Comment – Australian Constructors Association

Comment
The Australian Constructors Association (ACA) welcomes the opportunity to provide our submission to the Queensland Productivity Commissions inquiry into the productivity of the construction industry in Queensland. Improving productivity in the construction industry is a core pillar of the ACA's strategic objectives and we consider that there is a multitude of opportunities to change the way the industry operates. The current model drives all the wrong behaviours, in particular, a myopic focus on lowest price at the tender box as opposed to long term value for taxpayers. The commercial environment of construction actively discourages the longerterm planning and decision-making needed to drive financial stability and productivity growth. Unlocking productivity requires creating the space for industry to innovate. We need to start incentivising contractors and consultants to invest in and adopt innovative solutions. Clients equally need to be encouraged and empowered to undertake procurement that genuinely delivers value for money. In the limited time available for this initial submission, we have identified a number of opportunities for change, that will deliver greater productivity. Should further detail or clarification be required we are happy to provide further input or assistance.

AUSTRALIAN CONSTRUCTORS ASSOCIATION

2 June 2025

Ms Angela Moody, Productivity Commissioner and Chair
Queensland Productivity Commission
1 William Street
Brisbane QLD 4001

Dear Commissioner

The Australian Constructors Association (ACA) welcomes the opportunity to provide our submission to the Queensland Productivity Commissions inquiry into the productivity of the construction industry in Queensland. The terms of reference for this review are broad and enable a thorough consideration of the range of issues prevent the construction industry from operating more productively.

Improving productivity in the construction industry is a core pillar of the ACA's strategic objectives and we consider that there is a multitude of opportunities to change the way the industry operates. The current model drives all the wrong behaviours, in particular, a myopic focus on lowest price at the tender box as opposed to long term value for taxpayers. The commercial environment of construction actively discourages the longer-term planning and decision-making needed to drive financial stability and productivity growth.

Unlocking productivity requires creating the space for industry to innovate. We need to start incentivising contractors and consultants to invest in and adopt innovative solutions. Clients equally need to be encouraged and empowered to undertake procurement that genuinely delivers value for money.

In the limited time available for this initial submission, we have identified a number of opportunities for change, that will deliver greater productivity. Should further detail or clarification be required we are happy to provide further input or assistance.

We look forward to continuing our engagement with the Queensland Productivity Commissions on this vital inquiry.

Yours sincerely

[redacted]

Jon Davies
Chief Executive Officer

Australian Constructors Association
Level 4, 97 Boundary Street, West Village, West End QLD 4101
constructors.com.au

Nailing Construction Productivity

AUSTRALIAN CONSTRUCTORS ASSOCIATION SUBMISSION

AUSTRALIAN CONSTRUCTORS ASSOCIATION

AUSTRALIAN CONSTRUCTORS ASSOCIATION

Table of Contents

Executive Summary

We are far more likely to succeed when government and industry share the same goals. Right now, poor productivity is the biggest challenge holding back Australia's construction industry. Even though construction activity is at record levels, productivity has declined over the past 30 years. This is not just a construction problem—it's a wider economic issue that affects us all.

If we don't change course, Australians will face lower living standards, working longer hours for less pay. Because construction plays such a big role in the economy, fixing this problem is essential to meeting the country's future needs for housing and infrastructure.

The situation in Queensland reflects this national challenge. The Queensland Government has a bold plan to deliver major infrastructure, including the projects needed for the 2032 Olympic and Paralympic Games. These deadlines create a perfect chance to change how projects are delivered and to show what better productivity looks like.

But the current system drives the wrong behaviours. Too often, decisions focus on the lowest price at tender rather than long-term value for taxpayers. This short-term mindset discourages the careful planning and innovation needed for real productivity gains.

To unlock productivity, government and industry must work together with a shared purpose. We need to create space for innovation and reward contractors and consultants who bring forward new solutions. At the same time, clients must be empowered to ask for and support these innovations in their projects.

This inquiry by the Queensland Productivity Commission can provide the evidence needed for the Queensland Government to lead this transformation. Queensland has a real opportunity to show the rest of Australia what's possible when government and industry align their goals and work collaboratively.

This submission outlines key challenges affecting construction productivity in Queensland and proposes practical actions the Queensland Government, with the support of industry, can take to deliver a step-change in outcomes.

Summary of Recommendations

This submission makes a series of recommendations Queensland can take to improve construction productivity. Many of the recommendations represent low-hanging fruit—high-impact changes that are easy to implement. Each recommendation has been assessed for ease of implementation, potential impact and the time required to deliver results. The scoring scale is detailed below. It is suggested that priority be given to those recommendations with a higher overall score.

Ease to implement: 1 - Difficult, 2 – Somewhat difficult, 3 – Straightforward

Impact: 1 – Low, 2 – Medium, 3 – High

Time to implement: 1 – more than 24 months, 2 – 12 to 24 months, 3 – up to 12 months

Recommendations	Ease to Implement	Impact	Time to implement	Score
Pipeline clarity, certainty and coordination				
That a single agency within the Queensland Government be given responsibility for the coordination and regular communication of the statewide public infrastructure pipeline.	2	2	3	**7**
That guidelines are developed and followed for the public announcement of infrastructure projects.	3	3	3	**9**
Streamlined and focused procurement				
That procurement guidelines be introduced that require delivery agencies to seek input from the construction industry during the project concept development stage, particularly for large and/ or complex infrastructure.	3	2	3	**8**
That a review of the planning and procurement processes used by delivery agencies is undertaken to identify activities that can be removed or modified and to determine a standardised approach that can be used across government.	1	3	2	**6**

Recommendations	Ease to Implement	Impact	Time to implement	Score
The Queensland Prequalification System is reviewed to ensure it does not place unnecessarily onerous requirements on contractors that place Queensland at a disadvantage to other states in terms of attracting contractors to the state.	2	2	2	**6**
That procurement and tender evaluation should focus on the outcomes/ performance to be delivered by a project and, where appropriate, seek to encourage alternative approaches to delivering the defined project outcomes.	2	3	2	**7**
That delivery agencies only provide information that can be relied upon by bidders as part of tender documentation. If sufficiently reliable information cannot be provided, then bidders should not be asked to accept or price the associated risk. Consideration should instead be given to the inclusion in pricing of Provisional Sums for risks that accurately quantified at time of tender.	3	3	3	**9**
That the existing Queensland Government Building Policy Guidelines be strengthened to require all agencies to investigate a very low tender price if the tender price or a key element of the tender price is well below the median and/or the project's estimated value, before selecting the tender as the winning bid.	3	1	3	**7**
That delivery agencies be required to publish clear guidance on how non-cost outcomes will be evaluated and their contribution to the overall assessment of value for money, for each procurement.	3	2	3	**8**
That delivery agencies be required to provide detailed feedback to bidders on their performance against all elements of value for money and publish the value for money score for all bidders.	3	2	3	**8**
Collaborative and fair contract models				
That Queensland adopt procurement and contracting principles that recognise the inability for contractors to accurately price uncertainty and commits to the use of collaborative contract models and equitable allocation of risk.	2	3	2	**7**

Recommendations	Ease to Implement	Impact	Time to implement	Score
Less duplication and increased standardisation in delivery				
That Queensland adopt standard form contracts for the delivery of infrastructure with clear guidance for when an agency may depart from the standard.	3	3	2	**8**
That responsibility for procurement and contract policy and rules sits with the agency that is responsible for development and coordination of the infrastructure pipeline.	2	2	1	**5**
Undertake value stream mapping of the project planning and delivery process to identify processes and activities that are of low or no value – with the aim of eliminating these activities.	2	3	2	**7**
A new approach to industrial relations				
That BPIC be abolished and alternative and mechanisms to better align the interests of government, workers and employers be investigated.	1	3	1	**5**
That Queensland adopt the Culture Standard as standard practice in the procurement of public infrastructure.	3	3	3	**9**
That Queensland review its Work Health and Safety Act and Regulations to reduce the ability of union officials, HSRs, HSCs and union delegates to improperly use health and safety to achieve industrial outcomes.	2	2	2	**6**
That Queensland provide adequate resourcing and support for WorkSafe Queensland to monitor and enforce the Queensland Work Health and Safety regime.	2	2	2	**6**
That Queensland work with all other jurisdictions to implement change to the Model Legislation that underpins the harmonised approach to WHS, ensuring a nationally consistent approach remains in place and benefits are realised nationally.	1	3	1	**5**

Recommendations	Ease to Implement	Impact	Time to implement	Score
A more competitive commercial environment				
Undertake a review of the effectiveness of Trust Accounts, Minimum Financial Requirements and net tangible asset elements of PQC to determine what benefits have been delivered and if benefits cannot be demonstrated to exceed impacts, that these be removed.	3	2	3	**8**
Greater use of data and adoption of digital solutions				
That all public infrastructure projects and programs be required to identify minimum critical data sets that will be collected across the full lifecycle of design, construction and operation.	2	2	2	**6**
That Queensland adopt a digital by default approach to the procurement and delivery of public infrastructure.	1	2	2	**5**

The productivity problem

Australia has a well-known productivity problem. The Productivity Commission's latest five-year review reveals Australia is experiencing the worst productivity growth in 60 years.[1] If this productivity decline is not addressed the Commission projects future incomes will be 40 per cent lower and the working week five per cent longer. In short, Australian living standards face a long period of decline if nothing is done.

