




Speech By  
**Stephen Bennett**

**MEMBER FOR BURNETT**

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Record of Proceedings, 15 July 2020

**BUILDING INDUSTRY FAIRNESS (SECURITY OF PAYMENT) AND OTHER  
LEGISLATION AMENDMENT BILL**

 **Mr BENNETT** (Burnett—LNP) (2.23 pm): Over the last five years the Queensland building industry has seen significant reform. Some of these reforms have been brutal on the industry. Many times that has been lost on this minister, who clearly has no industry experience. In the interests of transparency, I acknowledge that I am still a registered builder in the state of Queensland under the QBCC Act. I do not feel that that hinders my contribution, but I thought it was important to put that on the record.

**Mr de Brenni:** Build us a barbeque.

**Mr BENNETT:** And a great builder I was, Minister. We all remember the way the government gleefully used the term 'BIF bill', and it certainly was intended to take a big stick to the industry. These reforms have included the introduction of project bank accounts, PBAs, changes to security-of-payment laws and minimum financial requirements. The industry is now faced with further changes, largely as a result of earlier initiatives not operating as intended. Late payments and non-payments to our tradies remain an ongoing concern in the building and construction industry.

It is important that industry stakeholders' concerns about the proposed changes be acknowledged. There is real concern that the BIF reforms will increase the level of red tape for builders and subcontractors, because there is still no evidence that the PBAs have played any part in ensuring that the thousands of subbies involved in the 100 PBA projects were in fact paid 'in full, on time, every time', as was promised by the minister. The administrative burden and the increased amount of red tape associated with establishing and maintaining trust account records and mandatory account reviews still needs work to simplify it. This must be rectified prior to the private sector implementation, because we now know that PBAs and changes to progress payments have come at a significant cost to the principals, builders and subcontractors involved in our increasing building sector.

This bill makes many commonsense amendments—amendments we flagged up to five years ago—where changes were needed to the trust account model. Overwhelmingly, the implementation of these legislative provisions, as highlighted time and time again, will simply increase cost, red tape and risk, undermining any beneficial outcomes resulting from the bill's implementation. While a number of the proposals reflect some of the recommendations, *An evaluation of Queensland's building industry fairness reforms report* identified, problematically, that many changes go well beyond that which was recommended. We have heard industry concerns that the constrained timeframes for consultation, coupled with the lack of any cost/benefit analysis, has the potential to again lead to a need for further amendments in the future.

It has been raised many times that the majority of projects affected by this legislation will fall within the \$1 million to \$3 million price range. Anyone who truly understands the building industry knows that this is typically the price category in which mum-and-dad builders operate. Disappointingly, the little

analysis that has occurred to date only reviewed what large commercial builders are doing and how PBAs have impacted them. No analysis has occurred regarding the impact on small businesses once these reforms are rolled out.

I note stakeholders believe that the bill as drafted will act as a deterrent for small business to take on any project that requires a project trust account, as the administrative requirements are a burden that cannot be absorbed by this part of the industry. This will have ramifications for housing supply and other affordability issues. I guess having a proliferation of large union dominated builders in Queensland is possibly the actual agenda of the minister—who knows?

The committee made more recommendations. Most relate to the clarity of definitions and exemptions, including account structures. We have heard many times of the difficulties people have trying to absorb and understand terms and references in the legislation. What we must remember is that the building and construction industry is a huge contributor to our economy. In 2017 it employed 230,000 people and contributed \$46 billion. Historically, this industry has failed to deal with high rates of insolvency and regular examples of non-payment issues. These recent reforms have not instilled confidence that real reforms being proposed will be effective or that anyone from the government has even considered the true cost to the building industry. We will see reforms and more amendments in the future.

Key industry stakeholders have determined that 90 per cent of head contractors reported increased administration costs, with more than half reporting increases of more than three per cent of the project cost. These are real costs that have now been added to the construction sector. More than half of those who set out to help subcontractors also suffered increased administration costs. Builders have incurred an additional cost of approximately \$12 million in the current rollout of PBAs, which means someone else has to pay—mainly, currently, taxpayers—but when this process is burdened on the private sector, home owners and mums and dads will pay the price. It will be interesting to see how we talk about housing affordability aspirations going forward when these increased costs really hit home.

It is hard to forget that the minister cherrypicked items out of reports and commissioned analyses bragging about cost benefits, because that clearly is not reflected by what stakeholders are telling us now. Maybe that is why the private sector rollout has been kicked into the long grass well past the next election. For five years the government has bumbled around with these reforms, and although industry has offered many suggestions during the committee process, much has been ignored. This leaves me with no doubt that more amendments will be required to continue to reform this really serious issue.

I want to address the minimum financial requirements as they exist and what is being proposed. On behalf of those many builders and subbies who have reached out with problems, I say again that I told you it was going to happen and I told you it was going to be tough. The industry warned it was going to be an overreach and so complex that we should expect significant disruption to the industry. That has certainly occurred.

Talk of a new due diligence requirement on contractors and jail time for breaches are examples of a government and a government agency out of their depth. The QBCC already regulates financial requirements to a high level and deals with consequences of licensee failures, so I wonder why we have to take such a big stick. The MFR are highly regulated by the QBCC. A single determined failure can result in a licence being suspended—in some cases, to the demise of these small businesses. This is not really a fair outcome and certainly does not conform to the application of natural justice.

I will give an example of the impact. In 2018-19, the QBCC undertook 630 financial audits of licensees resulting in 123 licence cancellations and 267 licences being suspended. The government was warned that contractors are not accountants. Despite all the hype, full compliance in every aspect is still difficult to achieve. I challenge all members of the House to reach out to the contractors in their electorates and at least try and understand what it is they will be voting on shortly before imposing these problematic reforms on their constituents. They really do not understand what the ramifications are.

While the minister continues to destroy the construction industry with a lack of vision and courage, what he does do is surround himself with union hacks and Labor mates. It is important to reflect on how this has worked out, because the minister talks a big game but he cannot even get his own house in order. In the last five years the QBCC has continued to struggle, so how do we expect these reforms to progress when last month we saw the Audit Office report into the QBCC expose significant problems? Page 2 of that report stated—

Progress is hindered by a lack of data, resources, skills, and capability. Managing licences needs a more targeted compliance program to be fully effective. The current program, while driven by agreed priorities, is too operational ... There is a risk that fraud in relation to licence applications could go undetected.

Page 5 stated—

Its operational and management reporting are currently not sufficient to understand performance and enable informed decision-making. QBCC has not evaluated any of its core regulatory functions due to a lack of evaluation skills and ability.

That is a 44-page document. I have taken only small snippets out of it but I am not cherry-picking. The report is quite damning and it exposes that the QBCC continues to not be all that it can be for the industry. While we continue to put these serious reforms in place and ask the QBCC to change its direction to be risk driven as opposed to reactive, we all would agree that we in this House have so much more to do to make effective policy reforms in relation to the construction sector because it clearly was in need of reform.

I want to acknowledge the minister's genuine attempt to engage with this sector. With all of the things within the building fairness review, I would have thought we would have progressed further. However, here we are with the project bank account reforms—another suite of legislative reform. After much consultation and stakeholder engagement, we should have the best laws in the country—not laws that we all acknowledge will need to be back here with more amendments to get them right. This is a piece of reform that has already been flagged to fail in some way. We on this side of the House make this commitment to respect this industry. We have to do so much more and we have to get this right.