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HOUSING, BIG BUILD AND MANUFACTURING COMMITTEE

Members present:

Mr CG Whiting MP—Chair
Mr JJ McDonald MP
Mr DJ Brown MP
Ms A Leahy MP
Mr RI Katter MP (videoconference)
Mr TJ Smith MP

Staff present:

Ms S Galbraith—Committee Secretary
Dr V Lowik—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE BUILDING INDUSTRY FAIRNESS (SECURITY OF PAYMENT) AND OTHER LEGISLATION AMENDMENT BILL 2024

TRANSCRIPT OF PROCEEDINGS

Friday, 22 March 2024

Brisbane

FRIDAY, 22 MARCH 2024

The committee met at 12.05 pm.

CHAIR: Good afternoon. I declare open this public hearing for the committee's inquiry into the Building Industry Fairness (Security of Payment) and Other Legislation Amendment Bill 2024. My name is Chris Whiting. I am the member for Bancroft and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples, whose lands, winds and waters we all share. With me here today are: Jim McDonald, member for Lockyer and deputy chair; Don Brown, member for Capalaba; Ann Leahy, member for Warrego, who is sitting in for the member for Burleigh; Robbie Katter, member for Traeger, via videoconference; and Tom Smith, member for Bundaberg.

This hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I remind members of the public that they may be excluded from the hearing at the discretion of the committee.

These proceedings are being broadcast and recorded on the parliament's website. Media may be present and are subject to the committee's media rules and my direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. Once again, please turn mobile phones off or to silent.

LAMB, Ms Dominique, Small Business Commissioner, Office of the Queensland Small Business Commissioner (via videoconference)

CHAIR: Welcome. Would you like to give a brief opening statement? Then we will have a couple of questions for you.

Ms Lamb: Thank you. I, too, would like to acknowledge the traditional owners of the lands on which we meet today and pay my respects to elders past, present and emerging. I acknowledge and thank the committee for the opportunity to appear and to speak as a witness today at the inquiry into the Building Industry Fairness (Security of Payment) and Other Legislation Amendment Bill 2024. As the Small Business Commissioner, one of my key statutory objectives is to enhance the operating environment for small business in Queensland. This includes advocating on behalf of more than 482,000 small businesses, of which 84,040 operate in the construction industry, our largest small business industry, making up about 17.5 per cent of all small businesses in Queensland. Just to give you a bit of perspective, nationally there are currently 2.5 million small businesses, and we know that 62 per cent of those are sole traders. Currently, 43 per cent of them are not profitable and 75 per cent make less than the average wage. They contribute over a third of GDP and are incredibly important to all of our economies, particularly Queensland's.

While I acknowledge there is mixed support across industry for the security-of-payment reforms, my office supports the overarching policy objective to improve security-of-payment protection for subcontractors in the building and construction industry. These subcontractors are often small businesses. We know that late payments and non-payments disproportionately impact small businesses. They are often further down the supply chain so the effects of missing payments are compounded. Compared to large businesses, they are less likely to have the cash reserves to offset missing payments and they rely on timely cash flow to maintain operations and solvency. It is imperative that small businesses in the construction industry are supported to start, grow and remain in business, particularly at a time of increased demand for housing and other infrastructure which impacts our wider economy.

My office has been receiving feedback for some time about the operation of the trust account framework from construction and accounting businesses and from their representing industry bodies. Predominantly the concerns raised with my office relate to the complexities of the framework, the incompatibility of mainstream accounting software with trust accounting ledger and record-keeping requirements, and the costs and limited availability of registered auditors to undertake independent

trust account reviews. There have also been concerns that, as more small businesses are captured in the rollout of the remaining two phases in 2025, these challenges will be compounded, noting that small businesses are less likely to have in-house specialists to help navigate complex regulatory requirements. As such, I am supportive of the proposed amendments which seek to provide clarity and help streamline the operation of trust account frameworks. I believe that amendments are a positive step in addressing concerns from small business. My office is also happy to work with the department, the QBCC and other stakeholders to continue improving the security-of-payment reforms, including being consulted during the drafting of the upcoming regulations amendments. Thank you again for the opportunity to speak today. I am happy to answer any questions from the committee.

CHAIR: Thank you. I think you have hit the nail on the head. Trust accounts improve the system by getting better streamlining. That includes better software and more people being able to do those audit functions. In a nutshell, it will make a big difference to the people you represent; is that correct?

Ms Lamb: That is correct. Being able to use accountants as opposed to purely auditors will make a big difference, not just, obviously, in the cost that it takes to go through that process. Also, if we can get those software systems to be affordable and to speak to those systems, it will mean a much easier process and a streamlined process for those businesses.

Mr McDONALD: Could you give us an example of that?

Ms Lamb: An example of the current cost situation around auditors?

Mr McDONALD: Yes.

