



HOUSING, BIG BUILD AND MANUFACTURING COMMITTEE

Members present:

Mr CG Whiting MP—Chair
Mr JJ McDonald MP (virtual)
Mr DJ Brown MP
Mr MJ Hart MP
Mr RI Katter MP (virtual)
Mr TJ Smith MP (virtual)

Staff present:

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

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

TRANSCRIPT OF PROCEEDINGS

Monday, 26 February 2024

Brisbane

MONDAY, 26 FEBRUARY 2024

The committee met at 10.00 am.

CHAIR: Good morning. I declare open this public briefing 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 today are: Jim McDonald, member for Lockyer and deputy chair via videoconference; Don Brown, member for Capalaba; Michael Hart, member for Burleigh; Tom Smith, member for Bundaberg, who is joining us via videoconference; and Robbie Katter, member for Traeger, who is joining us via videoconference.

This briefing 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 also remind members of the public that they may be excluded from the briefing at the discretion of the committee. I remind committee members that departmental officials are here to provide factual or technical information. Any questions seeking an opinion about policy should be directed to the minister or left to debate on the floor of the House.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's 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. I ask everyone to turn their mobile phones off or onto silent mode, and the same goes for computers.

BARRON, Ms Ainslie, Assistant Director-General, Department of Housing, Local Government, Planning and Public Works

HILL, Ms Michelle, Executive Director, Department of Housing, Local Government, Planning and Public Works

JOHNS, Ms Megan, Director, Department of Housing, Local Government, Planning and Public Works

CHAIR: Welcome. Who would like to start off?

Ms Barron: I would like to begin by acknowledging the traditional custodians of the land on which we meet and pay my respects to elders past and present. My name is Ainslie Barron. I am the Assistant Director-General, Building Policy in the Department of Housing, Local Government, Planning and Public Works. I am joined by Michelle Hill and Megan Johns from the department.

The Building Industry Fairness (Security of Payment) and Other Legislation Amendment Bill 2024 proposes to amend several building related acts: the Architects Act, the Building Act, the Building Industry Fairness (Security of Payment) Act, the Plumbing and Drainage Act, the Professional Engineers Act as well as the Queensland Building and Construction Commission Act. Overall, the bill aims to build on reforms already implemented under the Queensland Building Plan 2017 and its update in 2021 to create a safer, fairer and more sustainable building and construction industry.

The amendments in the bill are grouped into three key themes, as outlined in the explanatory notes: security of payment, delivering on the QBCC governance review as well as minor technical amendments. In relation to security of payment, the primary focus of the amendments is to ensure the continued efficacy of the trust account framework established under the BIF Act. Trust accounts are a key pillar of Queensland's security-of-payment framework providing protection to subcontractor

Public Briefing—Inquiry into the Building Industry Fairness (Security of Payment) and Other
Legislation Amendment Bill 2024

payments as well as retention amounts. As you would be aware, the trust account framework was introduced in 2018 and the framework is being progressively implemented to cover more projects and more contractors.

The department has continued to monitor implementation of the framework in the lead-up to critical milestone points. Being the first jurisdiction to legislate trust account frameworks, there is no other model legislation to draw on. Part of the monitoring and independent assessment in late 2022 found that existing accounting software packages could not readily be updated for the trust account record-keeping requirements, there were differing levels of industry understanding of the framework and what was needed to comply, and opportunities were identified to ease compliance for industry.

Informed by this assessment, the department has been progressing three streams of work to support industry. We are working with software providers to clarify record-keeping requirements and support their development of accounting software solutions that can be used by industry, engaging with industry and reviewing the legislative framework for opportunities to make it clearer and simpler, and developing an enhanced education program to support awareness and readiness. This work is being overseen by an implementation steering committee, which is made up of key industry members.

The bill progresses several important amendments to the trust account provisions as part of this work. The amendments clarify and simplify existing provisions. They do not change the framework or existing policy. Ahead of the final two phases, where the framework will be extended to most of the industry including smaller builders, it is vital to ensure the framework is as clear and easy to understand as possible.

