

On the Job

INDUSTRY TRENDS & INSURANCE UPDATES



Welcome

Welcome to the spring edition of *On the Job*.

With the arrival of more sunshine comes spring cleaning which often leads to spring planning as people start thinking about moving, about renovating, about general maintenance, about additions and extensions, about installing pools and sprucing up the garden...

Many will then consider DIY... before having a rethink and calling in a pro! This is often the time when a builder or tradie's mobile starts ringing off the hook.

And the job calls might be just what you need if you were feeling a bit blue after reading BIS Oxford Economics' *Building Australia 2018-2033* report. The economic forecaster said that the construction sector was about to face the "biggest fall since GFC" and the "building sector is switching from being a strong growth driver to a drag on the economy". It blamed weakening domestic and foreign investor demand in the face of tougher lending criteria and increased foreign buyer charges.

Both the Housing Industry Association (HIA) and Master Builders Association (MBA) have shrugged off the apocalyptic prediction with "yeah-nah".

While the HIA agreed that building growth is expected to slow, it said the slowdown is coming off the back of a "massive high with a record number of new homes being built", but it is still at one of the highest levels on record.

"We are forecasting that the market will continue to slow over the next couple of years, but it will remain well above long term averages. The previous peak prior to this cycle was 185,000 homes built per year. We've had three years with 200,000 homes built per year, and it appears we will continue building more than 185,000 homes per year for the next three years," it said.

In its *Building Industry Outlook 2018*, the MBA also predicts a slowdown, but not at the level BIS forecast, saying: "It will be a challenging year for those who have come to rely on work on high-rise unit blocks, but there will be new opportunities in other sectors, such as tourism, aged care and student accommodation. It will be a much-improved year for those who build detached houses and those who operate out in the regions."

In this edition we explore:

- house plans and copyright
- using GPS to combat theft and
- top earning trades.

We hope you enjoy this edition of *On the Job*.

The BuildCover and TradesPlus teams

Whose line (drawing) is it anyway?

Scrawled on the back of a beer coaster or architecturally drawn blueprints, when it comes to house plans it pays to know just who owns them.

When it comes to copyright and intellectual property, most people think about authors and musicians protecting their creative endeavours.

No doubt you'll recall the legal melee a few years back when Men at Work had to fork out five per cent of all their song royalties for breaching the copyright of Marion Sinclair's 1934 Girl Guides' song *Kookaburra Sits in the Old Gum Tree*. They used a flute riff that was similar in their 1983 hit *Land Down Under*. Or more recently, that shemozzle with Robin Thicke's *Blurred Lines* when it was found he had infringed the copyright of Marvin Gaye's *Got to Give it Up*.



But what about copyright in the building industry?

'Copyright' is a property right recognised in Australian law. The *Copyright Act 1968* states that the creator of an artistic work is the owner of the copyright in that work. 'Artistic work' can include a building or a model of a building, drawings and sketches of house plans, architectural drawings and renderings, plans, blueprints and layouts. The Australian Copyright Council (ACC) notes that "ideas, styles and techniques are not protected by copyright. It is the way in which a particular plan expresses an idea or style that is protected. For example, the idea of building a rectangular house surrounded by a verandah with an open-plan living area, French windows facing north and three bedrooms facing south is not in itself protected. However, drawings, plans, models and buildings incorporating these features are protected by copyright".

This means that there is copyright in architects'/builders' drawings, plans and models and it is owned by the person who created the plans. If anyone reproduces, or authorises the reproduction of, an architect's/builder's plans without permission, then they are breaching the Act. Even if the plans themselves are not copied, production of a building from plans without the copyright owner's consent is a breach.

Plans were paid for

Confusion frequently arises about ownership when an architect, draftsman or builder has been contracted to draw building plans for a fee, often in accordance with the homeowners' 'mud map' designs. Even if there is not much additional design input into the drawing of the plans, the architect, draftsman or builder will own those plans. The person who pays for the plans does not own the copyright in them (unless they have specifically arranged for the copyright to be assigned to them). Usually, the homeowner is granted a license (implied license once the invoice for the design fees is paid) to use the plans for the purpose for which they were commissioned (that is, build a three dimensional home in accordance with the two dimensional plans).

If a homeowner has drawn up a sketch showing what they want and asked the builder to draw up scale plans, it is likely that the homeowner will own copyright in their sketch and the builder will own copyright in his/her plan. If the plan incorporates the essential features of the homeowner's sketch, it is likely that they will have "underlying rights" in the builder's plan, since copying the builder's plan will indirectly reproduce the homeowner's plan.

