

How an Australian Construction Business Navigated Financial Distress and Avoided Liquidation

A Director Penalty Notice arrives in the mail. The ATO payment arrangement has already defaulted.

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/EINPresswire.com/ -- A Director Penalty Notice arrives in the mail. The ATO payment arrangement has already defaulted. Trade creditors are pressing for payment. And the director of an eleven-year-old construction business is, for the first time, [seriously considering walking away from everything he has built.](#)

This scenario is playing out across the Australian construction sector in 2026 with increasing frequency. The following case example is illustrative in nature, based on circumstances common to the sector. It does not represent a specific client engagement, and individual outcomes will vary depending on the facts and circumstances of each situation.

ReStructure Partners helps Australian directors [navigate every stage of ATO and financial distress](#), from overdue BAS and tax debt through to Director Penalty Notices, restructuring solutions, voluntary administration, and broader insolvency options.

The Background

A residential builder operating in south-east Queensland had been in business for eleven years when the financial pressures of the post-pandemic period caught up with the company. During the pandemic, the business had deferred a substantial portion of its PAYG withholding and superannuation obligations, entering into a payment arrangement with the ATO in 2022.

The arrangement had been maintained for approximately eighteen months before the business



defaulted on two consecutive instalments following cost blowouts on two fixed-price contracts. The ATO terminated the payment arrangement, and several months later the director received a Director Penalty Notice.

By the time the director first consulted a restructuring adviser, trade creditors were unpaid, a subcontractor had lodged a claim for unpaid work, and the ATO was the company's largest creditor by a substantial margin. The director had not sought professional advice earlier because he believed the business would trade through its difficulties — a decision he later described as the most costly mistake he made.



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- Early intervention can save companies jobs

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Assessing the Situation

The restructuring adviser's first task was to establish a clear picture of the company's financial position and, critically, the specific nature of the Director Penalty Notice received.

The DPN was of the non-lockdown variety. The relevant PAYG withholding and superannuation obligations had been reported to the ATO within the required timeframes

— they had simply not been paid. This meant the director could potentially avoid personal liability by placing the company into a qualifying insolvency process within the 21-day response period.

The assessment also confirmed that the company's underlying business had genuine value — its project pipeline, established supplier relationships, and experienced workforce represented assets that would be entirely lost in a liquidation. A liquidation analysis suggested creditors would recover very little. A restructuring analysis, by contrast, suggested that a plan funded by project completion proceeds could offer creditors a meaningfully better return.

The company was assessed as eligible for small business restructuring, with total liabilities just below the \$1 million threshold and all current employee entitlements up to date.

Detailed information on assessing DPN exposure and eligibility for restructuring is available at <https://restructurepartners.com.au/director-penalty-notice>.

Pursuing the Restructuring

A small business restructuring practitioner was appointed within the DPN response window. The company continued trading on its active projects throughout the 20 business day plan development period. A restructuring plan was developed proposing a defined return to creditors, funded over 24 months from business revenue and a personal capital contribution.

The plan was presented to creditors including the ATO. Following assessment of the proposed creditor return against the liquidation scenario, the plan was accepted by the requisite majority of creditors by value. The director's personal liability under the Director Penalty Notice was extinguished as a result of the qualifying action taken within the response period.

What This Illustrates

This case example demonstrates the importance of acting quickly when a Director Penalty Notice is received, the potential value of small business restructuring for construction businesses with viable underlying operations, and the material difference that the type of DPN — lockdown versus non-lockdown — can make to the options available.

Directors in similar circumstances can access information on the restructuring process at <https://restructurepartners.com.au/small-business-restructuring>.

ReStructure Partners works with Australian directors and business owners experiencing financial pressure, including ATO debt, cash flow issues, and creditor stress. The firm provides support across the full spectrum of financial distress, from early-stage tax arrears and compliance issues through to Director Penalty Notices, small business restructuring, voluntary administration, and other insolvency pathways, depending on the circumstances.

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