




Speech By
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MEMBER FOR BUDERIM

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SMALL BUSINESS COMMISSIONER BILL

 **Mr MICKELBERG** (Buderim—LNP) (4.16 pm): I rise to address the Small Business Commissioner Bill 2021, a bill, as we have heard, that seeks to establish a permanent Small Business Commissioner and provide a statutory basis for dispute resolution functions to be performed by the commissioner. At the outset let me state that the LNP will not be opposing the bill; however, we do have some reservations in relation to the bill. To that end, it is my intention to move two amendments during consideration in detail. I will address the substance of those amendments later in my contribution.

Small and family businesses are the backbone of the Queensland economy. The more than 450,000 Queensland small and family businesses are located in every corner of our state, and they employ around 43 per cent of the private sector workforce. Small and family businesses are the incubator of new ideas and innovation. They are the embodiment of the Australian ideal of having a go and they deserve our support.

Perhaps even more important is the fact that small and family businesses are the threads that bind together the fabric of our local communities. They are the newsagencies, the butchers, the bakeries and the local cafes. They are the businesses who sponsor our junior sporting teams. They are the businesses who donate the sausages for Bunnings barbeques in support of the local RSL. They are the businesses that are first to pitch in when members of our community need support.

Obviously big business is important too but, more often than not, it is small and family businesses that do the heavy lifting in supporting our local communities. That is why it is so important that governments at all levels support small business and the hundreds of thousands of jobs they create. Over the last two years small and family businesses, as we have heard, along with their employees, have been forced to carry a large portion of the burden from COVID-19.

Over the last two years many small business owners have spent every waking hour struggling to keep their business open, their dream alive and their employees in a job. I acknowledge that not every Queensland small and family business is struggling, but many are and they have been for a long, long time. In fact, increasingly, many small and family businesses have made the tough decision to close their doors for good—to walk away from their dream because the months of uncertainty, of supply chain issues, of mixed messaging or reduced trade have just got too much.

The temporary Small Business Commissioner was created to help resolve some of the challenges facing Queensland small businesses. Since stepping into that role, Maree Adshead and her small team have done a mountain of work helping businesses with issues like tenancy disputes and helping them navigate a confusing and rapidly changing regulatory environment. I would like to publicly thank Maree for the way that she has gone about her work in incredibly difficult circumstances. In meeting many of the small business owners who had the misfortune of being COVID exposure venues throughout last year, most told me of the proactive communication they had received from the Small Business Commissioner and her office.

I know that Maree has also spent a considerable amount of time building relationships, as we have heard from the minister, with the small business commissioners in other states and with Bruce Billson, the Australian Small Business and Family Enterprise Ombudsman, so Queensland can learn from the experience of other states about what is working in their jurisdictions. That is why it was disappointing that Maree did not appear in the committee hearings in relation to this bill. I would have thought that the experiences of someone who has been performing the very role that this bill seeks to make permanent would be invaluable context to inform the parliament and the committee's consideration of the bill. The question needs to be asked if the Small Business Commissioner was directed by anyone in the government not to provide testimony to the committee. It is clear that the Small Business Commissioner was present in the room during committee hearings in relation to the bill, and there was sufficient time remaining for her to provide testimony or answer any questions. Disappointingly, she was unable to do so.

I note that the 13 submissions to the bill were broadly supportive of the establishment of a permanent Small Business Commissioner; however, a number of issues were raised by submitters to the bill. Some of the issues raised by submitters included: issues with the independence of the commissioner; the definition of small business; the functions of the commissioner; the scope of disputes for which the Small Business Commissioner could provide mediation; and the interaction between the mediation process proposed, the franchising code and the responsibility of the Australian Small Business and Family Enterprise Ombudsman in small business franchise dispute resolution. I acknowledge the minister intends to amend clause 21 to rectify a drafting issue. They also raised issues regarding: the right to legal representation for parties involved in a mediation process; the exclusion of other jurisdictions to hear a dispute publication; the publication of a dispute register; and information about parties who refuse to enter a dispute resolution process. Concerns were raised in relation to the notice period for a mediation conference and the provisions regarding the confidentiality of sensitive information provided by parties during a dispute resolution process. Concerns were also raised in relation to the scheduled review of this legislation.

Many of the submissions identified the need for the Small Business Commissioner to be independent of the government, despite what we have heard. Given what we have seen in recent weeks with the independent Integrity Commissioner and the not-so-independent State Archivist position, the reasons why this is important are self-evident. Small businesses need to know that the Small Business Commissioner is working for them, not the government. Independence must be a priority so that small businesses can be confident the commissioner is acting in their best interests. While I have no concerns with the character or capacity of the current Small Business Commissioner, whatever legislative framework we put in place must be able to withstand the test of time and the various personalities that may occupy the role.

A particular issue with the bill is the fact that the bill details the Small Business Commissioner will receive both a ministerial direction and a statement of expectation. It should be one or the other. Australian Small Business and Family Enterprise Ombudsman, Bruce Billson, identified in his submission that, in the bill as drafted, clause 17, ministerial direction, conveys a potential 'for the role to be highly dependent on government and subject to operational instruction' and should be omitted. As Mr Billson submitted, the bill should retain only clause 18, a statement of expectations, 'which provides a mechanism for establishing clear objectives, conveying strategic priorities and ensuring a broad contribution to and alignment with the whole-of-government goals and ambitions.'

That is what the first amendment I will move in consideration in detail seeks to achieve. My first amendment seeks to achieve that by omitting clause 17 and removing the requirement for the Small Business Commissioner to receive a ministerial direction. It is important to note that my amendment does not remove clause 18, and the minister will still issue a statement of expectations to set objectives and strategic priorities.