Tweaked them a bit

It's also important to understand that the Act doesn't require 100 per cent reproduction of the copyrighted work for it to be considered a breach. The Act only requires reproduction of 'a substantial part of the work'. "There is no general amount or percentage that you can use before you have a copyright issue. If you have reproduced any important or distinctive elements of the other person's plan, you will not avoid infringement by making additions or changes. These elements may include features such as: the internal arrangement of rooms, windows, and doors; the indication of spaces; the design of the roof; and the dimensions of the building. In some circumstances, copying the perspective or the balancing of features may infringe copyright", notes the ACC.

A not uncommon scenario

Mr and Mrs Smith approach Bob the Builder to have plans drawn up for them to their specifications. They receive a costing from Bob to construct the home in accordance with those plans. They then shop around until they find Baz the Builder who will build the home for a cheaper price. If Mr and Mrs Smith then appoint Baz to build the home in accordance with the plans Bob drew up, or using plans that are substantially similar to Bob's, then they are infringing Bob's copyright in the plans. Mr and Mrs Smith could find themselves having to pay the full construction costs to Baz and a licence fee to Bob who drew the plans and potentially the legal costs associated with the infringement.

But it isn't just Mr and Mrs Smith that could find themselves in trouble. There have been lawsuits in Australia where the builder (like Baz, above) has been joined in the court proceedings.

The take out

Builders need to be wary if there is anything that might indicate that plans they are being asked to follow might be the subject of a copyright claim by someone who the builder is not dealing with. It is also best practice to include in a standard Domestic Building Contract a warranty by the homeowners that they own the copyright in the plans plus an indemnity granted by the homeowners to the builder to cover any costs associated with the infringement of copyright in the plans.

"Copyright is an extremely important issue in the housing industry, as it helps prevent builders, other designers or prospective homebuyers from copying or reproducing other people's creations in any material form, without first obtaining their consent," wrote Master Builders WA director Michael McLean.

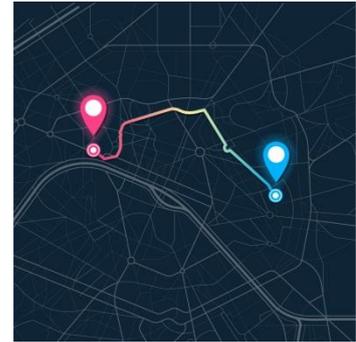
"Most builders guard their individual designs very strongly and consider it like a stealing offence for their intellectual property to be used by their competitors or a member of the public without their approval."

If you create building plans, it pays to protect your copyright. Speak to your EBM Account Manager about [Intellectual Property \(IP\) insurance](#), which covers legal expenses incurred to defend copyright, patent, trademark or other IP rights.

Keeping tabs on the light-fingered

Builders are getting hi-tech to try to curb construction site theft.

Theft from building sites is a perennial problem – one that costs Australian companies more than \$50 million a year. Now tech-savvy builders are employing Global Positioning System (GPS) technology in a bid to deter would-be thieves.



With bog-standard technology in all smartphones and many cars these days, GPS has made its way onto construction sites around the world. The technology is being used in all phases of construction including surveying and mapping, locating buried and overhead utilities, facilitating heavy machinery precision grading and excavation, and conducting built surveys.

The technology is also being deployed to combat building site thefts – with builders attaching GPS tracking devices to equipment, materials and goods on-site. A GPS tracking device employs the GPS to track and determine its exact location. The recorded location data is then either stored within the device or is transmitted to a computer or central location database. This then allows the tracker's position to be found.

The devices are being attached to materials that tend to 'wander off site' and wind up on other contract sites, such as cement, frames and copper cables, and to appliances that are easily 'on-sold' such as ovens, whitegoods, bathroom suites, sinks and hot-water systems. The trackers can also be fitted to vehicles and driveable machinery/equipment like front-loaders and backhoes which can be a target for the more brazen thief who adds insult to injury by not only nicking pallet-loads of materials but also the forklift to carry them away with. The device transmits an SMS or email alert when it is moved, or if it is taken beyond a virtual perimeter around a construction site (geo fencing). The movement of the item is then monitored by a live link that can be shared with security or police.

And it's fast becoming an effective deterrent.

"Evidence has shown that once word gets out that GPS tracking has been added to high-value assets on the building sites, theft levels are reducing," Matt Cooper from GPS Tracking Systems told *The West Australian* newspaper.

He also noted that no GPS-fitted items had been stolen from sites where the technology has been deployed.

GPS tracking devices are proving valuable for builders, especially as projects near completion and there is more potential for would-be thieves to steal whitegoods, fittings, sound systems etc. Tradies working onsite could also benefit from the technology as during construction there is potential for contractor's tools, equipment and materials to be stolen.