As the third largest industry in the Australian economy, the construction industry is pivotal in this story. It accounts for 7.5 per cent of Australia's GDP[2] and employs roughly 1.38 million people, 9.5% of the workforce.[3] No other Australian industry compares to this level of combined value and job creation. It is therefore no exaggeration to say that improving productivity within the construction industry will have a significant impact on Australia's productivity and wellbeing.

The importance of construction at the national level is replicated in Queensland. Construction is the third largest employer in Queensland, employing 264,300 people in 2022-23. It also contributed $34.2 billion to the Queensland economy, 7.2 per cent total state output, making it Queensland's fourth largest industry.[4]

The second reason we should care about the productivity of construction relates to the sheer ambition of Queensland's plans for the built environment. Over the coming decades we intend to deliver a net zero transition, an Olympics and associated infrastructure, all while providing for a rapidly growing and ageing population. The forward pipeline of committed works is substantial and must be delivered at a time when there will be strong construction demand nationally.

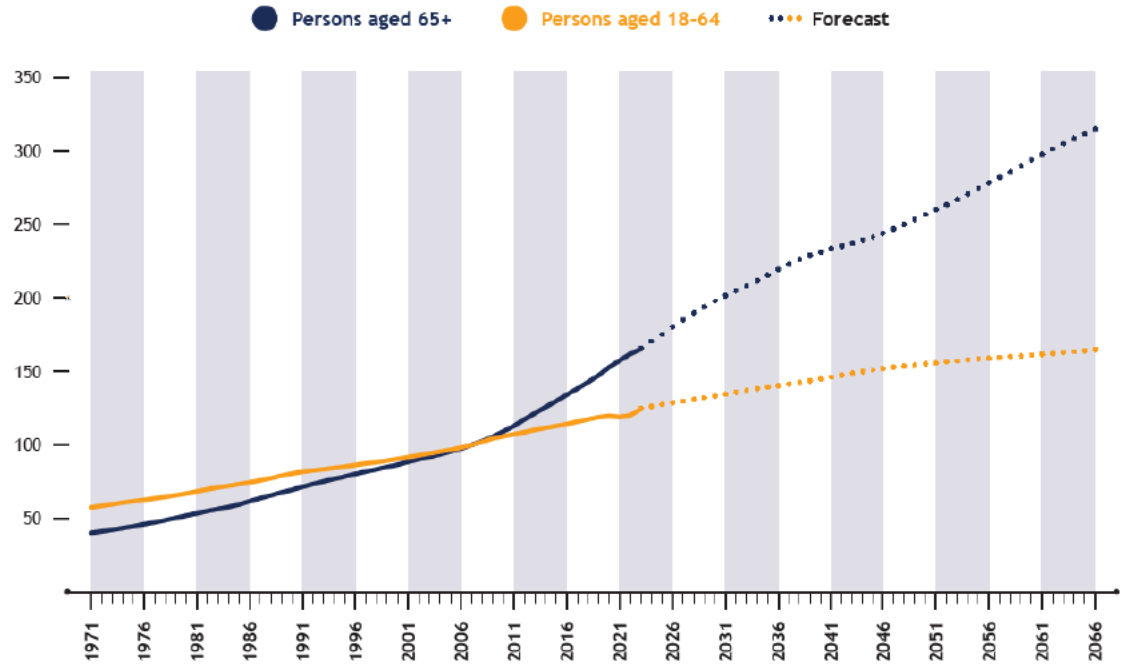
This future demand profile would be challenging enough in isolation; however, it is compounded by an opposite dynamic on the supply side. Like most developed countries, Australia's population is ageing. The share of Australians aged 65 and over has doubled since 1970—a 'grey march' that will continue inexorably over the coming decades (Figure 1)This carries a key economic consequence: in the 1980s, there were six people aged 18-64 for every person aged 65 and over. By 2040, that ratio will be halved.

This structural shortage of labour is a problem for every industry but is particularly acute in construction where there is a heavy reliance on younger, mainly male, workers. Construction has been holding back the tide of the ageing workforce, but this levy will not hold forever. Soon enough, the ever-growing demands of Australia's built environment will overwhelm construction's heavy dependence on a shrinking segment of the workforce. One way to solve this structural labour shortage is to divert increasing

[1] Productivity Commission, *5-year Productivity Inquiry: Advancing Prosperity Inquiry Report*, 2023, p.1
[2] Reserve Bank of Australia, *Composition of the Australia Economy Snapshot*, May 2025
[3] ABS, *Labour Force Survey, Detailed, February 2025, Jobs and Skills Australia (JSA) trend data*
[4] About the Queensland Economy - Queensland Treasury

numbers of workers from other industries or demographic segments into construction. This presents obvious challenges for an industry already grappling with an 'image problem' and so heavily reliant on only one-half (male) of the potential labour pool. That is to say nothing of the moral hazard inherent in seeking to out-compete other industries for increasingly scarce labour resources—at the whole-of-economy level, this is a zero-sum game.

Figure 1: Population growth in Australia.



Source: ACA[5]

The reality is that construction must come to terms with a future of relatively fewer workers in the face of a relentless increase in the demand for built environment assets.

This challenge will be particularly acute for Queensland, with the level of construction activity over the next 5 years forecast to be double that of the last 5 years.[6] This is being driven by the required delivery of Olympic infrastructure, the hospital Capacity Enhancement Program, Bruce Highway upgrades and energy infrastructure. This will place extreme demand on the capability and capacity of the construction industry in Queensland.

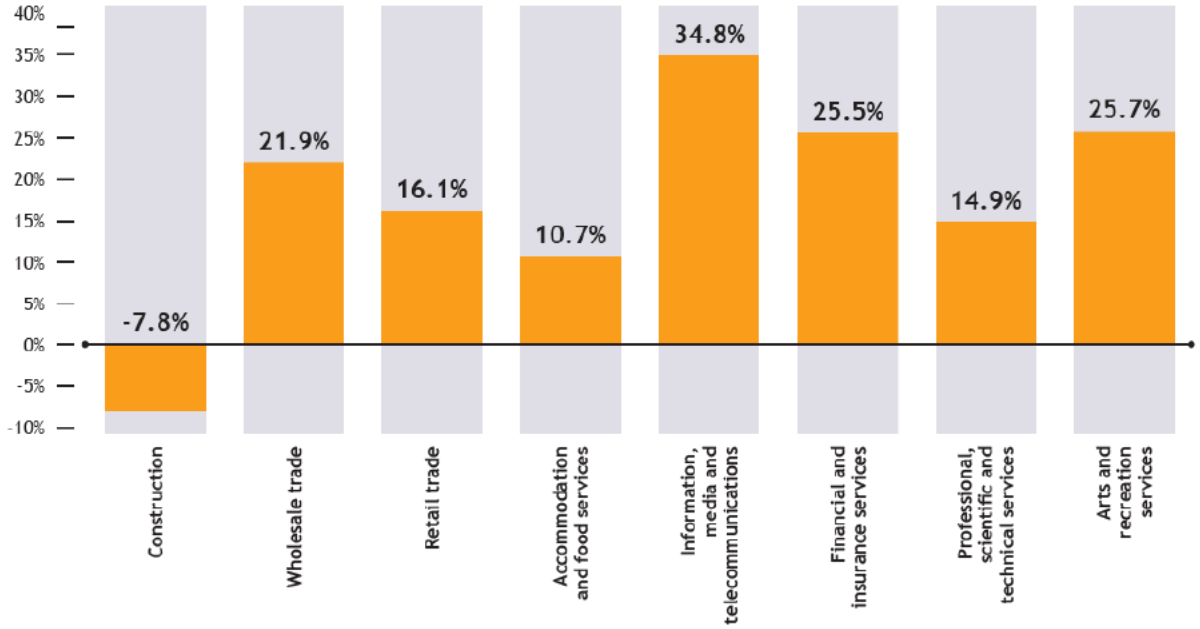
It is also worth noting that construction cost escalation has been much higher in Queensland than in any other major state. Cost escalation for Brisbane is forecast to be significantly higher than other capital cities for rail infrastructure and heavy civil infrastructure. Building cost escalation is also forecast to be higher in Brisbane than

[5] ACA, Nailing Construction Productivity, 2023
[6] Oxford Economics, Forecast Engineering Construction in Queensland 2026-2030

other East Coast cities.[7]

The only sustainable path through this future is productivity growth. We simply need to find ways to produce more with what we have. Yet construction has one of the worst productivity records in the economy (Figure 2), with productivity falling by 8 per cent over the period 2021-22 to 2021-22.