The bill seeks to simplify the approach used to determine which parties are protected by and paid through a project trust account. The present approach uses a definition of protected work which some consider ambiguous and difficult to apply in practice. The bill transitions to a simpler approach and generally captures parties contracted to carry out work and services for which a relevant licence or registration is required. By aligning with the long-established industry understanding around requirements to hold a licence or registration, the proposed amendment will reduce administrative effort for trustees and help subcontractors to understand when their payments are protected by a project trust account.

The bill also clarifies the record-keeping requirements that support transparency and accountability in the framework. The current provisions specify in prescriptive detail the records that must be kept, but there is some uncertainty about how those records must be kept. This includes, for example, where the trust account records are to be separate from a contractor's normal accounting records as well as the way information is to be recorded. This level of detail also limits options for software providers to be able to respond with automated and streamlined solutions.

The bill provides a regulation-making power to prescribe simplified record-keeping requirements for industry. It also introduces a head of power to make guidelines about these matters. These amendments will allow for a more practical and outcomes-based approach and make it possible for a more rapid response to emerging industry practices.

The bill clarifies that trust protections apply to the full retention amount including GST and that the GST-inclusive amount must be held in a retention trust account. This has been previously communicated to industry through Queensland Building and Construction Commission guidance material and is consistent with the original policy intent. Amendments will put beyond doubt the intent that the full retention amount is protected and will reduce the risk to subcontractors of shortfalls in retention trust accounts in the event of a head contractor insolvency. It will also provide clarity for head contractors and mean they do not need to find additional funds to cover a potentially large amount of GST when the time comes to pay retentions.

The bill also simplifies the BIF Act requirements for trust account reviews. Currently, trustees of retention trusts are required to engage a registered company auditor to review their keeping of records and general compliance with the trust account framework each year. The amendments in the bill will allow for additional persons who can carry out account review to be prescribed by regulation such as accountants and allow for simplified account review procedures to be approved and published by the chief executive of the department. It will extend the circumstances in which a trustee may apply for an exemption from providing an account review report. Collectively, these amendments are expected to reduce the cost of these reviews for industry and will address constraints due to the limited availability of registered auditors nationally.

Finally, the bill clarifies several transitional matters for the framework. This includes clarifying what happens when contract amendments occur and what eligibility criteria apply as the two remaining phases are rolled out. There remains the intent that the eligibility applying at the time the

Public Briefing—Inquiry into the Building Industry Fairness (Security of Payment) and Other
Legislation Amendment Bill 2024

contract was entered into does not change over time, even if the contract is later amended or another phase of the framework has commenced. These changes address concerns about some ambiguity in the legislation and aim to put beyond doubt how the framework should operate.

In addition to clarifying and simplifying the trust account framework, the bill also contains several amendments to implement important changes to the administration and governance of the QBCC. These amendments will complete delivery of a number of recommended actions from the QBCC Governance Review report 2022.

The bill will amend the QBCC Act to reduce the size of the Queensland Building and Construction Board from 10 persons to seven persons including the chair to improve board effectiveness. This action was delivered with the late 2022 appointment of a new seven-person board, and QBCC Act amendments to reduce the board size will formalise this arrangement ensuring a best practice approach moving forward. The bill also amends the QBCC Act to formalise an already implemented requirement to maintain a conflict-of-interest register for the board and publish that register. This will be achieved by requiring the detail of disclosures of conflicts of interest in QBCC Board minutes to be published. This formalises enhanced transparency and accountability of board members.

The bill includes amendments to transfer responsibility for prescribing technical qualification requirements issued under the Plumbing and Drainage Act and the Building Act with the department to clarify and distinguish policy and regulatory responsibilities. The department is currently responsible for developing policy and legislation for the QBCC while the QBCC has operational regulatory responsibilities. By transferring the approval of qualifications from the commissioner to the department, the amendments will align with existing policy functions performed by the department and provide greater separation between the functions performed by the QBCC and this agency.