Using technology is one way to help reduce the chances of theft, but the risk can never be completely avoided. Talk to your [Building & Construction](#) or [TradesPlusCover](#) Account Manager to make sure you are covered in the event you are a victim of an opportunistic or pre-meditated theft.

Have trolley, will travel

Move over sparkies and plumbers, there's a new top (dollar) dog on the worksite.

Make way, coming through... Removalists are now the top earners amongst all trades and household service professionals.

According to data from ServiceSeeking.com.au, removalists topped the Tradie Rich List in FY18 – charging an average of \$93.24 per hour (up 3.04 per cent on FY17). Those in NSW averaged \$95.21 p/h – an incredible 76 per cent increase over the year – closely followed by those in SA (\$94.83 p/h). Removalists also were the highest paid of the trades in Victoria at \$84.50 p/h.

Plumbers were a full \$10 an hour cheaper than removalists, at \$83.04 p/h (rates were up 2.68 per cent), and sparkies trailed behind on \$75.71 p/h, although prices increased 4.25 per cent over the last FY. Despite this, plumbers continued to be the best paid trade in WA at \$92.22 p/h and the state retained the title as the one with the highest paid sparkies at \$85.23 p/h. In Queensland the best paid tradies were builders at \$88.63 p/h (whose hourly rate increased 32.73 per cent over the year).

At the other end of the earning spectrum... Cleaners continued to charge the least, at \$33.41 p/h, with their hourly rate actually declining 2.35 per cent from 2017 to 2018. In contrast, the tradies with the biggest price increase were handymen, at \$56.73 p/h (up 11.97 per cent), taking them into the fourth highest earning position.

The hourly rates are 'gross' rates and aside from including the cost of labour also cover the cost of running the business including tools, work vehicles, insurance and superannuation.

Charging the highest hourly rates won't help if something goes pear-shaped and you or your business suffers a financial disaster. Protect your business by ensuring you have [Contract Works and Liability](#) cover. Tools and work vehicles are essential kit for all tradies – make sure you safeguard yours with [TradesPlusCover](#). And if you want to protect your ability to provide for loved ones, consider [MaxLife](#) Income Protection, Accident and Life insurances.



News briefs

- **Building approvals up in June.** ABS figures reveal total dwelling approvals were up 6.4 per cent in June (seasonally adjusted), with private houses up 5 per cent and other dwellings up 7.2 per cent. The seasonally adjusted estimate of the value of total building approved fell 1.2 per cent – value of resi building rose 1.8 per cent while non-resi fell 7 per cent.
- **Housing loans down in June.** In trend terms, the number of commitments to purchase new dwellings fell 1.1 per cent while commitments for the construction of dwellings fell 0.4 per cent in June, according to ABS figures.
- **ABCC campaign for subbie payment security.** The ABCC has launched a national campaign aimed at security of payments for subbies in the building and construction sector. Details at www.abcc.gov.au/building-code/security-payments
- **Property Council backs NEG.** The PCA has announced its support for the National Energy Guarantee, which aims to reduce emissions and provide a stable energy supply for property nationwide.
- **HIA concerned about contestable metering.** The HIA has sent a submission to the Australian Energy Market Commission expressing concern “that builders and owners of newly constructed homes have faced significant delays in getting power to site and meters connected” after the introduction of the Federal Contestable Metering (Power of Choice) legislation in December last year which requires all meters to be ‘smart’. HIA noted that the typical time for electricity connections to new homes has increased from less than two weeks to eight weeks (and 16 weeks in some cases).
- **Combustible cladding banned across NSW.** On 15 August, NSW Fair Trading imposed a ban on the use of cladding with a core of more than 30 per cent polyethylene for external cladding, external walls, external insulation, façades and rendered finishes for certain multi-storey residential buildings. The ban applies to past, present and future buildings. Rectification orders are likely to be issued for affected buildings and failure to comply with an order has steep penalties – fines of up to \$1.1 million plus \$110,000 per day the cladding is not changed for corporations, and up to \$220,000, two years in jail and \$44,000 per day the cladding is not changed for individuals.
- **Apartment construction matches houses.** Propertyology’s analysis of ABS data has revealed that apartment construction is matching house construction and even surpassing it in Sydney (60 per cent of approvals over the last 15 years), Melbourne (just above 50 per cent since 2012) and Brisbane (above 50 per cent from 2013 to 2016 and 44 per cent in 2017). Over the past three years, apartment approvals had risen to an average of 111,533 per year.
- **Oz’s first build-to-rent club.** Formed by the Mirvac Group and Clean Energy Finance Corporation, the club’s first project will be Indigo at Sydney’s Olympic Park. Part of Mirvac’s Pavilions project, Indigo will be a residential property with a clean energy focus – designed to achieve a minimum of 40 per cent less greenhouse gas emissions than typical apartments.
- **Tradie salaries up 27 per cent.** Tradie salaries have increased by as much as 27 per cent in the past five years as skill gaps widen in high-demand fields. An analysis of Seek job advertisements revealed the average salary for carpenter and joiner roles is now \$68,296 (27.4 per cent higher than in 2013). Other trades averaging significantly higher salaries are chefs, up 13.9 per cent (\$61,204); horticultural trades workers, up 13.6 per cent (\$56,083); plumbers, up 12.5 per cent (\$68,655); glaziers, plasterers and tilers, up 8.7 per cent (\$65,056); and motor mechanics, up 5.1 per cent (\$63,130). Average five-year growth for the industry was 2.6 per cent.
- **Cost of tradies increases.** ServiceSeeking’s *Trade Cost Guide 2018* has revealed the average hourly rate for tradies across the country rose in FY18. Each state