Figure 2: Productivity growth 2001-02 to 2021-22



Source: ACA[8]

The productivity opportunity

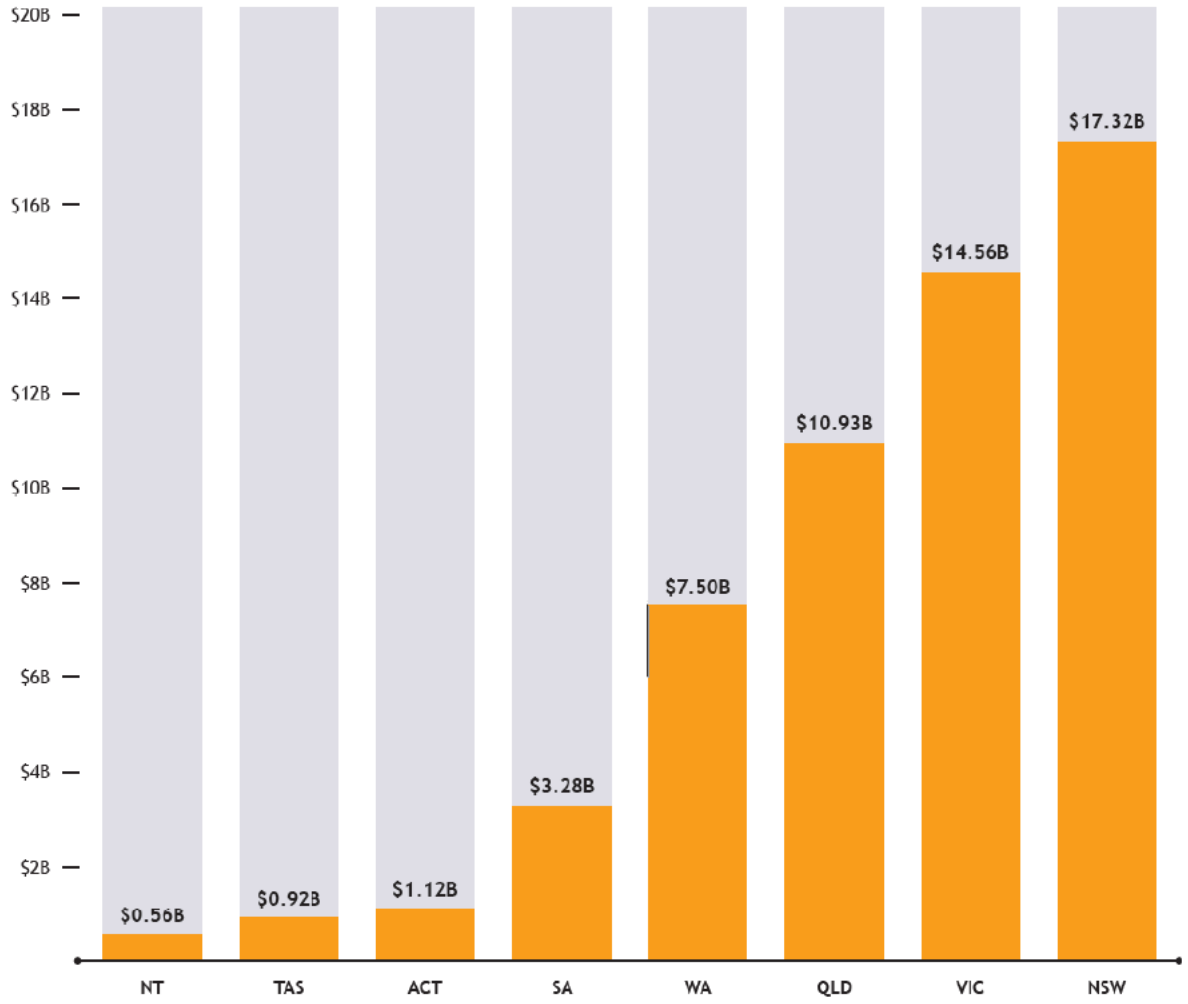
In 2022, ACA commissioned Oxford Economics Australia to estimate the opportunity cost of construction's poor productivity performance. This report estimated that if construction productivity growth was at least equivalent to the economy-wide average, this would unlock an additional $56 billion in construction capacity every year.[9] This would be enough to deliver over 1,000 new schools, 10,000 kilometres of road or 25,000 extra hospital beds with no increase in the workforce.

Furthermore, closing the construction productivity gap would likely increase national productivity growth materially. All else equal, had construction simply matched the average of other industries, the nation's productivity growth over the last decade would have increased from its meagre 5.7 per cent to 9.6 per cent.[10] This would have restored the nation's productivity performance to levels not seen since the 1990s.

[7] Australian Construction Market View | Arcadis
[8] ACA, Nailing Construction Productivity, 2023
[9] Oxford Economics Australia, commissioned research for ACA
[10] Oxford Economics Australia, commissioned research for ACA

Construction productivity growth is good for the overall economy, for the companies in the industry and their workforce, as well as for the delivery of much needed infrastructure and services. The scale of the opportunity on a state-by-state basis is provided in Figure 3, which shows the potential $11 billion opportunity for Queensland.

Figure 3: Estimated opportunity cost in FY22 from poor construction industry productivity



Source: ACA[11]

[11] ACA, Nailing Construction Productivity, 2023

Pipeline clarity, certainty and coordination

Greater clarity, certainty and coordination of the volume and type of infrastructure to be delivered over the medium to long term will enable better planning and resource allocation, improving construction productivity.

Efficient infrastructure delivery requires the ability to plan and align resources to meet the level of anticipated demand. Construction requires the coordination and mobilisation of a complex and fragmented supply chain. The more clarity that can be given to industry on what is in the pipeline and the timeframes for delivery the better these supply chains can managed to deliver the required outcomes.

In addition to clarity of pipeline there must be certainty, if the announced pipeline cannot be relied upon this information is of little value and will not necessarily result in the desired efficiency improvements. Certainty of pipeline is required for contractors to commit to their plan and provides them with the confidence to invest and to enhance their own capability and capacity.

There must also be coordination of the infrastructure pipeline to ensure there is a consistent volume work, with limited peaks and troughs. An environment in which the volume of work is highly variable kills productivity and creates instability within the construction industry.

During 'peaks' the demand for resources outstrips supply, increasing costs and ultimately creating capacity constraints that cannot be overcome. During 'troughs' there is excess capacity which typically results in the construction industry shedding workforce. This instability contributes to the decision of large contractors to minimise their ongoing workforce (by subcontracting works) and the resulting highly fragmented nature of the construction supply chain.

To the extent that Queensland has provided pipeline clarity, the level of confidence in the investment that has been announced is now low. This has been driven by recent events such as the review of hospital Capacity Enhance Program and the review of Olympic and Paralympic infrastructure. While the Queensland Government needed to undertake both reviews, this has created uncertainty and a degree of concern that the scale of what is required to complete these two programs alone is not fully appreciated.

There is currently no single of source of truth for public infrastructure projects being delivered by the Queensland Government, or for the broader pipeline that includes private sector and Commonwealth entities (such as across the Defence portfolio). There must be a single source of truth that produces a reliable and deliverable pipeline – ideally for a 5–10-year period. Election cycles and budget constraints will be a challenge to achieving this, but this level of transparency and certainty will allow robust planning and investment by the construction industry. This will not only improve productivity, but it will also allow greater cost control.