As the minister stated in her first reading speech, one of the main objectives of this bill is 'to enhance the operating environment for small business in Queensland and to reduce the time and cost associated with resolving disputes involving small businesses.' Given this, ensuring that the Small Business Commissioner is able to act independently of the government will better ensure businesses are treated fairly and without interference from the state government. Too often the issues afflicting small businesses are caused by the actions of government. I cannot count the number of times small businesses have raised the fact that their invoices have not been paid by Queensland Health in the required timeframe. It is because of examples like this that the Small Business Commissioner needs to be independent of improper ministerial influence and control, which has been so often on display in the media in recent weeks.

Examples like the one I have just provided also give rise to the need for the Small Business Commissioner to have a power to obtain information from government entities. Such a power could be used to influence government departments to provide information, enabling the more timely resolution of disputes. That is why I will be moving an amendment in consideration in detail to provide the Small Business Commissioner with exactly that power.

Stakeholders made it clear they want clarification on the definition of 'small business' included in the bill. The current definition of what constitutes small business is too vague. I ask the minister to provide the clarity needed to prevent any unnecessary interference in processes surrounding dispute resolutions.

Submitters raised the fact that this bill misses an opportunity to bring in further protections for small and family businesses, including a mechanism to deal with business-to-business disputes over payments, for example. This is particularly important when the dispute is between a small business and a larger business, which is frequently an issue when small business have a concentration of trade with one larger entity that has a disproportionate amount of market power compared to the small business. I ask the government to consider what measures can be implemented to help empower the Small Business Commissioner deal with such issues in the future.

Another area of concern is the fact that the bill does not allow for the Small Business Commissioner to initiate inquiries and investigations into relevant areas of concern. It also does not contain an obligation to act in good faith, which is in the current framework and is regularly used by mediators for constructive outcomes.

In 2012 the LNP abolished the role of Small Business Commissioner because the role was poorly structured and held no power. It was costing Queensland taxpayers and small businesses money without any real benefit. Red tape was not being cut. The role was just another layer of administration between the minister and Queensland businesses. The amendments we have put forward to the Small Business Commissioner Bill seek to ensure that this new permanent Small Business Commissioner is able to achieve the main objective of the bill which, as I mentioned earlier, was described by the minister as being 'to enhance the operating environment for small business in Queensland and to reduce the time and costs associated with resolving disputes involving small businesses.'

Small and family businesses are collectively the biggest employer in Queensland. This is not something the LNP takes lightly. We understand the importance of small and family businesses and the need to support them to in turn boost the Queensland economy and enhance our local communities. We are committed to supporting small and family businesses right across the state. The LNP has been fighting tooth and nail for the state government to give more support to small and family businesses across Queensland. In the 12 months since I became the shadow minister for small and family business I have travelled the state. I have been heartened by the passion of business owners, but I have also been heartbroken by some of their stories of despair.

Countless businesses have closed due to the impact of public health restrictions on their businesses. The dreams of many owners have been crushed. Their staff have been left jobless, with no way to pay the bills. There are more than 450,000 small businesses across the state that employ approximately 43 per cent of all private sector workers. They are the lifeblood of many communities. The LNP fought for them during the worst of the pandemic, and we will continue listen to small and family businesses and be their strong voice in this place.

When a business support package was left out of the state budget in June my colleagues and I saturated Queensland in a small business blitz, listening to small businesses owners and highlighting their plight in the media. We relentlessly called for a sliding scale approach to lock down support payments as well as deep cleaning cover for exposure sites, event cancellation rebates and the extension of payroll tax deferrals. The state government was dragged kicking and screaming to deliver a financial support package but failed to help small businesses when they needed it most.

What all small and family businesses need is clarity. The chopping and changing of restrictions has caused confusion and uncertainty, hurting the sector as a whole. More than anything, businesses need a clear outline of what is expected of them to continue to invest, trade and grow in Queensland. The LNP has been advocating for this, and we will continue.

Last week the CCIQ released the results of their pulse survey, which clearly demonstrated the sad state of Queensland's small and family business sector, with business confidence down nearly 17 per cent on the previous quarter. Revenue has been slashed and employment is down, and we have a government with no plan for the future. Sixty-three per cent of businesses and their staff said they have been impacted by mental health challenges. This number is extremely distressing and a cause of great concern for business owners, who have given everything to their business, their staff and their community. It is just another clear example of the government continuing to ignore the needs of small

and family business and letting them down in their crucial hour. The lack of action has left small and family businesses with nothing but more uncertainty. Having an empowered, independent and permanent Small Business Commissioner to act on behalf of all small businesses is the first step towards restoring confidence throughout the small business community.

We want a Small Business Commissioner who has the power and independence necessary to ensure the Queensland government treats small businesses fairly. We want to ensure the position of the Small Business Commissioner is supported, and we want a genuine commitment to small and family businesses from this state government. I call on the government to support the LNP's measured amendments that seek to address the shortfalls in the bill. We will not be opposing the bill, but I ask the government to give genuine consideration to supporting our amendments, which have been developed after listening to submitters to the bill and to the small business community more broadly.

With the indulgence of the House, I would also like to acknowledge my friend Ryan Shaw, veteran and former LNP candidate for Lilley, who yesterday made the brave decision to tackle his mental health challenges and has withdrawn as the LNP candidate for Lilley to do so. He is a hardworking and community minded man. I spent a fair few hours with him doorknocking during his last campaign in Nudgee. He is a good man and it takes courage to admit you are struggling and to ask for help. I would like to wish Ryan well. He is an example to all of those suffering from mental health challenges like PTSD to reach out and ask for help. I would like to wish Ryan and his family all the best in the weeks to come.