Finally, there are a range of minor technical amendments to building related legislation in the bill—for example, minor primarily technical amendments to the Architects Act and the Professional Engineers Act and to clarify existing provisions and support the functions of the Board of Architects of Queensland and the Board of Professional Engineers of Queensland. Specifically, the bill clarifies existing provisions to make sure that any information provided during registration processes for architects and professional engineers is accurate and can be relied on.

The bill also provides guidance to the Queensland Civil and Administrative Tribunal and the courts about awarding reasonable legal and investigation costs if a person is found guilty of breaching the Architects Act. This will align with similar provisions in the Professional Engineers Act as these acts generally mirror each other. Clarifying these provisions will support the boards in maintaining the integrity of Queensland's architecture and engineering professions and their registration framework.

Several minor operational amendments to the QBCC Act are proposed in the bill concerning licence suspensions and cancellations, the surrender of specific licence classes, internal review applications and disclosure of information for monitoring the effectiveness of legislation. Expanding this disclosure power also applies to the BIF Act. These minor amendments aim to improve regulatory processes, clarify existing provisions and support industry and consumers.

Finally, I would note that overall there has been continuing stakeholder consultation on the amendments in the bill since early 2023. This includes with members of the Ministerial Construction Council, which comprises key building and construction industry representatives who understand the rationale for the changes and generally raise no concerns. Auditing and accounting bodies and software providers were also consulted regarding the trust record-keeping requirements. They supported the clarifications of record-keeping, auditing and reporting provisions of the BIF Act. This concludes the remarks I wish to make regarding the bill and I am happy to take any questions the committee has.

CHAIR: Thank you very much. Part of this is in response to the review reports—and I am talking about the regulatory role of the QBCC. In the past they have had responsibility for accepting those qualifications and now that will go to the department. My impression is that that will increase QBCC's ability to focus on their core role. Was that one of the designs for these particular amendments, to make sure they can focus on their key role instead of having to look after all of those qualifications issues?

Ms Barron: Yes, Chair, that is part of the rationale. You will recall that Mr Jim Varghese undertook a review of governance arrangements for the QBCC. There were a range of recommendations in that review. One of those really went to two points around delineating between

the core regulatory functions of the QBCC and the fact that it was government, via the department, that was responsible for establishing those regulatory settings so it does that. It then provides that opportunity for the QBCC to focus in on the implementation of that, so doing those core regulatory functions rather than the policy development side of it. It is twofold.

CHAIR: Part of the idea is that it certainly frees up the QBCC to put their full attention on what they should be doing.

Mr HART: It was regulating and enforcing at the same time so it was splitting it.

CHAIR: That makes sense. One of the other issues comes down to the trust framework. I see that it has spread throughout industry and it is now embedded in industry. It is accepted and it is embedded within the industry. From what I can see here, the industry is saying to government, 'We need better ease of compliance. Can you change things? There are some ways that we can ease the burden of complying with the framework.' Has that been the case? Are the stakeholders saying, 'We need you to make it easier for us to adhere to the particular framework?'

Ms Barron: Yes, Chair. As I indicated in the opening remarks, there has been an ongoing process of review. That is important for any legislative framework but also critical when it is the first time that a jurisdiction is implementing such a framework. As part of the work that the department has been performing since 2018 when the legislation first came into effect, each set of amendments has sought to ease the compliance burden in order to make it easier for people to comply and simpler to understand and reduce the ways that people might seek to—some of it is a little bit of working around the framework but it is using tested definitions, as we are proposing in this set of amendments here, with well-understood requirements. There is no need to ask, 'Is a trust account needed or not?' You need a licence; you need a trust account. It is simple.

Mr McDONALD: The bill seeks to clarify and simplify the trust accounts. I am concerned that we are actually putting some things in place that are not going to simplify it. This system has been going for over five years. Is there a means for capturing complaints and have you taken into consideration those complaints about the operation of the system?