Western Australia is facing a similar challenge to Queensland in terms of the volume of infrastructure to be delivered in the next 10 – 15 years. Infrastructure WA is currently undertaking an exercise, using the market capacity tool developed by Infrastructure Australia, to model and test different scenarios with the aim of smoothing their pipeline and seeking to align market capacity with demand. This is an opportunity that Queensland should also consider.

Recommendation: That a single agency within the Queensland Government be given responsibility for the coordination and regular communication of the statewide public infrastructure pipeline.

When project or pipeline announcements are made it is not unusual for this to include cost and milestone commitments. Announcing project budgets and timeframes before sufficient planning and investigation has been undertaken places unnecessary pressure on government delivery agencies as well as the construction industry. It sets an expectation within the community of what a project will cost taxpayers that will forever be the benchmark against which project success is measured.

Working to an unachievable budget and timeframe results in pressure to drive down tender price, allocate risk inappropriately and to an adversarial culture between client and contractor as both seek to achieve the unachievable. As projects move further and further away from the announced cost and completion date project teams become increasingly focused on apportioning blame and arguing over who holds the liability, rather than working together to find solutions.

There should be transparency and public accountability for the delivery of public infrastructure and the performance of the construction industry in doing so. However, transparency must go hand in hand with accuracy. Delivery agencies and contractors should be accountable for delivery against a reasonable, well scoped and costed, set of delivery benchmarks.

Such an approach has been taken in NSW, where Infrastructure NSW has produced the Information on Infrastructure Projects – A Guide.[12] This document explains the stages of project development and the level of detail that may be confidently provided to the public at each stage.

Recommendation: That guidelines are developed and followed for the public announcement of infrastructure projects.

[12] information-on-infrastructure-projects-guide-may-2022.pdf

Streamlined and focused procurement

Standardised procurement processes that are informed by industry engagement, minimise document preparation and focus on value for money outcomes will lower bid time and cost.

A delivery agency's procurement approach and contract model must be informed by sufficient planning and understanding of the infrastructure to be delivered. This must include engagement with the construction industry. Contractors have significant expertise and knowledge on the constructability of projects that should inform the development of projects at the earliest stages. Contractors are uniquely placed to provide information on the ability to construct a project in the given physical and regulatory environment, even as early as the concept development phase.

Seeking contractor input early in the project lifecycle will provide more robust data and information that can be used by delivery agencies to:

- develop and assess options
- select the most appropriate procurement approach and contract model
- undertake cost estimates

Engaging with contractors at the planning stage will also allow for better identification and assessment of risk. This allows early discussion about appropriate risk allocation and the selection of a procurement and contract model that aligns with the risk profile of the project. This will both allow bidders to price risk appropriately as well as ensure the necessary incentives and levers are in place to deal with risk as it is realised.

Earlier engagement will benefit productivity as the better a project is planned the better it will be delivered. Issues will always arise in delivery that are unexpected, this is the nature of construction. However, drawing on the deep expertise of the construction industry will deepen the information available at the planning stage and minimise unforeseen issues during delivery.

Recommendation: That procurement guidelines be introduced that require delivery agencies to seek input from the construction industry during the project concept development stage, particularly for large and/ or complex infrastructure.

Productivity benefits will come from greater standardisation and consistency in the approach to procurement. Alignment of procurement processes across delivery agencies and greater consideration of the information that is needed to assess the ability of a bidder to deliver the project is needed. Significant resources are devoted to the bid process, these are resources that could be more effectively deployed towards project delivery – for both contractors and delivery agencies.

Documentation requirements at the tender stage have only grown, with an increasing requirement for documentation that relates to a bidder's compliance with government policy and regulation rather than the value they will deliver in their approach to delivery.

This is further exacerbated by the differing requirements across government agencies, and even within the same agency. Not only does this divert resources it also increases the cost of bidding, which (for a Design and Construct project) is now approximately 1 per cent of total project costs for every contractor that bids a project. This is ultimately paid for, one way or another, by the client.

Also contributing to the increased cost of bidding is the increasing time between release of tender to contract award. In a recent independent survey of ACA members, undertaken by Oxford Economics, Queensland performed below expectations against measures assessing the extent to which contracts are awarded within the original tender validity period. This was consistent with broader national trends. Possibly this trend has some relationship to the volume of documentation that bidders must provide and the time needed for tender evaluation boards to then review and evaluate what has been submitted.

All of these issues are compounded as the number of bidders increases, with each contractor required to meet tender requirements and the resulting volume of documentation then to be reviewed to determine the preferred bidder. It has been good to see that delivery agencies routinely take three or fewer proponents through the full tender process, which was demonstrated in the ACA member survey undertaken by Oxford Economics.

This should continue – there are limitations to the benefits that can be delivered from competition relative to the cost of a project, and procurement should seek to find an appropriate balance. Consideration should be given to the use of prequalification schemes or other mechanisms that enable contractors to submit compliance type documentation once, which is then updated as necessary and can be accessed by all delivery agencies.

A prequalification process is currently used within Queensland, the Queensland Prequalification System (PQS). There are elements of this system that have the potential to reduce the attractiveness to construction companies. Some of these are discussed later in this submission in a discussion of Queensland's commercial environment. State-based policy does not always fully account for the operation of the construction industry as a national industry, and rather than strengthening the local industry it can weaken it.

Recommendation: That a review of the planning and procurement processes used by delivery agencies is undertaken to identify activities that can be removed or modified and to determine a standardised approach that can be used across government.

Recommendation: The Queensland Prequalification System is reviewed to ensure it does not place unnecessarily onerous requirements on contractors that place Queensland at a disadvantage to other states in terms of attracting contractors to the state.

The dominant procurement processes contain inherent barriers to innovation and productivity growth. Procurement processes should contain clear signals to industry to bring forward and adopt innovative approaches. The most important opportunity here is to remove excessively prescriptive specifications and tender processes designed to compare identical bids. Clients should instead make greater use of performance-based specifications.

The prescriptive nature of procurement can also limit the ability of contractors to put forward an approach to delivery that would represent a more productive use of resources, such as offsite manufacturing and other modern methods of construction. Tender documents often prescribe how certain specifications must be met as well as the experience and expertise of those on the delivery team. This leaves very little room for innovation or for the provision of diverse teams that provide expertise as well as the opportunity for skills development.

Recommendation: That procurement and tender evaluation should focus on the outcomes/ performance to be delivered by a project, and where appropriate, seek to encourage alternative approaches to delivering the defined project outcomes.

Productivity is also reduced by the inability for bidders to rely on information that is provided by a delivery agency at the time of procurement. This is particularly the case for information that relates to ground conditions and utility location. This information is vital to understanding risk and pricing works appropriately. Delivery agencies often provide detailed information at tender, but state that contractors cannot contractually rely on this information. As a result, contractors must undertake their own investigations to satisfy themselves of the accuracy of the information provided. A clear duplication of effort and unnecessary additional cost.

Recommendation: That delivery agencies only provide information that can be relied upon by bidders as part of tender documentation. If sufficiently reliable information cannot be provided, then bidders cannot be asked to accept or price the associated risk. Consideration should instead be given to the inclusion in pricing of Provisional Sums for risks that accurately quantified at time of tender.

There has been a tendency to equate value for money with lowest price and the construction industry has responded by competing in a 'race to the bottom' that in some cases might involve intentionally submitting a bid for less than the estimated cost in the hope of making the money back during the project through claims and variations. This has contributed to the poor financial stability of the construction industry, which is demonstrated by near record levels of insolvency and razor thin margins, particularly within the heavy civil and building sectors of the industry, as demonstrated in Figure 4 and Figure 5.

