary complexities arising from decades of piecemeal reforms (Parliamentary Joint Committee on Corporations and Financial Services, 2023; Streten, 2024). In 2023, the Parliamentary Joint Committee on Corporations and Financial Services released a report on corporate insolvency acknowledging this complexity and recommending that 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). We support a holistic review of the Australian insolvency regime and any corresponding improved clarity in its regulation, including clarity with respect to insolvency mechanisms and director duties. This recommendation is made in conjunction with the recommendations in 3.3 below regarding the strengthening of business and legal acumen.

3.2.3 **Streamline compliance processes for Small Medium Enterprise's (SME) operating in the construction industry**, including simplifying (and reducing costs and complexity associated with) reporting, insurance, and dispute resolution mechanisms (particularly disputes between head contractors and subcontractors). This could include introducing tiered compliance models based on business size and risk profile. However, whilst 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 & Pejoska, 2017).

3.2.4 **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. Under the Statutory Instruments Act 1992 (Qld) a regulation automatically expires after 10 years unless action is taken to preserve it. However, the construction sector and surrounding regulation, culture, and dynamics moves too quickly for regulations to be justified after 10 years. Regulations that expire unless re-justified force policymakers to demonstrate ongoing value and benefit to the sector and to the wider stakeholder network.

3.2.5 **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. Existing databases such as 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. 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 would need to include provisions to recognise stakeholder insolvency for inadvertently insolvent builders, i.e. those at the bottom of the hierarchical contracting chain, who are vulnerable to the cascading effects of insolvency from higher up in the chain.

3.2.6 **Rebalance deposit cap regulations** to reflect actual upfront costs and reduce liquidity gaps for builders. In the case of new building modes such as pre-fabrication, a more realistic deposit amount would be closer to 20%, whilst for standard home builds the amount should be increased to at least 10%. 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.

3.3. Business skills: strengthening business and legal acumen, contractual literacy and conflict resolution mechanisms

3.3.1 **Mandate formal business education as part of licensing requirements**, with emphasis on legal and financial obligations and risks, financial planning, contract negotiation, risk management, and **directorship duties** under the Corporations Act (recommendation 3.3.2). This recommendation is made subject to, and in connection with, recommendation 3.2.1 above. 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, then the net benefit of this reform would be undermined by the Mutual Recognition Scheme.

3.3.2 **Develop targeted education programs to address cultural factors** that discourage timely engagement with qualified professionals (such as lawyers, financial advisors, accountants etc.) and reinforce informal practices. These education programs should be fit-for-purpose and designed to engage culturally with builders. The authors suggest creating collaborative education groups with industry leaders such as Master Builders Australia, Bunnings, and Total Tools to create education delivered in a format that builders will engage in. Such education could be delivered in the form of short programs conducted in an appropriate setting, and by accredited trainers, and should target cultural factors such as the preference for cash/ no contract jobs, the stigma in asking for help, and other cultural dynamics as discussed in our final project report.

3.3.3 **Establish or expand access to low-cost, independent dispute resolution services** tailored to construction contracts. Whilst 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 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.

3.3.4 **Mandate Continuing Professional Development and tie it to registration 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 accredited industry bodies and training organisations, rather than by all RTOs to ensure that reliable and rigorous CPD training is being provided to builders. This recommendation should be implemented in parallel or in consideration with recommendations 3.2.1 and 3.3.5.

3.3.5 **Undertake a comprehensive review of Registered Training Organisations**, specifically RTOs that provide the initial Cert IV and Diploma qualifications mandated under licensing requirements, 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, rigor, and adaptability to frequent regulatory change. These units include:

- 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
- Administer the legal obligations of a building and construction contractor

3.4. Enhance Professional Advisor Capacity

3.4.1 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.

3.4.2 **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 implemented parallel to recommendation 3.4.1 to support credibility of the professionals listed on this register.

3.4.3 **Co-create sector specific toolkits (checklists, traffic light systems),** with industry associations and culturally embedded companies such as Master Builders, Bunnings, and/or TotalTools, and circulate them through professional and social networks. This approach leverages the trust and reach of culturally embedded 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.

3.5. 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. These recommendations are designed to increase the availability and granularity of data to better inform research and reform avenues.

3.5.1 **Establish a well-regulated national insolvency data platform**, integrating data from the Australian Securities and Investments Commission, Australian Financial Security Authority, industry, and regulatory data to support predictive modelling and early intervention.

3.5.2 **Require consistent data collection and publication across all regulatory bodies** to improve transparency, comparability and early intervention in 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;
- Licence suspension or cancellation;
- Definitions and reporting of insolvency events;
- Insurance eligibility, claims or cancellation;
- Dispute resolution outcomes.