Ms Barron: We are, is the short answer. As part of the various reviews that have occurred over time, there has been a degree of engagement with industry about what elements of the framework are working and what elements could be improved. As part of the overall process that is established in the law, the QBCC undertakes audits. We are receiving feedback from the QBCC as a result of that. Then in early 2023 the minister asked us to establish an implementation steering committee that includes representatives of industry on it, so we are hearing directly from the associations and what they are hearing from their members as well. We have continued to engage with the Ministerial Construction Council. We have some engagement with businesses directly ourselves, so it is not just coming via third parties in order to take on feedback. There are processes in place that support us getting feedback from the industry about how effectively the framework is working as well as opportunities to ease implementation.

Mr McDONALD: How are you judging success of the system at the moment? Is it all about payments being made? Is it the number of people coming on board? How are you judging success and how will you continue that through the implementation of this suite of changes?

Ms Barron: There are several metrics that we are looking towards. There is just that straight set of numbers around the amount of money that is being protected under the overall framework as well as the number of contracts, just in various standard input measures. If you think about the purpose of the framework to reduce late payment, to reduce non-payment and to reduce the impact of insolvency, you are never going to stop an insolvency but, really, you are seeking to cauterise the impact of an insolvency for subcontractors. We are continuing to engage with the QBCC around what they are seeing as part of their accounts, particularly around late payment and non-payment.

Mr McDONALD: I am concerned that the need for a registered auditor may be an impost on some. I note that there is an exemption process that you outlined in your opening presentation. What was the reason for having a registered company auditor? A lot of accountants may not be registered company auditors, at that next level up.

Ms Barron: That is, of course, something that we are seeking to amend in the bill. We are providing for the ability to use an accountant going forward. In 2018-19 there was an evaluation of the overall framework, so the project bank account framework was in that first round of testing. That was a recommendation from the BIF evaluation panel and was consistent with the requirements for other professions where there are trust account records in place. For example, if you are a lawyer or a real estate agent, a registered company auditor needs to do that work in terms of the trust account record keeping with that particular audit. Essentially, it would be the same as other trusts.

Public Briefing—Inquiry into the Building Industry Fairness (Security of Payment) and Other
Legislation Amendment Bill 2024

Of course, the industry is much larger. There is a relatively limited number of registered auditors nationally. As the framework expands to more of the industry and as we have started to see the way that money flows through accounts, providing this additional degree of flexibility in terms of who can perform the trust audit will make it easier for people to find someone to do the work but where we consider that it is still providing an appropriate level of assurance and oversight over those record-keeping requirements.

Mr McDONALD: I note there was an independent assessment. I am not sure if that was with the panel that you were talking about. What were the key findings and recommendations? Is that available publicly?

Ms Barron: It has not been published. It was in late 2022 that that work was undertaken. The BIF evaluation panel's work was earlier. It was really those three streams that I identified earlier that came out of the findings of that work. Really, it was around working with software providers to clarify trust account record-keeping requirements, looking for opportunities to simplify the legislative framework. That report provided us with some ideas and guidance about what would be helpful in relation to that, as well as really looking to ensure a stronger level of understanding throughout the industry of the framework before the later phases of it commenced. It was that idea around enhanced education.

Mr McDONALD: I wonder if the committee can see the key findings and recommendations from that independent assessment.

Ms Barron: I will engage with the minister on that.

Mr BROWN: Over the five or six years that it has been running, you touched on the compliance of subcontractors and the payment and non-payment. Has the number of complaints dropped in that time or is it hard to tell, maybe because of the growth in the Queensland building industry in that time?

Ms Barron: It is a very large industry and it is still a relatively limited, although growing, number of businesses that are involved in the framework. There have been more than 1,400 contracts that have come into the framework. What we are getting at this stage is really anecdotal evidence from industry around there being fewer instances of late and non-payment where trust accounts are required for projects. I would note that the government's overall approach to security of payment does represent quite a significant cultural shift for the industry. In my opinion, we are still in the relatively early stages of that. In terms of the core rationale around reducing the incidence of late and non-payment, that is certainly some of the anecdotal evidence we are getting.

Mr BROWN: A lot of these changes with regard to consultation with the industry are mostly around the head contractor and getting them to work with the legislation. The subcontractors are getting paid and, therefore, getting on with working. Has that been the general sense of the feedback you have been getting over the last five or six years?