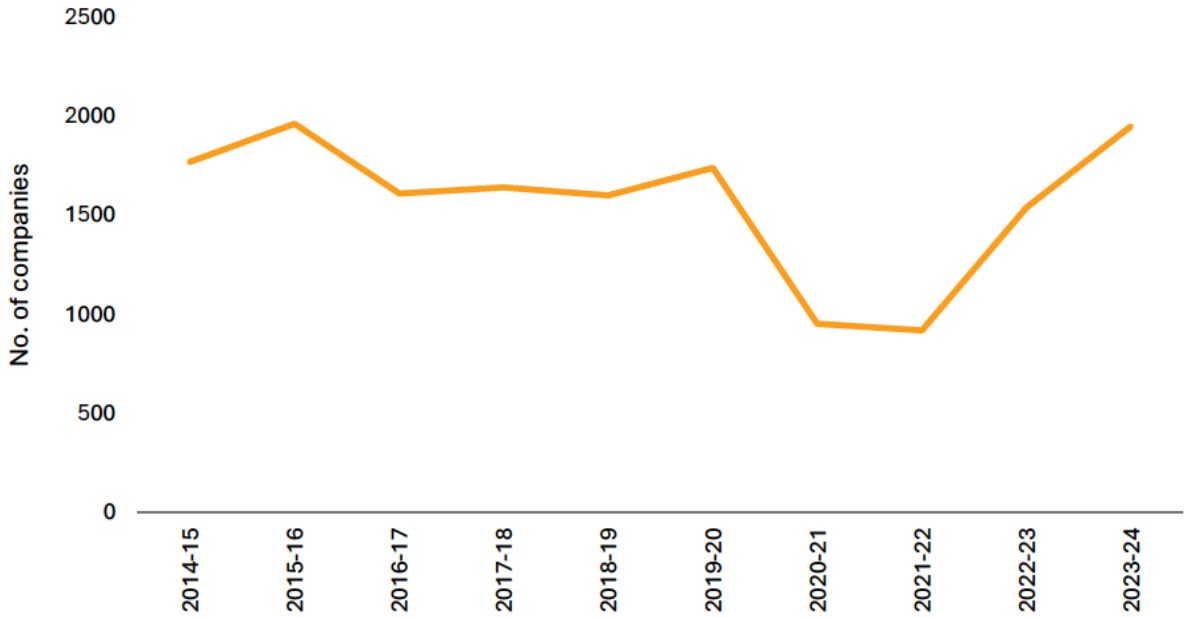
This affects productivity at it reduces the ability and incentive for contractors to innovate, to invest in new and better ways of doing things. For Australian construction business

cost is the most common barrier to technology adoption.[13]

The existing Queensland Government Building Policy Guidelines do include the suggestion that delivery agencies may seek to investigate very low tender prices if the price appears to be well below the median bid or the projects estimated value and the Department of Transport and Main Roads has a detailed policy on this. This is a good initiative and places some of the responsibility for accepting low bids on the client. It also demonstrates that low bids will not simply be accepted, without question.

Recommendation: That the existing Queensland Government Building Policy Guidelines be strengthened to require all agencies to investigate a very low tender price if the tender price or a key element of the tender price is well below the median and/or the project's estimated value, before selecting the tender as the winning bid.

Figure 4: Construction company insolvencies, National, 2014-15 to 2023-24



Source: ASIC Insolvency Statistics

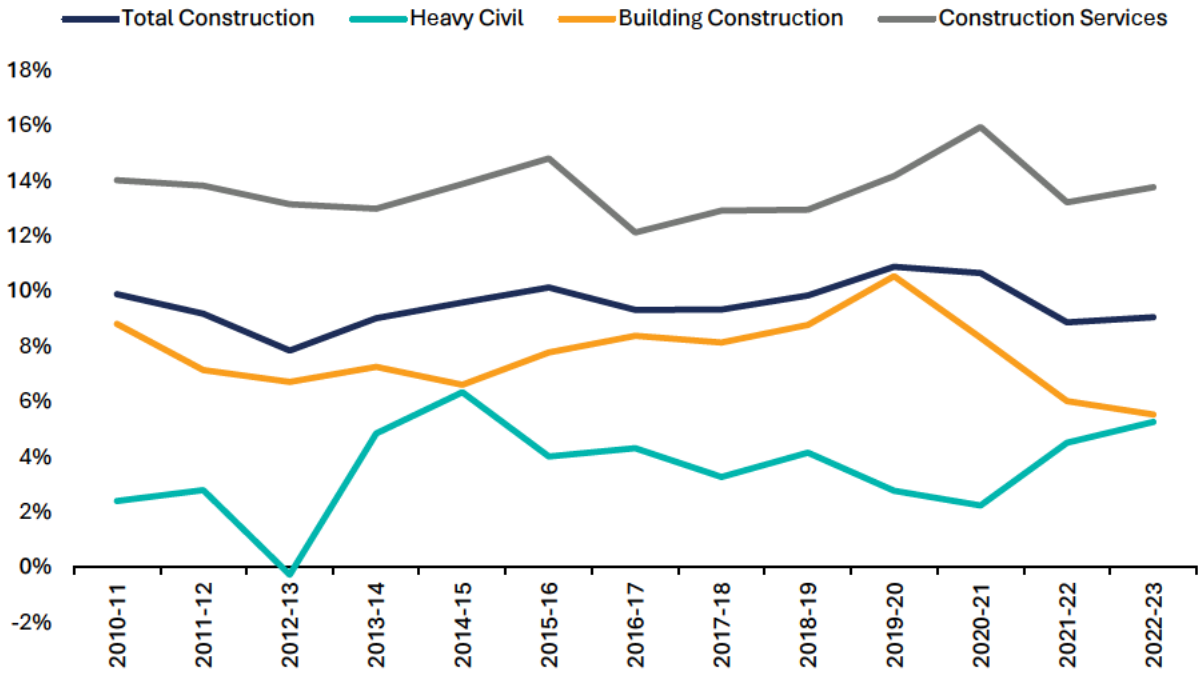
A procurement approach that genuinely seeks to achieve value for money and is able to clearly to define what this means for the client would assist the construction industry to move away from primarily price-based competition. It could enhance financial stability and allow investment in productivity improving measures.

To achieve this, greater clarity is needed in terms of how non-cost outcomes are

[13] Deloitte and Autodesk, State of Digital Adoption in the Construction Industry 2025, February 2025, p.16

considered when assessing value for money and also in the transparency of evaluation outcomes. Despite the assertion from governments that they are moving away from procurement models that favour 'lowest price' bids, this is not the perception of the construction industry. This is partly due to a lack of detailed, post-contract award/ post-evaluation feedback and how non-cost outcomes influenced evaluation outcomes.

Figure 5: Annual construction profit margin, 2012-11 to 2022-23



Source: ABS, ACA

Recommendation: That delivery agencies be required to publish clear guidance on how non-cost outcomes will be evaluated and their contribution to the overall assessment of value for money, for each procurement.

Recommendation: That delivery agencies be required to provide detailed feedback to bidders on their performance against all elements of value for money and publish the value for money score for all bidders.

Collaborative and fair contract models

Contract models that incorporate collaboration and flexibility to manage uncertainty enable better risk management and can reduce contract disputes, costs and improve the financial stability of the construction industry.

High levels of uncertainty reduce the ability for contractors to accurately price a project at the time of tender. In circumstances where contractors are required to provide a fixed price at the time of tender, this introduces a significant risk that cannot always be managed or mitigated by the contractor.

For example, there is often uncertainty in relation to project elements such as:

- Approval processes
- Design
- Ground conditions/ utilities
- Weather
- Cost of materials
- Third-party interfaces/ service delivery.

Most of these are beyond the control of the contractor; however, in a fixed-price contract model the contractor is often required to accept all these risks and the full consequences should they be realised, which they often are. In the worst cases, the realisation of these risks can result in ongoing contractual disputes and even threaten the financial viability of contractors and their suppliers.

There is no question that the contracting environment in Australia is contributing to an adversarial culture in construction. In Australia, an average of 2.6 per cent of project costs are spent on construction project disputes, with Australian governments estimated to spend $248 bn in the four years to FY25, dispute costs could reach $6.45 bn. The average time taken to resolve disputes is 15 months.[14] This cannot be considered productive for anyone other than lawyers.

To minimise their exposure to these risks, head contractors will often seek to pass risk down the supply chain to smaller participants with even less ability to manage or mitigate them. This contributes to the fragmented nature of the construction supply chain and dominance of smaller firms, as each player seeks to minimise their exposure to risk. This fragmentation and the proliferation of small businesses is detrimental to productivity.

A recent report from the Centre for Economic Development Australia (CEDA) identifies that 98.5 per cent of Australian construction firms have fewer than 20 employees and

[14] Three ways to avoid construction project disputes

that smaller construction companies are less productive than larger firms. It is suggested that this is because smaller firms are unable to achieve productivity improvements through economies of scale and scope, innovation and investment of larger organisations.[15]

While no contract can account for all the unexpected events that will complicate delivery, contracts can incorporate mechanisms to encourage clients and contractors to work together to resolve issues fairly and reasonably and to avoid disputes.