These standards should be adopted by **state-level construction regulators** including Queensland Building and Construction Commission, Building and Plumbing Commission and their equivalents in other jurisdictions, and ideally extended to **statutory insurers, dispute resolution bodies, WorkSafe authorities**, and other relevant agencies. Importantly, report formats should include structured free-text fields to allow for contextual information that enhances the granularity, comparability and interpretability of statistical data. This will support more nuanced analysis, enable cross-jurisdictional comparisons and improve the effectiveness of early warning systems.

3.5.3 **Invest in technology integration across the construction system**, enabling real-time tracking of financial health, project progress, and risk exposure.

4. Response to the Productivity Commission draft recommendations

This section provides further context from the research findings in response to the following Productivity Commission's draft recommendations on three lines of inquiry:

- **Creating a more dynamic and resilient economy**
  - Regulating to promote business dynamism

- **Building a skilled and adaptable workforce**
  - Fit for purpose occupational entry regulations
  - Building skills and qualifications for a more productive workforce

- **Harnessing data and digital technologies**
  - New pathways for data access

4.1. Regulating to promote business dynamism

The regulatory landscape governing residential construction is complex, fragmented and often contradictory, creating confusion and compliance burdens for builders. Some of the areas for regulatory reform identified by this research include:

- Standard residential construction contracts
- Home warranty insurance
- Security of payment legislation
- National construction code (and other local building regulations)
- Licencing and registration
- Mutual recognition schemes
- Minimum financial requirements and
- Insolvency regulation

SMEs face a disproportionate compliance burden, diverting resources from core operations. Unlike larger firms with dedicated compliance teams, SMEs often rely on owner-operators, exacerbating financial fragility and systemic inequities (Productivity Commission, 2013). Building standards, licensing, insurance, and dispute resolution frameworks frequently overlap, with conflicting requirements across jurisdictions.

Construction SMEs frequently operate across multiple jurisdictions, each with distinct licensing and compliance regimes. This fragmentation heightens non-compliance risks and undermines national reforms like the Mutual Recognition Scheme, which, despite aiming to improve mobility, enables jurisdiction shopping and inconsistent standards.

Uniform regulatory requirements across business sizes further disadvantage SMEs, who must meet the same obligations as large firms despite limited capacity. Sole traders and small contractors bear higher per-unit compliance costs due to lack of scale and specialisation (Douglas & Pejoska, 2017).

Survey data confirms this disparity: 75% of small businesses rely on owners or unpaid helpers for tax compliance, while medium firms delegate to staff. Compliance costs are disproportionately higher for smaller entities (Lignier et al., 2014).

The ongoing complexity and costliness of insolvency law is also particularly concerning for SME's, many of which operate within the residential construction sector.[1] 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). Similar concerns have also been raised by the New South Wales Small Business Commissioner (Parliamentary Joint Committee on Corporations and Financial Services, 2023).

Tiered regulation can also deter growth, with SMEs avoiding expansion to sidestep stricter obligations. In construction, this limits competitiveness and innovation. Meanwhile, 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.

4.2. Building skills and qualifications for a more productive workforce

The delivery of training and assessment within Australia's vocational education system plays a critical role in shaping the skills and capabilities of builders entering the residential construction sector. However, this project identified several systemic weaknesses, particularly in the areas of Recognition of Prior Learning (RPL), assessment standards, and competency verification, that may inadvertently contribute to business failure and reduced productivity.

RPL is intended to validate informal experience and support workforce mobility. While this mechanism has merit, its application without rigorous oversight can result in builders bypassing essential education in financial literacy, legal obligations, and strategic business planning. This creates a scenario where individuals are credentialed without acquiring the foundational knowledge required to operate a financially resilient business.

Compounding this issue is the variability in assessment practices across Registered Training Organisations (RTOs). Commercial pressures and inconsistent standards have led to cases where competency is awarded without demonstrated understanding, particularly in abstract but critical domains such as insolvency risk management and legal compliance. Builders entering the market with qualifications that suggest readiness may, in reality, lack the skills to manage complex cashflows, understand risk transfer, respond to legal threats or navigate the irregular nature of progress payments, increasing their exposure to insolvency.

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[1] 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* 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)

Further, the lack of robust oversight in competency verification presents a significant risk. Trainers and assessors may not possess relevant industry experience in financial management or corporate governance yet are responsible for certifying others in these areas. This accountability gap undermines qualification integrity and business viability. The interplay between RPL and weak assessment practices creates a feedback loop of vulnerability. Builders may enter the industry with strong technical skills but without the strategic foresight, financial competency 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- each of which is a known trigger for insolvency ((Australian Securities and Investments Commission, 2024, 2025, p. 1; *Newstart Homes Australia Pty Ltd v Kodiak Concrete Pty Ltd [2024] QSC 129*, n.d.; *Turnkey Innovative Engineering Pty Ltd v Witron Australia Pty Ltd [2023] NSWSC 981*, n.d.)).