Ms Barron: Yes, and that is certainly the feedback we are getting from the subcontractor organisations.

Mr BROWN: Other jurisdictions are probably looking very closely at what Queensland is doing. Are they in constant contact with the department about this legislation and this framework—indeed, the whole reform and not just this piece of legislation?

Ms Barron: Australian jurisdictions are at various stages of implementing security-of-payment reforms. It has been a relatively active topic of discussion at building ministers' meetings over the past five or six years. There continues to be some engagement between senior officials nationally around the progress of security-of-payment reforms. There is also dedicated discussion occurring on this matter via the Commonwealth government's building industry engagement body, the National Construction Industry Forum, which has a dedicated subcommittee looking at security of payment. I am certainly aware, in terms of my engagement, that subcontractor organisations nationally are continuing to advocate for a nationally consistent approach to security-of-payment laws across jurisdictions and the Australian government has committed to investigating this.

Mr BROWN: What is the feedback from subcontractor organisations? Say a Gold Coast company is doing work at the Tweed and work at the Gold Coast. Do they say, 'We would rather have the consistent framework that Queensland has in New South Wales'? Is that the feedback that subcontractor organisations are giving?

Ms Barron: Our understanding is that industry generally prefers to be able to work seamlessly across borders. It recognises equally that we are a federation and jurisdictions have their own laws and powers. Certainly as officials we seek to harmonise where it is appropriate and continue those

discussions. I have not had any specific conversations with industry about that kind of cross-border issue on trust accounts, but the feedback we get is that certainly a nationally consistent approach is preferred.

Mr BROWN: With the changes with regard to the auditor and accountant, it seems logical to me that the accountant is probably looking over these books all the time anyway. Is that the feedback the industry is giving as well and why they propose this change?

Ms Barron: Yes. It is really around easing that compliance burden. They will be less expensive to do. There is at least one other amendment in the bill which seeks to recognise that what was potentially an unnecessary review was occurring and so that is being removed as well. We are seeking to make it as cheap and as easy to comply as possible.

Mr HART: On that subject of the national spread of protecting subbies' payments, has the axing of the Australian Building and Construction Commission affected that process through the nation at all, from your point of view?

Ms Barron: Their functions were more outside of our responsibilities. I am not sufficiently familiar with that.

Mr HART: The genesis of this legislation was to protect subbies from builders going broke and not paying, as well as speeding up the process of making sure they got paid on time. This has been in place for seven years now. Do you have any instances of a particular company going into liquidation and the subbies being paid from trust accounts or project bank accounts that you can point us directly at?

Ms Barron: Yes. That is the case. There have been a number of head contractors who have gone into administration—I think it is three—with project trust accounts in place. It is obviously a dreadful time, but we are aware that the trusts are having a positive impact for subcontractors in the event of an insolvency. Subcontractors are being owed moneys for a shorter period of time, so it might only be one or two payment cycles that have been missed rather than what you would have seen previously, which was either months of very late payment or smaller amounts being paid—eventually nothing. Insolvency law is obviously a Commonwealth law and it is governed by very well established legal precedent. We are closely monitoring those insolvencies that are going through their own court processes at the moment to ensure it is working in conjunction with Commonwealth law in the way that it was intended. Given these are the first instances where there have been insolvencies under the framework, it is really being tested in the most extreme circumstances to see whether it is working in the way it was intended.

Mr HART: At the time the minister said that every subbie will be paid on time every time. Has that happened in those instances? Did every subbie get paid from the companies that went into liquidation that you are specifically talking about? Can you tell us that?

Ms Barron: The QBCC is the holder of this information, but my understanding is that subcontractors continue to be paid from their project trust accounts. If there is found to be anything which is in contravention of that, the QBCC will be looking to undertake whatever regulation necessary.

Mr HART: Are you able to ask the QBCC for one particular instance of one company that went into liquidation and see whether all those subbies got paid or not? That is what this legislation is all about. I would really like to see whether it is working or not.

CHAIR: It would probably be best to ask that directly of the QBCC.

Mr HART: Are we getting them in?

CHAIR: We are still looking at our witnesses.

