



Mr James Cameron  
Executive Director  
Australian Construction Industry Forum  
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Dear Mr Cameron

Thank you for your correspondence setting out the Australian Construction Industry Forum policy framework, and the opportunity to outline the ALP's response ahead of the Federal Election.

### **Implementation of the Shergold/Weir Report**

Labor supports the recommendations in the *Building Confidence – Improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia* authored by Professor Peter Shergold and Bronwyn Weir, and the implementation timeline given the urgency of addressing the crisis born privatisation and deregulation of the building industry.

However, it has taken a year for an incomplete and partial implementation plan to be developed by the Commonwealth and the States

Labor is committed to a national licensing scheme of building professionals, increased penalties and banning the importation and use of flammable cladding.

### **Support for Building Information Modelling Strategy**

Labor supports the Building Information Modelling (BIM) Strategy of the Australasian BIM Advisory Board. The effective application of BIM to the building and construction industry is a key issue for the sector and is part of the broader issue of adapting to changes in materials science and the construction industry brought about by the advent of the fourth industrial revolution.

Labor will establish a tripartite built environment innovation council that will consider this and other issues as part of Labor's broader innovation, industry, science and research agenda. The Council will serve as a major forum for industry engagement regarding reforms to the National Construction Code.

### **Australian Building and Construction Commission**

Abolishing the ABCC will mean that construction workers are treated the same as all other workers. As such the Fair Work Commission and Fair Work Ombudsman will resume responsibility for oversight of the construction industry, as it does for all other workers and businesses covered by the Fair Work Act.

Labor has zero tolerance for criminality or corruption in the community and this includes the union movement. We are committed to ensuring that any alleged criminal conduct in any registered organisation is investigated by police and prosecuted in the court.

Labor will establish a Tradie Pay Guarantee, which will protect sub-contractors working on Government projects from being left unpaid when dodgy businesses go bust, along with a \$7 million Tradie Litigation Fund for subbies to access justice and see regulators take dodgy bosses to court and win.

A Shorten Labor Government will establish the Australian Skills Authority – an independent, labour market testing body to determine genuine skills needs and restrict temporary work visas to those areas.

The Australian Skills Authority will work with industry, unions, higher education and TAFE sectors, and state, territory and local governments to project Australia's future skills shortages and train Australian workers for those jobs.

### **Non-Conforming Building Products**

A Shorten Labor Government will re-regulate the building industry to reduce risks to public safety and prevent non-compliance. Thirty years of deregulation in the building industry have failed to protect public safety. Australians continue to see the importation of asbestos; the installation of non-compliant fire sprinkler systems; and buildings constructed with non-compliant flammable cladding. A Shorten Labor Government will implement measures to reduce risks to building safety exposed by the Senate's inquiry into non-conforming building products. The measures include:

- A ban on the importation, sale and use of flammable aluminium composite panels with a polyethylene core.
- Establishment of a national licensing scheme for all building practitioners, with requirements for continued professional development.
- A penalties regime for all building practitioners and companies who knowingly use non-compliant materials.
- Reinstating the Minister for Industry – not an Assistant Minister, as has been the case under the Liberals – as Chair of the Building Ministers' Forum, to ensure that public safety concerns have a place at the Cabinet table.

The regulatory and enforcement regime is broken, and national action is required to restore compliance with the National Construction Code and toughen up penalties.

A Shorten Labor Government will work with state and territory governments to design a national licensing scheme for building practitioners. This would include installers, fire protection practitioners, certifiers and surveyors – many of whom are not currently subject to formal licensing or inspection.

By establishing a national licensing regime, separate to the Federal Safety Commissioner's existing role, we will restore integrity to a fragmented system that is spread over a mishmash of eight jurisdictions and 19 regulators; all of which have different requirements and standards for building practitioners.

As part of the national licensing scheme negotiations, Labor will also develop and implement a more efficient and consistent penalties process, with stronger sanctions for breaches of the National Construction Code. Compliance with building regulations must be enforced in order to restore accountability to the industry.

## **Additional: Phoenixing**

Fraudulent phoenix activity costs the Australian economy up to \$5.13 billion a year. Labor has a comprehensive policy suite to detect, deter and punish phoenix activity; and protect the businesses and employees who are hit hardest.

A Shorten Labor Government will protect sub-contractors working on government projects from being left unpaid when dodgy businesses go bust through the implementation of the Tradie Pay Guarantee.

Labor will trial a new requirement for large Commonwealth construction projects that would see project bank accounts established that use cascading statutory trusts, ensuring that all businesses down the supply chain get paid on time, and set up an efficient process for handling disputes and establish a federal security of payments legislative regime based on the recommendations of the Murray Review.

Labor will then work with the states and territories to harmonise schemes across the country where possible, including consulting on the referral of powers to the federal program. This would apply to a broader range of construction activity.

Labor will create a \$7 million Tradie Litigation Fund for sub-contractors to access justice and see regulators take dodgy bosses to court and win. The new \$7 million Tradie Litigation Fund will give the Australian Securities and Investments Commission the ability to run more difficult court cases without draining the corporate watchdog's resources.

Not only will this give sub-contractors their day in court, it will also act both as a punishment and a deterrent for dodgy directors. People who deliberately burn their companies should be subject to the full consequences of failing directors' duties, including being liable for compensation, fines of up to \$200,000 or five years behind bars.

Additionally, a Shorten Labor Government will implement the following anti-phoenixing measures:

- Require all company directors to obtain a Director Identification Number (DIN) with a 100-point ID check. This stops dodgy directors signing up under false details and allows regulators to track their operation.
- Increase penalties associated with phoenix activity.
- Allow the Commissioner of Taxation to name and shame individuals and entities as a penalty for the most serious tax offences.
- Allow the Commissioner of Taxation to apply to the Australian Securities and Investments Commission for disqualification orders for directors who engaged in or oversaw serious non-compliance.
- Undertake consultation on targeted integrity measures based on the recommendations of the Melbourne Law School / Monash Business School Phoenix Research Team recommendations.
- Include all labour hire contracting firms in the Taxable Payment Reporting System, to increase tax compliance in a phoenix-risk sector.

Yours sincerely

Australian Labor