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Industry at tipping point over PI insurance crisis

The Professional Indemnity (PI) insurance crisis we have been warning governments about for almost three years has finally hit.

Over the past two weeks, AIBS has received notifications from building surveying firms all over Australia that are facing closure or have already closed because they cannot secure workable PI insurance policies.

As a result, building and construction projects in some jurisdictions are under threat now. The entire industry nationally - including consumer protection for building owners throughout Australia - is perilously close to collapse.

Despite this, our political leaders continue to make the issue into a partisan political football. Federal Minister Karen Andrews has publicly blamed Ministers in the various jurisdictions for the crisis saying it is their responsibility to administer building regulations in their own States and Territories. At the same time, the Ministers are saying they had hoped for a national solution and they have limited powers to act. As a result, State and Territory governments are developing their own solutions to what should be a uniform national approach.

AIBS expects the political blamestorming to come to a head at next month's meeting of the Building Ministers' Forum (BMF).

But we are not waiting for that and have continued to advocate to all levels of government for an urgent solution. From the outset we have wanted a national solution across all jurisdictions, not the piecemeal approach we now have.

What we are advocating for

AIBS wants our political leaders to -

- *Take responsibility for the future of Australia's building and construction industry and unite to develop a national, unified approach by the Federal and all State & Territory Governments to resolve this issue urgently.*
 - *Create a fund for remediation of combustible cladding on all existing building stock.*
 - *Alternatively, change the registration rules for building surveyors so they can be registered with insurance policies that exclude cover for claims for combustible cladding on existing buildings **and at the same time**, governments must underwrite that risk so that building surveyors/certifiers can confidently remain in business and provide consumer protection.*
- NOTE: Without the abovementioned underwriting, consumer protection for the legacy work undertaken over the past 21 years of private certification will be lost as a result of the 'Claims Made' insurance system not being maintained exclusion free.*

How did it come to this?

Government policy over the last 15 years has eroded accountability in the supply chain. At the same time, there has been a lack of industry oversight and auditing by successive Governments. Consumer protection has been gradually eroded with a disproportionate and unsustainable amount of responsibility placed on building surveyors and, in turn, undue stress on their PI policies that have been the last resort for consumer protection.

Governments across the country have failed to adequately consult with industry and therefore have been unable to understand and assist us to deal with a crisis in PI insurance that was predicted three years ago, and officially recognised by Federal and State Governments at the Building Ministers' Forum in August last year. At the time, the BMF stated they would oversee 'a nationally co-ordinated approach.' Despite that commitment being made, so far, we have seen no action at all by the BMF and the States and Territories are now approaching the issue themselves in a fragmented way. The NSW and Queensland Governments are adopting completely different approaches. In Victoria, the Government has made announcements that they will not leave consumers and building surveyors stranded without insurance, but we are yet to see any details. Even so, we have only started to see any action at the eleventh hour.

The crisis has been caused by significant increases in insurance premiums, unacceptable increases in excesses (some over 500%), along with reduction in cover and the inclusion of non-conforming product and combustible cladding exclusions. The reality for many building surveyors is that they are now being required to take out virtually worthless PI policies just to be registered and remain in business because the excess in those policies is such that a single claim, whether justified or not, will essentially bankrupt many building surveying firms leaving consumers and building professionals unprotected and stopping projects as this occurs.

AIBS has been warning governments that the building regulatory systems that they are responsible for are facing collapse because: -

- *Building surveyors are closing or considering closing because they can't get economically feasible insurance with complying coverage and therefore unable to obtain registration;*
- *Building surveyors are closing or considering closing because they are unwilling to accept unreasonable or uneconomic insurance offers which comply with registration requirements;*
- *Building surveyors are closing or considering closing because the only insurance they are offered is affordable but provides inadequate cover for the business risks faced;*
- *Building surveyors are commencing to wind down (retrenching staff) because their insurance is due to expire, and they know they can't renew their policy or get an alternative policy so that they can't accept new work that cannot be completed before the insurance expires;*
- *A considerable number of building surveyors are now moving into treacherous territory where they are unable to legally commit to upcoming projects (even if they are currently registered) because there is no guarantee that compliant and viable PI insurance will be available for the duration of the project.*

In carrying out their statutory obligations on behalf of governments, building surveyors have also carried all of the financial burden in recent years and it is no longer possible to do so. Governments must step in now to fix this crisis that has arisen in their building regulatory systems.

Current situation

Right now, Australia's building and construction industry is at tipping point.

AIBS can do no more other than continue to push as hard as we can for governments in all jurisdictions to recognise the enormity of the problem and to continue to put forward our recommended solutions. The problem is too great to be solved by industry groups alone and governments must step in.

AIBS does not accept that this is the crisis we had to have. It could have been avoided. And now, if urgent and intelligent action is not taken by all our political leaders in all jurisdictions regardless of political persuasions, irreparable damage will be done to the industry as a whole and in particular to building surveying businesses all over the country and to consumer protection.

AIBS is not interested in party politics. We simply want all governments to come together and urgently find a solution for the sake of our profession and for our industry.

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