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The Committee Secretary
Transport and Public Works Committee
Parliament House, George Street
Brisbane Qld 4000

Dear Committee Secretary

Please find below our submission in relation to Building Industry Fairness (Security of Payment) and Other Legislation Amendment Bill 2020. The following is based on our personal experience working in this industry for the last 17 years. Not all the builders we work with display unethical behaviour patterns, but the growth in dishonesty and corrupt practices is becoming prevalent in the Building and Construction Industry.

- From a subcontractors level the existing payment system is completely unfair and unacceptable. Nothing has changed in the construction industry in regard to payments to subcontractors and there are more Builders and Construction Companies going broke every year and thereby putting financial pressure on subcontractors, both large and small.
- Margins are getting smaller as builders virtually 'buy' jobs to keep their crews moving and screw down subcontractors on price so Builders margins improve as the job moves through.
- Shortcuts are taken as margins are tight.
- The Building Industry appears to ensure Builders get paid but these payments do not go to the subcontractors on all occasions.
- Many Builders use their next project to fund the last project and this is the start of their spiral into liquidation/receivership.
- Subcontractors entering into contracts with Builders are not aware of the Builders financial situation at the commencement of any contracts.
- Retention Monies are held by the builder – this is not put into a holding account at the end of the Project for subcontractors. Instead this becomes money for Builders to fund their next project. When the 12 month period is up there is delay in payments and excuses made not to pay within the required 30 days.
- Builders do not provide notice of the end of the defects liability period to subcontractors. They rely on the subcontractor to continually follow up to see if the client has approved the end of the defects liability period before subcontractors can lodge their request for retention release.
- Monthly claims are sometimes part paid or even not paid within the 30 day period which then drags out to 45, 60 and 90 days. We pay our suppliers on time and like many other subcontractors need to have overdraft facilities in place to cover payment delays.
- Variations for works are issued as Site Instructions – These site instructions do not constitute a variation for works and then Builders refuse to pay once the work is done. Subcontractors cannot say no to these site instructions as there are penalties for delaying projects and Builders can impose liquidated damages. Builders use bullying tactics to get work done with no intention of paying.
- Statutory Declarations provided by Builders - these are sometimes false and end clients are negligent in checking, oblivious or fail to act to ensure these Statutory Declarations are correct before making payment to the Builders.
- Subcontractors feel they have no rights as they are at the bottom of the food chain when it comes to payments.
- Government authority agents are weak and slow in responding to complaints made by subcontractors and allow Builders to keep licences and thereby continue to operate.



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- Builders open up under different names and continue to operate even though they have gone broke under another name and not paid subcontractors.
 - There appears to be no checks in place on some Government contracts. These are awarded to Construction Companies and Builders that are not in a financial position to take on these projects.

We have worked on a number of Government and non-government projects and the only Builders that have Project Bank Accounts in place are working on School Contracts. We have recently worked with Ri- Con Contractors Pty Ltd and our local Regional Council on 2 projects (both of which were over the \$1Million Project Value). Both projects did not have Project Bank Accounts set up to protect subcontractors. We were told at the time that these accounts are only currently required for Federal Government works and not local government. This was advised by our local Council.

Subcontractors follow Builders Programmes for ordering of materials/equipment. Monthly claims can only be made for equipment (ie lighting, switchboards etc) once installed onsite. This equipment we have purchased in line with programmes so not to delay projects. We have paid our suppliers usually 1 or 2 months earlier before we can claim the equipment that we have installed as there is typically delays on projects by other trades and electrical is one of the last trades to finish onsite. With delays in payments this is a significant financial loss to our company. We have had to carry the electrical component of these projects in many instances. We pay our suppliers on time and need to have overdraft facilities in place to cover payment delays.

We have worked with a large number of Builders over the last few years that have gone broke from small construction companies to large Builders and Civil Companies. The result on each project has been the same – payments have never been received once the Liquidators, Tax Office, Employees and the Bank have been paid.

A recent example is Ri-Con Contractors Pty Ltd that went into liquidation in January of this year. We first commenced working with Ri-Con Builders with local Community Hall Construction in July 2017. We experienced delays with payments throughout this project and were reluctant to work with them again. Due to the lack of building and construction works in our regional area at the time, we did enter into another contract with them in February 2019 for a new Equestrian Centre. Payments for the first 2 claims were paid in the correct time and then they were awarded another contract in our region. As their payments had improved we entered into another contract with them for a local Community Park in May 2019. First delays in payments were experienced in August when July claims were not paid in the required time. We know our local Council was made aware from July 2019 that subcontractors had not been paid. We had spoken to Council Project Managers about payment delays, and other subcontractors had meetings with Council in December 2019 in which they were also advised again that subcontractors are still not being paid.

In early September 2019, Ri-con Contractors left the Equestrian Centre site. The site had not achieved handover at this time as it had not passed final building inspections. Following this all instructions and progress of the Equestrian Centre were referred to the Council's Project Managers. We were instructed to electrically connect up new Fire Pumps and Sewerage Alarms that the Plumber had installed. These instructions were issued to us via the plumber after being directed by our local Council Project Managers, not Ri-con Contractors. Essentially the Gympie Regional Council Project Managers were managing the project after the 6th September 2019, although Progressive Claims on this project had not been paid and the final building inspections had not been completed. These works were invoiced to Ri-Con as directed by local Council and Ri-Con.

Our local Council Project Managers were told numerous times that Ri-con Contractors were not paying subcontractors. We are unsure whether false or misleading information has been provided to our Council in the form of a Statutory Declarations or whether Council have been negligent in their procedure in obtaining these Statutory Declarations before payment.



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Knowing that the Ri-Con as the Principal Contractor was unable to make payments due to financial difficulties we would expect there is a duty of care for our local Council to act in the subcontractors interest to investigate these allegations before any more payments are made, or to take over the project due to Ri-Con's inability to financially run these projects.

Thank you for reading our submission, over recent years the Building Industry has become worse and we as subcontractors are frustrated at the inadequate protection of subcontractors that allows dishonest builders to continue to work on government contracts.

We would be happy to discuss any of these areas of our submission in more detail and can be contacted on the numbers on this letterhead.

Regards

(no signature due to electronic copy)

Clair Wilkinson
Brisbane Electrical