The overriding goal of contracting must shift from a focus on transferring all risks to the contractor at the outset—particularly unquantifiable risks—to establishing the rules by which the parties will jointly manage these risks as they inevitably arise throughout delivery. One way to do this would be to include agreed 'Provisional Sums' in pricing for risks that cannot be accurately priced. Another way would be through greater use of collaborative forms of contract.

A further productivity benefit to a greater use of collaborative contracting models is the improved financial stability that this will provide to the construction industry, throughout the supply chain. The allocation of pricing risk to contractors in an uncertain project environment is one of the primary drivers of the low margins and high number of insolvencies in the sector as well as the lack of investment in innovation and improvement. Greater financial stability will provide the platform for greater investment in capability and capacity, which can l drive productivity.

Recommendation: That Queensland adopt procurement and contracting principles that recognise the inability of contractors to accurately price uncertainty and commit to the use of collaborative contract models and equitable allocation of risk.

[15] CEDA, *Size Matters: Why Construction Productivity is so Weak*, 2025, p.15

Less duplication and increased standardisation in delivery

A consistent and streamlined approach to delivery will release capability and capacity within delivery agencies and contractors and focus activity on tasks that deliver the most value.

A significant challenge to the productivity of the construction sector is the variation in contract forms not only between jurisdictions, but within jurisdictions and even within a delivery agency. A vast amount of time and resources are devoted to understanding and managing the range of contracts used by different clients. The use of consistent and fair contract models that do not require significant legal intervention time after time will have a range of productivity and other benefits.

Queensland should adopt a standard and common library of contracts that can be applied with minimal variation. Contract amendments should be applied in rare circumstances and used only where strictly necessary and by agreement with bidders. (NB: until recently, this used to be standard practice in the Queensland Department of Transport and Main Roads) A standard suite of contracts could draw on best international practice—such as the NEC suite of contracts— and be supported by a range of guidance materials on key procurement and contract delivery approaches.

Such an approach will need central coordination by an entity with an understanding of the procurement and delivery of major infrastructure projects and with responsibility for the efficient delivery of the public infrastructure pipeline. The development and administration of Queensland procurement guidelines and contracting models have not kept pace with the size and complexity of projects that are being delivered. This may be a result of the responsible agency not having sufficient exposure to or responsibility for major public infrastructure projects.

Recommendation: That Queensland adopt standard form contracts for the delivery of infrastructure with clear guidance for when an agency may depart from the standard.

Recommendation: That responsibility for procurement and contracting policy and rules sits with the agency that is responsible for development and coordination of the infrastructure pipeline.

Both clients and contractors have limited resources available to deliver infrastructure and these resources should be focused on the activities that deliver the greatest value. A more collaborative and high-trust approach that is focused on clients and contractors, bringing together teams with complementary skills, would be far more efficient and a better use of resources than the current approaches that see roles replicated and burdensome levels of oversight and compliance activities undertaken by clients or third parties.

Industry and clients have demonstrated their ability to work together to identify efficiencies and improve productivity. During the COVID-19 lockdowns, governments and industry worked together to keep the construction sector operational. This involved initiatives such as eliminating inefficient and superfluous processes to speed up delivery

and ramp up activity. Government clients were also able to introduce zero-day payment terms to support cash flow and financial stability. These are initiatives that should become 'business as usual', with the ability to deliver greater productivity.

Similarly, greater efficiency was achieved through collaboration to deliver the infrastructure needed in Queensland to extract coal seam gas and convert it to liquid natural gas. The total cost of the developments is estimated to be in the region of $70 billion and placing an enormous demand on resources in Queensland. To mitigate this supply crunch, the proponents used collaborative procurement and delivery models that provided certainty to the market, allowed greater flexibility in delivery and sought to align the interests of all stakeholders towards successful project delivery.

A process that can be particularly inefficient is the design review process, which tends to be overly complicated and time-consuming. It is reasonable that clients would seek a level of assurance that designs are 'fit for purpose'. This is often achieved through the use of independent certifiers or independent verifiers. This can see multiple design reviews occur before a final design is accepted by the client, with little substantial change to the design.[16]

Further, compliance and reporting requirements during delivery are increasingly burdensome and a large portion of project delivery teams are now devoted to preparing and submitting multiple, large reports that it would appear are rarely read or used by clients. These reports exist to demonstrate that a project has been delivered in accordance with the many and varied regulatory requirements but add little value to the infrastructure being delivered or the overall outcomes of the project.

This work is often undertaken by highly skilled commercial managers and engineers whose expertise could be more effectively used in other aspects of project delivery – improving the overall productivity of delivery. Even if the level of reporting cannot be reduced, the way in which data and information are provided and the frequency should be reviewed to ensure all reporting is both efficient and effective.

Recommendation: Undertake value stream mapping of the project delivery process to identify processes and activities that are of low or no value – with the aim of eliminating these activities

[16] Further analysis of the design review process can be found in the joint Consult Australia/ ACA Partnership for Change report aca-ca-multiple-design-reviews_final.pdf

A new approach to industrial relations

A more productive construction industry requires a different approach to industrial relations and a fundamental change in culture.

Construction has a long history of not only adversarial relationships between clients and contractors but also between employers and unions – this must change. Workers must have a safe workplace (physical and mental) and should be fairly remunerated for their work. In return for increasing real rates of pay, employers should be able to expect increasing and reliable rates of productivity. Over time, however, the construction industry has experienced an increasing disconnect between real wages and productivity (Figure 6). In Queensland, this disconnect has been exacerbated with the introduction of the Better Practice Industrial Conditions (BPIC). This has occurred primarily through the changes in work conditions introduced and the extent to which these have been used to restrict the availability of labour and therefore reduce productivity.

Even though BPIC has been paused, its impact is here to stay, at least over the medium-term. The conditions included in BPIC set a new benchmark against which non-BPIC projects needed to compete to secure labour. Further, BPIC-type conditions have now been negotiated into new Enterprise Bargaining Agreements (EBAs), which will be challenging to unwind when renegotiated.

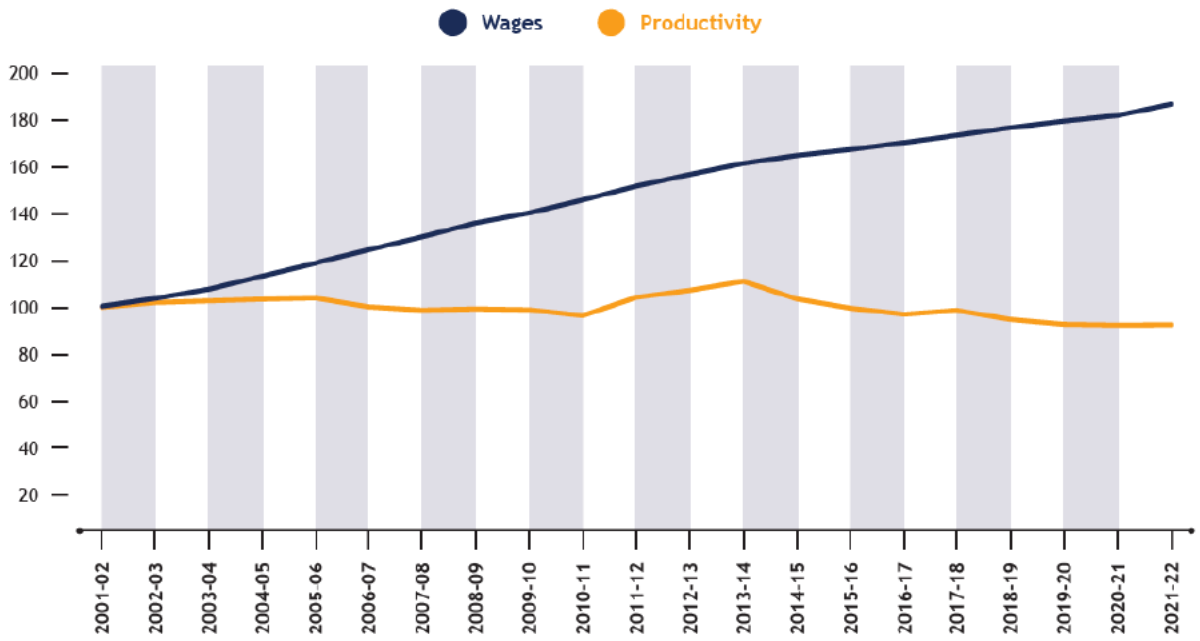
BPIC has reduced the attractiveness of Queensland to contractors as it has resulted in delivery costs being substantially higher than other jurisdictions with little appetite from clients to accept these higher costs. Further, non-EBA employers are reluctant to enter the Queensland market where there will be pressure to meet the benchmark that has been set through BPIC.