recorded a rise in costs for all services: NSW +11.6 per cent, Victoria +9.8 per cent, WA +8.8 per cent and Queensland +6.7 per cent.

- **Judges call for CFMEU to be deregistered.** Following a Federal Court case where the construction union was fined \$360,000, the judges blasted the union for its “disgraceful” and “shameful” record of deliberately breaking workplace laws and suggested the union should be deregistered (as its predecessor the Builders Labourers Federation had been in 1986).
- **Trade credit risk rises.** NCI’s latest Trade Credit Risk Index has reported an 18 per cent increase in the number of Trade Credit insurance claims in the last quarter, with the building and hardware sectors being responsible for the lion’s share of claims, followed by the steel industry, the electrical industry and manufacturing. Speak to your broker about [Credit Insurance](#) to protect your business.
- **Homeowners won’t have asbestos removed.** Despite one in three Aussie homes containing asbestos, research conducted by the Asbestos Safety and Eradication Agency has found most property owners will not make the effort to have it removed. The size of the area of asbestos to be removed and the cost deterred 54 per cent of owners, movement initiatives were cited by 33 per cent and the location of the asbestos was a deciding factor for 14 per cent. Despite the biggest motivator for removing asbestos being the potential health risk involved, one in 10 felt they would be able to remove asbestos themselves.
- **ICA backs Qld Govt initiative.** The Insurance Council of Australia has backed the Queensland Government’s \$20m [Household Resilience Program](#) which is designed to assist owners of pre-1984 homes in coastal parts of Queensland (up to 50km from the coast between Bundaberg and Cooktown) to improve the safety and resilience of their properties.
- **Tradies take better care of their tools than their health.** A study commissioned by the Australian Physiotherapy Association has revealed 79 per cent of tradies take good care of their tools, but just 47 per cent were taking care of their health. It also found nearly two-thirds of tradies had been injured in their current job and half of those said they expected to be injured again. Almost a quarter of those injured (22 per cent) didn’t seek medical treatment and 24 per cent said they would consider a workmate a “wuss” if they complained about an injury. Employers can speak with an [EBM Workers’ Compensation & Injury Management](#) team member about cover.
- Upcoming building and trade shows:
 - 13-14 October, Garden and Home Expo, Lardner
 - 18 October, Ballina Trade Expo
 - 18 October, Perth Technology Show
 - 19-21 October, Adelaide Gardening & Outdoor Living Expo
 - 19-21 October, HIA Home Show, Adelaide
 - 25 October, Wollongong Trade Expo
 - 9-11 November, Timber & Working With Wood Show, Canberra
 - 10-11 November, Penrith Home Show
 - 15-17 November, National Construction Equipment Convention, Sydney
 - 17-18 November, Garden DesignFest, Melbourne
 - 21-22 November, Australian Utility Week, Melbourne
 - 27-28 November, AusRAIL 2018, Canberra

Lighter side – Am I ever gonna see my loo again?

When relationships turn sour you expect your ex to leave and take their stuff (clothes, books etc.) with them. You may even expect that they might take back expensive gifts (jewellery, electronics) – but a dunny?

When Redditor u/shelbikadoo broke up with her plumber boyfriend she thought he was joking when the first thing he said to her was “I’m taking the @**@ toilet”.

He wasn’t.

She fell asleep while he was packing up his stuff and when she woke she headed to the bathroom to find he had taken more than his aftershave – along with an empty toilet-roll holder there was also an empty space around a hole in the floor which would normally have been filled by the WC.

The toilet in her apartment broke and instead of getting her landlord to replace it, her fully licensed plumber boyfriend insisted on repairing it. And then with every disagreement he would bring up the fact he had fixed the toilet. Now he’s taken it with him.

So as a relationship goes down the S-bend, it’s a case of “if you leave me, the loo comes too”!