




Speech By  
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**MEMBER FOR SURFERS PARADISE**

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### **BUILDING INDUSTRY FAIRNESS (SECURITY OF PAYMENT) BILL**

 **Mr LANGBROEK** (Surfers Paradise—LNP) (4.06 pm): It is my pleasure to rise and speak to the Building Industry Fairness (Security of Payment) Bill 2017. I commend the shadow minister, the member for Burnett, for his contribution and members from both sides who believe that people should be paid for the work they do. I certainly concur with that. As the member for Surfers Paradise and shadow minister for the Commonwealth Games, I have stood in this House on multiple occasions recently to lobby the Palaszczuk Labor government to ensure that subbies get paid not just on Commonwealth Games sites but also across the coast. That is why I am proud to be part of an LNP team that supports the principle of providing a safety net for subbies to ensure they are rightly paid the money they are owed.

Like the member for Aspley and the member for Capalaba mentioned prior to my contribution, I have a great friend who is a plumbing contractor. I have been aware of a number of times over the 13½ years I have been in this parliament that he has not been paid for work that his company has done on a number of contracts where he was a subcontractor.

We do note the concerns that have been raised by key stakeholders—and they have been mentioned by members on this side of the House—that what the minister is proposing will not work. I am the first to acknowledge that there is a significant number of amendments, but the bill in its original form will add lots of red tape and costs with no certainty that payments will be better protected. I stand to be advised of the amendments, because I know there are more to be brought in, but they are the concerns that stakeholders have raised with me.

As the member for Capalaba just mentioned, whilst travelling from the Gold Coast to Brisbane drivers will spot two billboards by Master Builders targeting the housing minister. I take issue with the member for Capalaba, who says it is a political campaign. I would say that as a political campaign it is a pretty poor one, because it is a caricature of the minister. It is not necessarily advocating for our side of the House. With the greatest respect to the minister, who is a first-term minister, I do not think that a caricature of someone who is a first-term minister is something that is necessarily going to be recognised by the thousands of people who are driving the M1 and who are probably not from that electorate anyway. We have had our criticisms of the Master Builders Association in terms of the efficacy of their campaign. It is not a political campaign. It does not attack Labor or the Premier. It focuses on the consultation process and the fact that the minister is not listening.

It does say a lot that a key stakeholder group is being forced to campaign about the minister not listening and refusing to take on board genuine concerns about the impacts of the bill. All stakeholders agree that the issues of ensuring the payment of subcontractors and reducing the incidents and impact of insolvency need to be addressed, but there is no consensus about how to do so. In the time just before I came into this parliament we had a significant government construction job: the rebuilding of Suncorp Stadium. There are not many members in this House who would remember what happened

on that particular job, but there was a significant contractor—Watpac, as I recall—and they had subcontractors who maintained they were never paid appropriately for the roof construction that was done at Suncorp.

The minister at the time—the longest serving minister for public works and housing at the time when I came into this place—was Rob Swarten, the then member for Rockhampton, who stood in this place a number of times and said that he was going to fix this particular issue. In that case, as happened only a couple of months ago on the Gold Coast at the Commonwealth Games village, the answer at the time was that the relationship of subcontractors was not with the government; it was with the main contractor, Watpac, and there was no intervention by the government of the time to ensure that those subcontractors got paid. My point is that this has been an issue in the construction game from time immemorial. In fact, it happens in the professions as well—not everyone is paid for the work that they have done—but the consensus is the issue, and the issue is a zero-sum game in that bestowing additional rights for subcontractors comes at the expense of additional liabilities or obligations for principal contractors and not everyone in business is doing the wrong thing.

The member for Aspley made that point quite stridently, and that is why I am speaking on this bill. I do not often speak outside my portfolio area, but I have chosen to do so on this bill because of similar issues to the ones the member for Aspley raised. There are thousands of contractors and people in the building industry who are doing the right thing. Once again we are seeing government intervention presuming, with words used by those opposite, that everyone who is an employer is always doing the wrong thing and is always looking to take advantage of someone who does not have the same power and is therefore not going to pay them. That is the principle of my speech today. A number of my constituents involved in the building industry have approached me with their concerns. These are mum-and-dad business owners who are extremely concerned about the consequences of such legislation.

For the benefit of the House, I will read out a submission from one of my constituents by the name of Gary Eccleston from Genesis Homes. He states—

Let me firstly state that I agree wholeheartedly with any measures which would prevent unscrupulous Builders from defrauding hard working subcontractors. However, I can personally vouch that every supplier and subcontractor has received every cent owed to them over the years by Genesis Homes Qld. Punishing the many good Builders for the behaviour of the few unscrupulous ones is not the way to go about it in my opinion.

I am greatly concerned at the changes in section 76 dealing with payment claims for a progress payment.

I understand that the amendment is intended to make it easier for subbies, builders and suppliers to use the adjudication process to help them get paid.

Based on my vast experience in the Building Industry I firmly believe it won't achieve the desired result at all. The Bill as drafted will be a disaster for the entire industry and needs to be completely rewritten—

and it sounds like it is virtually being completely rewritten—

with input from the people in the industry who know what is needed.

The Bill requires that if a builder or subbie is given a payment claim by, say, a supplier claiming for a delivery of building materials, they must give the claimant a payment schedule, irrespective of whether they intend to pay the amount stated in the claim.

This requirement to provide a payment schedule applies to:

- All construction work and related goods and services.
- All projects of any value.
- All claimants and respondents i.e. all head contractors, subcontractors, sub-subcontractors, suppliers etc.

In order to comply with this mandatory requirement, all respondents will need to give a document that meets the requirements of a 'payment schedule'. More importantly, to be a compliant payment schedule, it must be given within set timeframes. If not, there is a \$12,700 fine and disciplinary action by the QBCC. (this in itself alone is ludicrous).

So subcontractors (and other respondents) will now need to send a piece of paper for every single Bunnings invoice, Haymans Electrical invoice, other supplier invoices ... This will create millions of additional documents each year for no benefit. Hutchinson Builders has estimated they will need to send 20,000 payment claims to their subbies each month.

This needs to be changed. The obligation to provide a payment schedule should only be triggered where an invoice is not paid in full and on time.

The Bill already includes provisions that protect the claimant—the respondent becomes liable to pay the full amount claimed if he does not issue a payment schedule. There is no need to mandate the creation of thousands of additional documents.

I would note that the government has confirmed that it did not intend for the 'payment schedule to be an onerous process' (refer to page 34 of the Department's Brief).

What's proposed is obscenely onerous. It should be amended in my opinion and in the opinion of every builder I have spoken to in relation to this matter.

Based on my constituent's letter, it is clear that everyone agrees that ensuring that subbies are paid is important. However, there are aspects of this bill that have been a cause for concern for many in the industry, including my constituents.

Whilst the LNP will not be opposing the bill, I think it is about time for the minister to take the advice of Master Builders and other industry stakeholders and start listening to Queenslanders. As the member for Burnett and the member for Aspley have said before me, it is clear that, whilst we are not opposing this bill, the implementation process beyond the 12- to 18-month trial is something that, should we become the government at the next election, we will look at very carefully, including that consultation. All of us agree on the principle of protecting subbie payments. The LNP believes that we need to get this right. That is why we are committed to establishing an implementation panel for an issue that has bedevilled the construction industry for generations, but if we are going to do something about it we need to make sure that we get it right.