




Speech By  
**Sandy Bolton**

**MEMBER FOR NOOSA**

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Record of Proceedings, 17 March 2022

### **SMALL BUSINESS COMMISSIONER BILL**

 **Ms BOLTON** (Noosa—Ind) (5.22 pm): Small businesses are collectively the biggest employer in Queensland, and Noosa has a significant vested interest in ensuring they are adequately represented, with approximately 7,400 businesses in the tourism, hospitality, retail and construction sectors driving our local economy. These are mainly small or micro businesses, the owners of which are overwhelmingly mums and dads. They are our friends and neighbours who employ us and our children or parents, contributing to the economic, social and environmental fabric of our community. I send a call out to every single one of them.

Since the pandemic some businesses in Noosa and across the state have thrived, with growth of over six per cent in 2021. However, with Noosa dependent on the tourism and related sectors, these small businesses in the majority suffered incredible hardship and continue to through the mandates that see them unable to operate without financial assistance or compensation, leading to closures, lost jobs and a frightening decline in mental wellbeing.

It was really good to hear the members for Burnett and Cook articulate the vast issues being faced, yet their pleas at the moment are being ignored. It again shows how out of touch those decision-makers sitting on salaries are—not really understanding what they are going through. As well, current offers of loans go nowhere to help when they have already been taking loans and they cannot even afford those.

The Small Business Commissioner Bill 2021 permanently establishes a Queensland Small Business Commissioner and supporting office, provides a statutory base for dispute resolution functions relating to retail tenancy disputes and enables mediation for commercial leasing and small business franchise disputes on an opt-in basis only.

The legislation transitions the temporary commissioner role from its previous arrangements, focused primarily on managing and responding to COVID-19 impacts, to a role with wider application to support small businesses. Maree Adshad, who has filled this role, has been invaluable to the Noosa community during the enormous hardships of this time, as has the staff. She sat on our COVID business round table, which I believe was one of a kind in Queensland, and advocated on the many urgencies during the past two years. I also want to send a call out to all of those who sit on that round table, including the Noosa Chamber of Commerce, the Cooroy, Pomona and Cooran chambers, Hastings Street Association, Peregian and Sunshine Beach associations, the Noosaville Business Association, Tewantin Traders Association—so many—as well as all of our online business organisations and groups. What an awesome job they have done. It has just been fantastic.

The permanency of this commissioner role is vital for many reasons, including improving support and advice to Queensland small business owners and operators, and providing timely and affordable access to justice through a dispute resolution function.

While all submitters supported the bill's objective, some reported concerns relating to the lack of definition of 'small business'—and rightly so, given the commissioner's functions refer to 'small businesses'. The Australian Bureau of Statistics defines a small business as employing fewer than 20

people. The ATO defines small business as having revenue of up to \$40 million. ASIC, which administers the Corporations Act 2001, defines a small proprietary company as one that has a consolidated revenue less than \$50 million, consolidated gross assets less than \$25 million and fewer than 100 employees. Given this inconsistency across government legislation or programs in Australia, the bill allows some flexibility and discretion for the commissioner to support businesses that are small in nature but may sit outside a definition based on full-time-equivalent or maximum turnover. However, by not defining 'small business' in the bill, submitters such as the Queensland Law Society state it will create uncertainty about seeking adviser assistance from the commissioner, and I hope that is not the case. The committee is right in its encouragement of the permanent commissioner to publish an operational definition of 'small business' to aid businesses that are considering seeking the assistance of the commissioner.

Turning to the independence of the commissioner, the bill provides for the minister to give a written direction about a matter relevant to the performance, clause 17, and functions, clause 18, of the commissioner. A number of submitters commented that it is likely to be a challenge for the commissioner to truly advocate on behalf of small business, given that it is a body that reports to the minister. In order to mitigate the risk of conveying a potential for the role to be highly dependent on the government of the day, and subject to operational instruction, the Australian Small Business and Family Enterprise Ombudsman states that clause 17 should be omitted. In response to submitters' concerns about the independence of the role, the department advised that the power for the minister to issue directions is not intended to undermine the commissioner's independence but rather to increase the commissioner's responsiveness to emerging issues as needed to support Queensland's small businesses. The bill also requires under clause 17(3) that the commissioner include details in its annual report of any ministerial directions during the financial year and the actions taken by the commissioner as a result of the direction. This will provide transparency and accountability.

The bill prescribes the requirements and processes associated with the commissioner's mediation function, which is to provide informal dispute resolution assistance and administer a voluntary mediation process for small business disputes. A number of submitters, including Master Electricians Australia, were concerned that allowing the commissioner to administer mediation only for lease disputes and franchise disputes will limit the effectiveness of the commissioner in achieving the stated goal of reducing red tape for small business. The Australian Small Business and Family Enterprise Ombudsman recommended that the commissioner be empowered to assist with a broader range of disputes, specifically business-to-business disputes and business-to-government disputes. The QLS submitted that the bill be amended to provide for the right of each party to a small business dispute to be legally represented at a mediation conference and that the bill creates an imbalance between parties involved in the mediation business.

Small business owners and operators are integral to a local circular economy. They take many chances without guaranteed outcomes to provide themselves and others a job. They create and supply the goods and services that Queensland needs and, importantly, the tax revenue derived from these businesses, their owners and their employees pays a large proportion of the cost of government services, infrastructure and social security measures in our state and nation.

This bill may not provide the commissioner with sufficient powers, it may not provide the necessary independence and it may not provide the balance needed in mediation. However, any and all assistance is needed for our small businesses to ensure their voices are heard. Permanency of the commissioner can provide that along with assistance with what can be frustrating, hard to deal with and sometimes unresolvable matters.

I thank the committee, the minister and departmental staff, submitters and attendees of the public hearing and public briefing for their work. Most of all, I thank our small businesses who have borne the brunt during the pandemic and who even in the toughest moments, including closures, did everything in their power to keep afloat and their staff in jobs. They deserve so much more than what we at times deliver. I ask again that government provide certainty through guaranteed funding assistance for when they must close due to any mandates or directives they may face in the future.