These concerns are substantiated by recent regulatory action taken by the Australian Skills Quality Authority (ASQA), which cancelled over 21,000 qualifications and statements of attainment, including for construction programs, in late 2024 and early 2025 due to systemic failures in training delivery and assessment integrity (Australian Skills Quality Authority, 2025). Media reports and public inquiries have further exposed the prevalence of non-genuine RTOs issuing fraudulent qualifications, raising serious concerns about workforce capability and sector resilience (Ferguson, 2025; Independent Broad-based Anti-corruption Commission, 2023). While the Commission has recommended expanding avenues for RPL to improve workforce flexibility, we caution that without strengthened oversight, this may have the opposite effect - credentialing individuals who are not adequately equipped for the demands of the industry. **This can lead to poor business decisions, increased defect rates, and ultimately, insolvency, thus undermining productivity across the sector.**

We recommend the Productivity Commission consider the following reforms to strengthen the training and apprenticeship system:

- Undertaking a comprehensive review of RTOs, assessing the quality and consistency of training.
- Ensuring that any expansion of RPL pathways is accompanied by rigorous validation processes, particularly in domains linked to business viability and understanding early flags to insolvency risk.

These reforms will help ensure that vocational education supports, rather than undermines, construction sector productivity by equipping builders with the full spectrum of skills required to operate resilient, compliant, and financially sound businesses.

4.3. Fit for purpose occupational entry regulations

In a sector marked by tight margins, risk asymmetries, and low barriers to entry, a robust licensing regime is essential to protect consumers and the economy from inexperienced or exploitative operators. However, licensing is not a panacea—it must be situated within broader industry reform.

Each Australian jurisdiction sets its own licensing requirements for construction practitioners. An overview of jurisdictional licensing requirements is provided in our full report. Despite this fragmentation, most align with the National Registration Framework (NRF), developed by the Australian Building Codes Board in response to the Shergold Weir Building Confidence Report.

The NRF outlines model guidance for qualifications and experience to promote consistency and practitioner mobility. While non-binding, its principles are widely reflected across states and territories. The key variation lies in how jurisdictions assess practical experience. For Builder(Low Rise/Residential) registration, the NRF recommends a Certificate IV in Building and Construction and at least three years of supervised, relevant experience. Jurisdictions may accept equivalent qualifications, but concerns persist about the reliability of some credentials, with ASQA identifying gaps in VET delivery.

Experience requirements vary from two to seven years depending on location and qualifications. More significantly, jurisdictions differ in how they assess experience—some use interviews, exams, or portfolio reviews, while others rely on time served. Workshop participants noted inconsistencies in interpreting “recent and relevant” experience, which may affect practitioner mobility.

Some jurisdictions also allow alternative pathways to registration, accepting combinations of qualifications, memberships, and experience deemed equivalent to prescribed criteria. This flexibility, while pragmatic, complicates efforts to achieve national consistency and undermines the NRF’s goal of standardised competency assurance and is open to failures in training delivery and assessment integrity as indicated above.

A national approach is required to ensure loopholes in mutual recognition schemes are closed out. To address Australia’s fragmented state-based licensing regimes, the federal government introduced the Mutual Recognition Scheme (MRS) under the Mutual Recognition Act 1992 (Cth). MRS allows a practitioner licensed in one jurisdiction to apply for registration in another, relying on their existing licence as evidence of competency. Host regulators may assess eligibility, but typically only verify equivalence rather than reassess qualifications or experience. In 2021, the Act was amended to introduce Automatic Mutual Recognition (AMR), enabling licensed individuals to work across participating jurisdictions without applying for a new licence. Under AMR, registration is automatic, subject to notification and limited exceptions, with no further scrutiny by the host regulator. All states and territories except Queensland have adopted AMR (Department of Employment and Workplace Relations, 2025).

While AMR improves mobility, it introduces regulatory vulnerabilities. Stakeholders have raised concerns about jurisdiction shopping, where individuals obtain licences in less regulated states and operate elsewhere without meeting local standards. This undermines mutual recognition’s intent and contributes to uneven enforcement, reduced accountability, and insolvency risks.
Even under MRS, host regulators typically receive only the licence classification, not the original application details, such as qualifications or financial probity. This lack of transparency weakens licensing integrity and erodes trust in regulatory safeguards.