Ms Lamb: Right now, industry bodies such as CPA and CA will tell you that they need about 9,000 accountants a year to enter the market and that they are really struggling in terms of those labour shortages, amongst other things. What we hear from small businesses at the moment is that it can cost them anywhere between \$600 and \$6,000 in order to go through that process—to have those trust accounts audited or looked at, depending on the complexities of what their business looks like. Those costs are obviously on top of a lot of the other costs that we hear about, whether it be interest rate rises or electricity, depending on what they are operating. It is just compounding around those things.

In terms of the complexities around those situations, often we find that small businesses do not necessarily have the highest of financial literacy rates. We do a lot of work with the Griffith Tax Clinic, and they tell us at this time that if you are a business that has a piece of software such as Xero or MYOB in your business you are 80 per cent less likely to be insolvent. As I understand it, it is not as easy as a plug-and-play situation when it comes to these particular trust accounts. You cannot just simply enter your data directly from Xero or MYOB and it does mean that you need to engage a specialist, which, of course, is that compounding cost situation.

Mr McDONALD: With regard to the success of the system in securing payments, is there evidence that the system has improved it? We heard concerns from a number of people that payments can be made and then a withdrawal can occur up to the day before so the money is gone and there is no tie-up between the contractor and the head contractor et cetera. Has there been an improvement in the security of payments since the implementation of the system?

Ms Lamb: I, too, have heard some of those concerns, certainly from Master Builders and the Housing Industry Association amongst others. I have not been able to find any specific Queensland data in relation to this, but what I can tell you is that there is current CreditorWatch data out in relation to late payments and it identifies that nationally constructions late payments are up by about 10.68 per cent. I am really happy to provide that data to the committee. I could also go back to CreditorWatch and ask them if they could break it down state by state. I am unaware if they can do that. I could take that on notice and provide you with a copy of the report.

CHAIR: That is good. We will chase that up as a question on notice.

Mr McDONALD: I note your submission also covers off on the GST issues. Is there anything else you would like to add with regard to that?

Ms Lamb: Only that I would say that I am aware the department is seeking independent legal advice on that matter. We are supportive of it being clarified that GST is included, subject to that legal advice.

Mr McDONALD: Is there any consideration that you might do on behalf of your 482,000-odd businesses regarding that security of payment? I am concerned that before the implementation of the system there were hundreds of thousands of transactions that occurred because businesses were

operating and it was good and then since the implementation of the system that same number or similar number of transactions are actually occurring and it is not improving the security of payment where people do actually go bad? Could you take that on notice?

Ms Lamb: I can take that on notice and come back to you with a response. I think that is quite a complex question in the sense that obviously we are looking at something that happened prior. We are talking about financial transactions. It may be a bit difficult to determine what is the clarifying factor on that, but I will do my best to come back to you.

Mr McDONALD: Maybe even if it is just over the last three years to see if there has been an improvement or a decrease, bearing in mind that I understand what you said about CreditWatch. Thank you.

CHAIR: We will clarify that. We certainly do not want to add too much research burden upon your office.

Mr McDONALD: My concern is that there is a large volume of transactions occurring that would have been successful anyway, whether this system was in place or not, and I do not think that is the right way of measuring the success.

Ms LEAHY: I note the amendments to the Building Act and the Plumbing and Drainage Act. You support those responsibilities being transferred from the QBCC back to the department. Can you give us a little bit of an outline on what we were seeing were the problems there?

Ms Lamb: From our submission and what our response has been, our view is that the amendments would be helpful to provide a clear separation of the department's policy functions from QBCC's regulatory functions, allowing QBCC to refocus on delivering best regulatory practice to ultimately help reduce the time and cost to small business in that compliance. We also added that the change must be followed by both the QBCC and the department reviewing policies and practices to ensure the main objectives of these acts are met. I do not have a specific example for you. We can go back through our call logs on assistance and see if I can see what has come through on our assistance line, but I think from our perspective, and certainly from the submission, the reason we are supportive is more to provide less regulatory burden. We know that is one of the things small businesses complain about.

Ms LEAHY: You are most welcome to take that on notice.

CHAIR: That question was specifically about issues—

Ms LEAHY: With the Plumbing and Drainage Act, if there are examples.

CHAIR: There being no further questions, I thank you. For those questions on notice, could we have the answers before Tuesday, 2 April? They was a question about data from CreditorWatch regarding late payments and a broader question about payment improvements.

Mr McDONALD: Both late payment and non-payment.

CHAIR: And issues coming through QBCC regarding the Plumbing and Drainage Act. We will be in contact about these. The time for the hearing has concluded. Thank you everyone who has participated. Thank you to our Hansard reporters and thank you to our secretariat. A transcript of these proceedings will be available on the committee's webpage in due course.

The committee adjourned at 12.17 pm.