

yellowblockroad

As Trustee for the Beldan Family Trust

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The Transport, Housing and
Local Government Committee
Email: thlgc@parliament.qld.gov.au

To The Committee,

Yellow Block Road Pty Ltd is a brick and block laying company based in Townsville. As we were affected by the fallout of [REDACTED] we have been following the proposed changes regarding the Building and Construction Industry Payments Act 2004.

We commend the recommendations regarding retention monies held by builders, particularly the recommendation that retention monies be held under a Construction Retention Bond Scheme. (Recommendation 11.) Recommendation 10 regarding the written notification of when retention monies become available will also be beneficial to subcontractors.

Our own personal experience with retention monies varies. In some instances we are never notified by the builder about the availability of retention monies and therefore, it can be something that is and has been, overlooked. Other instances see retention money sit with builders, for a number of reasons for up to two or three years after we have completed works on site. For most subcontractors I have spoken to, this is a common theme.

Something else that needs to be considered is that for most subcontractors, retention usually consists of the profits made on a project. Our company at times has had up to \$90000 held in retention, which has a significant impact on cash flow. Again from our own experience, we are aware that [REDACTED] was relying on retention monies belonging to subcontractors to stay afloat. We lost approximately \$28 000 in retention money with the collapse of [REDACTED]. From this experience alone it is enough for us to support any recommendation which would ultimately see our retention monies protected.

A recommendation that we have some concerns about, however, relate to the Authorised Nominating Authorities. (Recommendation: Eight.) We would struggle to support any recommendation that would see the demise of these services. Last year our company made it's first claim under BCIPA. Although it was a relatively 'simple' claim we still struggled to navigate all of the requirements of lodging our claim under BCIPA. We sought the assistance of an ANA to help us with our claim. The services

they provided to us were helpful and informative to say the least. I would like it noted that at all times the ANA conducted itself professionally. To be honest, with our lack of understanding towards the BCIPA process and all of its players, we were unaware that the Adjudicator was selected by the ANA. We just assumed that they were entities established to assist businesses with the application process. We did not feel at any stage that there was a bias in the favour of our claim. As stated previously, it was a simple claim and we believed an Adjudicator would see it for what it was. Our dilemma was that we did not have comprehensive understanding of the process which needed to be adhered to.

Our question around ANA's is this, if these entities are to be discarded, will there be a replacement service which will provide services similar to the current ANA's? If there is to be a replacement, will they be free services? Will it be left to the QBCC to assist claimants with their claims?

I believe that providing support with the BCIPA process is integral to the Act being beneficial, particularly to subcontractors who may not have the internal systems or financial capacity to undertake the steps themselves. We sought advice from our solicitor last year regarding BCIPA after the builder still didn't pay even after an Adjudicator ruled in our favour. It was not financially viable to continue down the legal path as the costs incurred would have essentially outweighed what was owing to us. Basically subcontractors and other claimants should not have to incur unnecessary costs to be paid what is owing to them. We would like the assurance that free, useful and informative services will still exist if the recommendation to cease with Authorised Nominating Authorities is upheld.

In closing I would like to apologise for the layman terms which may have been used in this submission. Submissions are not something that we do on a regular basis, however, I have written out of a motivation to see subcontractors get the protection that they need and deserve surrounding their payments for work. I hope that this submission is found to be useful when the Committee reviews and considers the recommendations made in regard to the BCIP Act 2004 later this year.

I thank you for the opportunity to submit this submission.

Yours Faithfully,

Kylie McIlroy
Yellow Block Road Pty Ltd.