Recommendation: That BPIC be abolished and mechanisms to better align the interests of government, workers and employers be investigated.

Beyond just the industrial relations environment, the construction industry has a culture problem. Long work hours, poor mental health and a lack of diversity all contribute to poor culture and the difficulty the industry has is attracting and retaining workers. This is a broadly recognised problem and was the catalyst for the ACA, NSW Government and Victorian Government establishing the Construction Industry Taskforce (CICT) in 2018.[17]

[17] Construction Industry Culture Taskforce | Together We Are Building A Stronger Construction Industry

Figure 6: Wages and productivity growth, 2001-02 to 2021-22



Source: ACA[18]

Through a research partnership with RMIT the CICT has developed an evidence-based culture standard that seeks to improve the culture of the construction industry through a focus on three pillars – time for life, wellbeing and diversity. The culture standard has been trialled on five infrastructure projects and there is strong evidence to suggest it can improve project culture without negative impacts on productivity.[19]

Recommendation: That Queensland adopt the Culture Standard as standard practice in the procurement of public infrastructure.

Work Health and Safety regulation is an area that has become increasingly weaponised by certain union officials and it is being used to achieve industry outcomes that have no relationship to the health and safety of workers.

ACA has written to all jurisdictions outlining concerns with the existing regulations, including Queensland (see Appendix A). This letter outlines recommended changes to both the existing regulations as well as their implementation through the role of the regulator.

Recommendation: That Queensland review its Work Health and Safety Act and Regulations to amend them to reduce the ability of union officials, HSRs, HSCs and union delegates to improperly use health and safety to achieve industrial outcomes.

[18] ACA, Nailing Construction Productivity, 2023
[19] Ibid

Recommendation: That Queensland provide adequate resourcing and support for WorkSafe Queensland to monitor and enforce the Queensland Work Health and Safety regime.

Recommendation: That Queensland work with all other jurisdictions to implement change to the Model Legislation that underpins the harmonised approach to WHS, ensuring a nationally consistent approach remains in place and benefits are realised nationally.

Furthermore, the rigid approach that some union officials can take limits innovation and the adoption of improved methods of construction. An insistence that tasks and roles must be performed in a certain way limits the contractor's ability to implement change. This is of particular concern when these innovations could not only improve productivity but also safety.

A more competitive commercial environment

A more attractive commercial environment will attract contractors to Queensland and improve the financial stability of those already operating.

High rates of business insolvency are a real issue within the construction industry and is a symptom of broader financial instability. As highlighted in previous sections, the general poor financial health of the construction industry is a handbrake on changes that contractors can make to improve productivity.

Queensland has introduced a range of regulations that are aimed at addressing insolvency, which are implemented by the Queensland Building and Construction Commission (QBCC). This includes Minimum Financial Requirements (MFR) and the use of trust accounts. However, there is no evidence that this regulation has been successful.

MFR requires construction companies to hold a minimum level of net tangible assets based on their national revenue. No other state has this requirement. This represents and significant compliance burden and impacts a contractor's ability to efficiently manage its own balance sheet.

Head contractors must also hold progress payments and retention amounts in trust accounts as a method of ensuring payment to subcontractors. The use of trust accounts or project bank accounts is not unique to Queensland and is an approach used by multiple jurisdictions, however there is no evidence that this approach has been effective. A full discussion of the limitations of trust accounts is set out in the ACA report, Trust Deficit.[20]

The financial requirements, which are calculated on national revenue, have driven contractors with national or multijurisdictional operations to establish separate Queensland entities, with associated additional cost and administration. These costs are ultimately recovered through the price paid by clients.

In addition to these requirements, the Prequalification System (PQS) administered through Business Queensland sets an even higher bar for financial assessment. All contractors who are directly contracted on government building projects that are valued at more than $1 million must be prequalified. Under the PQC, the net tangible assets requirements remove the ability for an entity to rely on intercompany loans as an asset to support the financial position of an operating company.

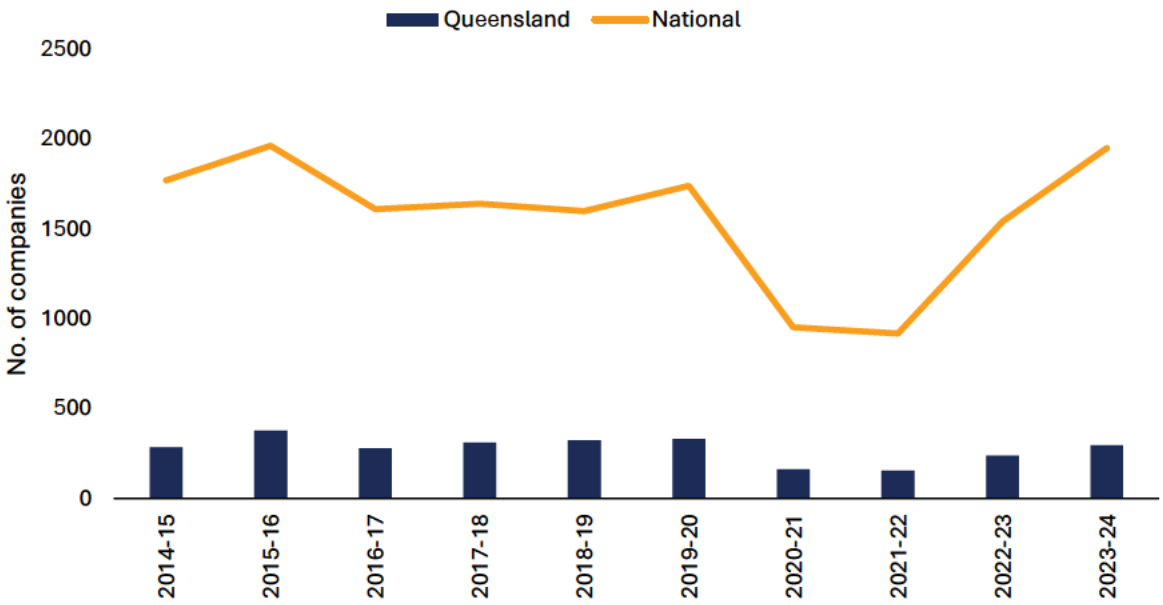
What is concerning is not only the negative impact this regulation has had on contractors, competition and productivity but the fact that there is no evidence that this regulation has delivered any benefit.

As demonstrated in Figure 7, Queensland construction insolvencies have followed the national trend. While there was a decrease in insolvencies immediately following the

[20] Trust Deficit - Australian Constructors Association

introduction of MFA, this was a national trend that is more likely attributable to the support the construction sector received to remain operational during the peak of COVID-19-related lockdowns. Further, these regulations increase the cost of operating in Queensland and are a barrier to entry for contractors.

Figure 7: Construction company insolvencies, National and Queensland, 2014-15 to 2023-24



Source: ASIC Insolvency data

Recommendation: Undertake a review of the effectiveness of Trust Accounts, Minimum Financial Requirements and net tangible asset elements of PQC to determine what benefits have been delivered and if benefits cannot be demonstrated to exceed impacts, then these should be removed.

Greater use of data and adoption of digital solutions

There are multiple opportunities to adopt technology and digital solutions across the project lifecycle, to enable the changes that must be made to enhance productivity.

Construction projects create immense amounts of data but use very little of it, particularly once a project is complete. Data such as engineering calculations, project costs, equipment usage, hours worked, identified defects, embodied carbon, weather conditions, utility locations and ground conditions currently either end up in a contractual claim, in the hard-to-reach recesses of a contractor's SharePoint site or printed off for a client and filed in a dusty storeroom.

Rarely is this information used to identify process improvement opportunities, improve forecasting or refine designs. Nor is this data used to understand performance, to identify how well or how efficiently a project was delivered or the extent to which outcomes were achieved. This failure to leverage data is one of the reasons (but not the only reason) why the construction industry is stuck in the past and productivity is now worse than it was thirty years ago.

Recommendation: That all public infrastructure projects and programs be required to identify minimum critical data sets that will be collected across the full lifecycle of design, construction and operation.