Mr HART: Is that something the department does as a norm: check on these things?

Ms Barron: All of those insolvencies are currently still in court processes. Along with everyone else who is involved in that work, we are still awaiting the outcome of that.

Mr HART: I will ask the QBCC about that. With regard to the software you were talking about before—again, this is legislation that is seven years old—where are we with having software that is generic that works for these particular trust accounts?

Ms Barron: My team has been working with about 30 or so software providers in order to assist those software providers to get a more detailed understanding of the legislation and how it is intended to operate. They are then also providing us with advice about what will make it easier for them to do the coding that is needed to sit behind it.

Mr HART: After seven years we are doing that now? Did we do that before the legislation came in?

Ms Barron: We have been doing that intensively over the last year. It has really been that intensive work over the last year.

Mr HART: When do you expect to see some form of software that will work for this?

Ms Barron: There are a couple of amendments that are proposed in the bill which will make it easier to implement those trust account records and the requirements of that back-end work so we are expecting relatively quickly thereafter, though there are solutions currently.

Mr HART: The GST is interesting. Has the feedback from the QBCC or the auditors that have been looking at this shown that the GST was not being protected? Can you step us through the process of the GST? A developer pays a builder the GST, the builder holds onto it, it flows eventually through to the subbie. What is the process there?

Ms Barron: Part of the reason for clarifying that GST be included is that there have been instances where GST has not been included, so that is the reason for that. I will ask Megan Johns to talk you through that in more detail.

Ms Johns: In terms of the current process, in the absence of trusts, when retentions are withheld they remain in the contractor's cash flow and therefore the GST amount is not accounted for. As you know with retention trusts now in play, the amount does not sit in cash flow; it must be deposited into a retention trust account. That is the reason for this query arising. We are also seeking some tax advice to provide industry with some information around how they will account for that GST.

Mr HART: Who is ultimately responsible for that GST if it does not end up in a trust account?

Ms Johns: GST, as you know, would flow from the owner or the principal, collected by the parties along the chain.

Mr HART: You were talking about auditors and accountants before. Are they going to need to be two separate people? The accountant for the building company, for instance, cannot be doing the audit, can they?

Ms Johns: The act requires that the account review officer—the auditor—or the accountant, must be individuals separate from the trustee. Therefore, an external accountant would be considered appropriate.

Mr HART: It is the same as company law?

Ms Johns: Yes.

Mr KATTER: It is a bit unclear to me still how the subcontractors participate in the scheme. What is the regulatory impost on them? I find most of the complaints I get with anything that comes through in this manner is that, even though it is covering a lot of these little guys, they are not aware of the scheme. I think there is an embedded bias or prejudice against those remote operators because they are not as linked to the industry and developments and what is going on, because they are stuck in a remote area and they do not interface with other industry people as much. I wonder how much support they get in remote areas in this scheme and whether there is a further impost on them to make them register within this scheme.

Ms Barron: Thank you very much for that question. I absolutely understand where you are coming from with that. With the stage of implementation of the framework that we are currently at, there are a more limited number of subcontractors involved than there will be, say, for example, in 18 months time or three years, as the requirement reduces to \$3 million in March 2025 and \$1 million in October 2025. Many more subcontractors will come into the framework over time.

One of the key pieces of work that we are doing at the moment, which is overseen by that implementation steering committee, is around communication and engagement and ensuring the information is going out to everyone who needs to know at the time that they need to know and in the way that they need to know it. We are very soon about to start consulting in more detail with various segments of industry in order to better understand how exactly it is that they want to be engaged with and the kind of information they need to know in order to support them to apply the law and to explain how they are going to benefit from the changes that are being made. Having just recently reviewed the documentation to support that, I recall that there is a regional and remote element to that as well. That us to ensure we are not just focusing on the south-east and the needs of people who are highly connected in terms of information and advice and who have more regular engagement, potentially, with larger scale projects, but also focusing on getting that message out to the regions as well.