Unless the systemic implications of MRS are addressed, reforms within individual jurisdictions will have limited impact. The ease of jurisdiction shopping under current mechanisms neutralises state-based efforts and perpetuates regulatory vulnerabilities.

Critically, the conversation around the licencing 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 licencing 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.

4.4. New pathways for data access

Inadequate public data availability has long hindered policy analysis and reform in insolvency, with concerns dating back to the 1988 Harmer Report and reiterated by the Parliamentary Joint Committee on Corporations and Financial Services (2023). While improvements have been made—particularly to ASIC's insolvency dataset—significant challenges persist.

This project identified six key data limitations:

1. **Retrospective Reporting**: Insolvency data is backward-looking, limiting its use for real-time trend analysis or forecasting.
2. **Lack of Early Warning Indicators**: Publicly accessible tools to detect financial distress are absent, restricting preventative strategies.
3. **No Public Register of Builder Defaults or Qualifications**: Stakeholders cannot verify a builder's financial standing or credentials prior to engagement.
4. **Insufficiently Granular and Integrated Data**: Public statistics often aggregate construction data, obscuring residential sector trends. More detailed industry data exists but is jurisdiction-specific and not publicly available.
5. **Exclusions Due to Data Constraints**: This study focuses on corporate insolvencies in Victoria, excluding bankruptcies and broader national comparisons to maintain rigour.
6. **Inconsistent SME Definitions**: Variations across agencies complicate insolvency statistics and business profiling.

These limitations impede early intervention, obscure sector vulnerabilities, and constrain evidence-based reform. Addressing them requires improved data collection, integration, and transparency.

5. Systemic Complexity

The residential construction sector is shaped by a dense web of stakeholders, financial flows, contracts, and regulation. To understand the drivers of high insolvency rates, this project adopted a systems thinking approach—revealing how internal vulnerabilities and external pressures interact through feedback loops that either reinforce instability or reduce risk.

A critical step involved mapping the ecosystem, beginning with key actors—clients, contractors, suppliers, financiers, insurers, and regulators—and external influences such as interest rates, supply chain disruptions, labour shortages, material costs, and consumer demand. Cultural dynamics and informal practices, including handshake deals and resistance to regulation, were central to understanding insolvency risks. Identifying feedback loops further deepened insight into systemic and behavioural drivers.

The resulting systems map (Figure 2) reflects the sector's non-linear complexity. While there's no singular entry point, four core factors anchor the system: funding structures and cashflow, regulatory complexity, limited business acumen, and data limitations. These not only drive insolvency but offer leverage points for reform.

Developed from stakeholder workshops, the map provides a conceptual overview of the sector's intricacies. It is not exhaustive but synthesises current insights and invites further refinement. Readers are encouraged to build on this foundation to deepen understanding over time.

Ultimately, the map illustrates how tightly coupled stakeholders, financial exposure, and regulatory complexity create sector-wide fragility. A systems lens helps anticipate where vulnerabilities lie and identify opportunities for targeted intervention.

Importantly, these four factors largely align with the Productivity Commission's draft reform recommendations to boost Australia's productivity by:

- **Creating a more dynamic and resilient economy**
  - Regulating to promote business dynamism
- **Building a skilled and adaptable workforce**
  - Fit for purpose occupational entry regulations
  - Building skills and qualifications for a more productive workforce
- **Harnessing data and digital technologies**
  - New pathways for data access