Government policy and maturity around digital transformation are disparate. Inconsistency and differing interpretations of digital policy are a significant contributor to unclear requirements and setting unachievable goals. Furthermore, the maturity level and capabilities of government organisations are limited and the capacity to leverage digital deliverables is not being realised.[21]

Integrated and collaborative approaches enable technology adoption and promote innovation. Current procurement models focus predominantly on traditional processes and analogue deliverables (e.g. paper-based drawings, operations and maintenance) and the legal and commercial frameworks that underpin these procurement models have limited provisions for the adoption or reliance on advanced digital data.[22]

There is immense scope for greater use of digital solutions to improve the efficiency of procurement and delivery processes. Document management and reporting are areas in which greater use of available technology could substantially improve the speed, quality and consistency of these activities. Queensland should adopt a digital by default approach and an explicit goal of transitioning away from 'digital by exception'.

Recommendation: That Queensland adopt a digital by default approach to the procurement and delivery of public infrastructure.

[21] aca-ca-digital-technology_final.pdf
[22] Ibid

Existing productivity initiatives

There is already progress being made that will support Queensland's efforts to improve construction productivity

National Construction Industry Forum (NCIF)

The NCIF was an Australian Government commitment, made at the 2022 Jobs and Skills Summit, to constructively address issues within the building and construction industry and is established under the *Fair Work Act 2009 (Cth)*. It brings together peak construction industry bodies, unions and the Commonwealth Government to provide advice on matters such as workplace relations, skills and training, safety, productivity, diversity and gender equity and industry culture.

In the wake of the CFMEU administration, the NCIF has been focused on collaboratively identifying the sectors' key challenges and developing a Building and Construction Industry Blueprint, the aim of which is to create a lasting and tangible change across the construction industry.

In March 2025, the NCIF released its draft Blueprint that outlines both the problem and a range of prioritised actions for reform, a number of which address productivity.[23]

National Construction Strategy

Through the Infrastructure and Transport Senior Officials Committee (ITSOC), which has representation from the Commonwealth and all states and territories, there has been recognition of the productivity problem in the construction industry and the impact that this has on the delivery of public infrastructure.

In March 2024, ITSOC endorsed the development of a National Construction Strategy, focused on land transport infrastructure. This strategy is focused on four pillars – the development of which is led by a sponsoring jurisdiction and supported by a working group with representation from across ITSOC member organisations.

- Workforce – led by NSW
- Procurement and contracting – led by Victoria
- Data collection and benchmarking (for the measurement of productivity) – led by Queensland
- Modern Methods of Construction and new technology – ACA

Each workstream has developed a range of opportunities, drawing on broad consultation, to improve construction productivity and a draft strategy will be prepared in the coming months. Many of the issues being considered by the QPC have been

[23] Draft Blueprint for the Future - Department of Employment and Workplace Relations, Australian Government

considered within the context of the NCS and the ACA encourages QPC to draw on the work that has been undertaken, and co-ordinated through Commonwealth Dept. of Infrastructure.

APPENDIX A

AUSTRALIAN CONSTRUCTORS ASSOCIATION

18 December 2024

The Hon Jarrod Bleijie
Deputy Premier
Minister for state Development, Infrastructure and Planning
Minister for Industrial Relations

Via email: deputy.premier@ministerial.qld.gov.au

cc: Michael Pennisi
CEO, WorkSafe Queensland
info@workcoverqld.com.au

Dear Minister

In recent months the Australian Constructors Association (ACA) has been working closely with our industry colleagues and governments, at all levels, in response to the allegations of misconduct against the CFMEU. We see this as an opportunity to transform our industry into one that welcomes all and is fair for all. One of the ways in which we can achieve this is to eliminate the manipulation of health and safety to achieve industrial objectives. This behaviour contributes to the culture of intimidation and coercion that permeates the construction sector and undermines the regulatory frameworks that seek to ensure worker health and safety.

The ACA recently provided a submission to the formal review into Victorian Government bodies' engagement with construction companies and construction unions, which highlighted examples of this behaviour and provided recommendations for change. We are providing this information to you as well as health and safety regulatory bodies across all Australian jurisdictions. If we are to achieve lasting change the challenges that we are experiencing must be addressed, consistently, across all jurisdictions.

It has been the experience of ACA members that union officials, union affiliated Health and Safety Representatives (HSRs), Health and Safety Committees (HSCs) and union delegates are able to exercise considerable power and influence across construction projects. Much of this power is provided to union officials and HSRs via occupational health and safety legislation. Whilst these powers are intended to ensure the adequate representation of employees' health and safety interests, in the construction industry, this power is often misused to achieve industrial objectives.

The powers of these positions have been used to disrupt the work of non-preferred subcontractors, resulting in additional costs up to millions of dollars. For example:

- Union officials or the health and safety representatives on sites may regularly attend a site to investigate suspected contraventions related to the subcontractor, with the intent of disrupting the works. Safety issues sighted are minor or trivial but are deliberately overblown to be presenting a 'serious and imminent risk' to health and safety. Attempts are made to stop as many workers from working as possible to maximise disruption.
- Issues that have been known about for weeks are raised by an official or health and safety representative at a time that will stop critical works when they will be the costliest for the head contractor. There are numerous examples of critical works such as, beam lifts during rail occupations or road closures, that have been stopped in these circumstances over recent years.

This behaviour is allowed to occur almost unchecked by regulators due to insufficient protections in the Work Health and Safety Act, or lack of resources and support for health and safety regulators. The use of health and safety to achieve industrial relations objectives is not new and has been identified in previous reviews of the construction sector. Both the Royal Commission into Productivity in the Building Industry in NSW and the Royal Commission in to Building and Construction Industry (the Cole Royal Commission) made findings in relation to these activities.

In NSW, Commissioner Gayle found that many alleged safety disputes were in fact manufactured for other purposes, particularly to justify payment for lost time in an industrial dispute. Many safety committees were found to effectively be controlled by union activists with the regulations prescribing the way in which safety committees were to be established and operated frequently not followed. The Cole Royal Commission found that occupational health and safety was often misused by unions as an industrial tool. While acknowledging the legitimate interest of unions in the safety of members it was recognised that there was scope for misuse of safety, which needed to be eliminated.

Recommendations

- Review the current Queensland Work Health and Safety Act and Regulations to assess if they need changes to reduce the ability of union officials, HSRs, HSCs and union delegates to improperly use health and safety to achieve industrial outcomes. Consider amendments such as the following:
  - Introduction of a 'fit and proper person' test and/ or stronger accreditations for these positions to be held and the consideration of a democratic election process for the identification of workforce representatives to hold safety roles.
  - Requirement that a direction to cease work issued by a HSR and that is disputed by the head contractor can only occur following WorkSafe Queensland attendance and validation.
  - Ability to have HSRs / union delegates disqualified from their safety roles for unlawful conduct.
  - Requirement for HSRs to act in ‘good faith’ when carrying out their duties.
  - Ability to have a union official’s right of entry or ability to access a site immediately suspended if WorkSafe Queensland determines that they are raising illegitimate safety issues with the intention of disrupting or stopping works.
  - Allowing a defence of provocation to any alleged hindering or obstruction of union officials.
  - Requirement for 24 hours' notice of safety entry, unless accompanied by a WorkSafe Queensland inspector who validates imminent safety risk justifying immediate entry OR at least a requirement for the official to notify WorkSafe Queensland prior to attending site under Work Health and Safety laws.
- Provide adequate resourcing and support for WorkSafe Queensland to enforce the Queensland Work Health and Safety regime, and enabling WorkSafe Queensland to:
  - Apply to disqualify union officials' Queensland Work Health and Safety permits where there is unlawful conduct as determined in a Queensland Magistrates Court.
  - Prosecute unions and their officials for Work Health and Safety psychosocial risk breaches in relation to their conduct on projects.

- Attend projects promptly to resolve and rule on disputed safety issues and related stoppages of work – which has the potential to improve safety as well as project productivity.
- Increase powers for inspectors to require union officials to leave site and the creation of civil penalty provisions for a failure to comply.
- Attend site to conduct/monitor HSR elections.

About us

ACA is a trusted voice for the construction industry. We are the only representative body covering the three key sectors of the industry—vertical, horizontal and services. Collectively, our members construct and service over 90 per cent of the value of major infrastructure projects built in Australia.

We welcome further discussion about these issues raised.

Yours sincerely

Jon Davies
Chief Executive Officer