Mr KATTER: I am always concerned that as more regulation comes in, albeit with the best intentions, more people pop off the industry, particularly in remote areas, because they struggle to keep up with all the compliance and regulations, even stuff like this that is done with the best intentions to protect them. Is there some way of tracking participation of those small operators in remote areas by virtue of accessing this scheme?

Ms Barron: We will be continuing to monitor the implementation of the framework, and absolutely we need to look at how it works across the state. We do understand some of those differences that apply. As we have gone through, we have sought to ensure, to the extent that we can, that compliance is as easy as possible. The other thing we are looking to do as part of that communication approach going forward is around assisting people to understand what it is that they will see that is different going forward. There is a cost to the way that business is done currently. It is an embedded cost and a cost that you do not tend to think about. You generally have a period of transition where people kind of go, 'That's harder. That's more expensive,' and then as you work through that change it becomes the way you do business. We are anticipating that business will be done better and more fairly for everyone working throughout the chain, and that is really the purpose of the legislation.

CHAIR: One of the things Robbie mentioned was any statistics regarding take-up of entry into the framework. We may be able to chase that up as a question on notice, but do you have any stats with regard to take-up into the framework?

Ms Barron: I certainly do not have any stats with me at the moment. There is a register of the 1,400 trusts and we can certainly have a look at some breakdown.

Ms Johns: That is publicly available on the QBCC website.

CHAIR: Robbie, is it okay if we get a breakdown of those 1,400 trusts and where they may be located?

Mr KATTER: I would appreciate that. I would like to see that.

Mr SMITH: I have a question relating to the Plumbing and Drainage Act and the amendment about the powers to prescribe shifting from the commissioner to the chief executive. Why has this come about and how will it be resourced within the department?

Ms Barron: This was one of the recommendations that was made in the QBCC governance review about separating the policy functions and having those all sit with the department while the regulatory functions sit with the QBCC. That is the reason, to answer the first part of your question. It is implementing that recommendation.

In terms of the resourcing impact, the department currently has within its functions the responsibility for technical qualifications for QBCC licensees. It is not standing up a new function within the department, but there will obviously be a resourcing impact because of that. We have had some preliminary conversations with the QBCC about how we go about transferring those functions, and we will continue to have those conversations, subject to the bill being passed.

Mr McDONALD: Does this address the complaints that have occurred over the last five or six years? Does it clarify and simplify the issues the industry is having?

Ms Barron: We are seeking to clarify what we are aware of. Obviously, people have some complaints but that may well go to policy intent, which is not changing. Where we can respond to issues that people are raising, we are seeking to do that—absolutely.

Mr McDONALD: In terms of the software and the coding et cetera, I am sure I heard you say that you have been consulting with 30 different software providers. Is that to cover all available accounting practices or processes? Are you trying to get the solution from those 30?

Ms Barron: We are working with people to make sure they are clear about the outcome that is being sought and they understand what requirements are in the legislation. The reason we are working with that kind of variety of software providers is that the industry itself is pretty big. You have multibillion dollar businesses which potentially have an internal bespoke solution as part of their own account management practices, through to large businesses, mid-size businesses, small businesses or micro businesses. There are various products at various price points, some of which are add-ons to existing accounting products while others seek to provide an integrated solution. It is seeking to work with as many providers as possible so industry has as much choice and flexibility about what they use and how they use it.

Mr HART: Are there any changes to the MFRs under this legislation proposal?

Ms Barron: No.

Mr HART: That is something to think about. I imagine with the licensing requirement for the minute it is like a copy and paste from the QBCC to the department, and then over time things would change. Is that the case—that there is not a great deal of work to be done there?

Ms Barron: I anticipate that is what will happen. We will take what they have and work with that.

Mr HART: Does that mean this will be a fairly quick process?

Ms Barron: Yes. That kind of straight transfer should be relatively quick.

Mr HART: On the types of people who are subcontractor beneficiaries and them being now licensed holders, can you give us a couple of examples, if possible, of people who may not be covered because they are not licensed at the moment under these changes?

Ms Barron: In terms of those who are not covered, suppliers and manufacturers of building materials and civil work not carried out in association with a building are not currently captured by the framework and there is no intention to incorporate them. Any subcontractor who is out at the moment remains out under what is proposed.