QUT

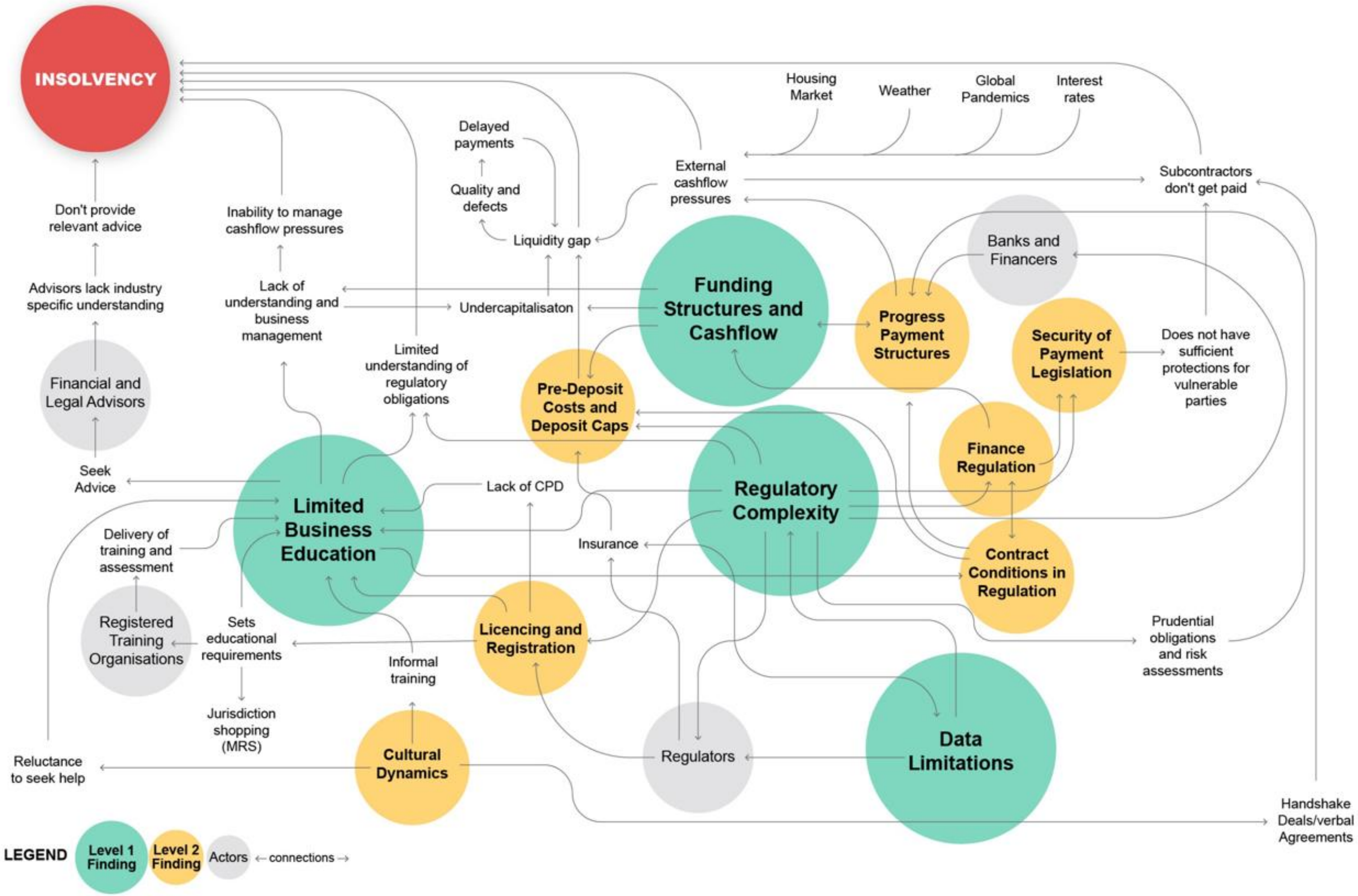

Figure 2: Construction Insolvency Systems Map. Source: Authors

6. Conclusion

In conclusion, insolvency in the residential construction sector is not merely a business failure - it is a systemic issue with far-reaching consequences for productivity, housing delivery, and economic stability. When builders collapse, the ripple effects disrupt supply chains, delay projects, increase defect risks, and erode workforce capacity. These impacts extend beyond the construction industry, dragging on national productivity and undermining efforts to meet housing targets.

Our research and stakeholder consultations undertaken throughout the research project reveal that insolvency is often the outcome of interlinked structural vulnerabilities: inefficient financing models including weak payment protections, regulatory complexity, limited business capability, lack of industry-specific advisor capability and inadequate data to assist with problem diagnosis for effective intervention. Current frameworks, such as deposit caps and trust account obligations, while well-intentioned, often exacerbate financial strain rather than mitigate against it.

To address these challenges, we propose a suite of targeted reforms designed to reduce insolvency risk and unlock productivity gains. These include:

- Rebalancing deposit cap regulations to reflect actual upfront costs and reduce liquidity gaps.
- Strengthening trust account legislation, including prohibiting premature withdrawals and introducing penalties for misuse.
- Establishing third-party trust account administrators to improve compliance and reduce administrative burden.
- Improving financial literacy and business capability through mandatory business education and ongoing CPD requirements.
- Streamlining regulatory processes to reduce compliance fatigue and support early intervention.
- Enhancing data collection and predictive tools to enable proactive risk management and policy evaluation.

Together, these reforms aim to stabilise the operating environment for builders, protect subcontractors and vulnerable consumers, and improve the sector's ability to deliver high-quality housing efficiently. By reducing insolvency risk, we can remove a major impediment to construction productivity and support a more resilient, innovative, and scalable industry—one capable of contributing meaningfully to Australia's broader economic growth and social goals.

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