Mr HART: Is there anybody who thinks they are in at the moment who may end up out? I guess that is my question.

Ms Barron: The intention is no. There is an existing head of power to prescribe additional parties and types of work. For example, the current regulation includes contractors carrying out earthworks and excavation, landscaping or cleaning. That existing head of power has been retained. As this is a no policy change, what is caught out there in terms of contractors carrying out earthworks, excavation, landscaping and cleaning will be included in the regulation.

Mr HART: Going back to what the minister said in 2017 about every subcontractor being paid on time every time, this is going to leave some of those people out, isn't it?

Ms Barron: Everyone who is currently in will remain in the framework.

Mr HART: Is it possible for those people to become licensed? Are the department and the minister thinking we may have more people licensed so that they will fall under this regime over time?

Ms Barron: I am not aware of any discussions at this point.

Mr HART: Let me give you an example. Someone building a retaining wall, for instance, does not have to be licensed under the QBCC. They could be subcontracted to someone building a house or some development somewhere, such as a major group of new residential properties. They may not be covered because they do not have a licence. Is there any scope to license those people in the future?

Ms Barron: We are not looking to license those at the moment. I am not aware of any discussions about that, but that particular group is covered by these laws.

Mr HART: Sorry. They are covered by the laws but they are not licensed?

CHAIR: They would be employees, would they not?

Mr HART: It seems to be a very grey area. I have a lot on the Gold Coast who have this sort of issue, where a builder has gone broke and the guy building the retaining wall has not been paid or has done a lousy job because they are not licensed by anybody and anybody can do that work. I just wonder whether QBCC via the department have thought about that process.

Ms Barron: I have a partial answer for you. If that kind of work is covered by the project trust account framework—so it falls within the financial thresholds and the other definitions there—and the builder goes insolvent, they will be covered by the trust account framework because of the regulation.

Mr HART: Aren't we moving to only people who are licensed, though? Wasn't that the intent?

Ms Barron: Yes. The intent was to simplify, to the extent possible, the definition of who is a subcontractor beneficiary. We have done that by aligning with existing QBCC licence classes. Because of that issue that you raise—particularly around earthworks and landscaping, which is a pretty important part of the work—that group of businesses are covered by the existing law. They will continue to be covered via the regulation that will be made to accompany the law.

Mr HART: That is not in the legislation but that will be in regulation; is that correct?

Ms Barron: That will be in regulation. It is in the legislation currently. We are retaining a head of power in order to make a regulation, and because those businesses are part of the act currently they will be transitioned over to the regulation.

Mr HART: Okay. When will that regulation come?

Ms Barron: That regulation is being drafted as we speak. My understanding is that the intention is that the act, should it be proclaimed, and the regulation will commence at the same time.

Mr HART: Has the department thought about licensing those sorts of people to make sure we have the right people doing the right jobs? I am not talking so much about the payment going forward but the licensing.

Ms Barron: There are a number of areas that we are currently looking at licensing requirements for, but this is not one of those at the moment.

Mr HART: It is not?

Ms Barron: No, not at the moment. There are some other areas where we are looking at licensing requirements but not here.

CHAIR: Just clarifying that, we have instances of some minor earthworks or landscaping which is done by companies. They are registered as a company but they have no professional qualifications perhaps, or they are not—

Mr HART: And no licence.

CHAIR: Interesting. I guess one of the problems you have to look at is how you control that in the industry. That concludes the briefing. Thank you to everyone who has participated today. Thank you to Hansard and our secretariat. A transcript of these proceedings will be available on the committee's webpage in due course. We have two questions on notice. The first is from the deputy chair about accessing the key findings and recommendations of the independent review. Has that been made public before?

Ms Barron: No.

CHAIR: Jim, we may or may not get that if it has not been made public.

Mr McDONALD: We can ask anyway.

CHAIR: Yes, we will ask. The second one is the stats on the take-up of the framework and the breakdown of where the trusts are. Those answers will be due by 5 pm on 4 March.

The committee adjourned at 10.59 am.