

SUBCONTRACTORS — PAYMENT SECURITY

Grievance

MR S.J. PRICE (Forrestfield) [9.48 am]: My grievance is to the Minister for Small Business, and I thank him for taking this grievance. Similar to other members in the house, I am delighted that the McGowan government is progressing major key infrastructure projects in Western Australia, such as Metronet. These major infrastructure projects allow small business and subcontractors to bid for tendered work, which is creating thousands of local jobs. The McGowan government has already introduced legislation, such as the Western Australian Jobs Act 2017, to put opportunities for small to medium enterprises and subbies at the front of the chain. These important changes to government contracting mean that SMEs and subbies have more opportunity to have a slice of the Western Australian projects pie. However, in my electorate of Forrestfield and across the state, many small businesses and subcontractors have experienced some inconvenience and loss of income due to obtaining work on these major projects. I have had many conversations with people from small businesses who have expressed their concern that the horrors of the past may be repeated unless the McGowan government ensures that it cannot happen.

Small business makes up approximately 97 per cent of business in Western Australia. They are responsible for a significant flow-on to the local economy and are often very valued family businesses operating within our electorates. We have heard horrific and devastating stories about how the failure to receive payment has impacted on subcontractors. Some have lost their businesses as the result of financial difficulties that were not of their own doing, but inflicted upon them by the behaviours and actions of other major contracting companies. This includes all types of subbies, such as plasterers, sparkies, plumbers and other businesses that members may not consider, such as a very successful small local family businesses in my electorate called Grasstrees Australia. Grasstrees Australia was contracted to supply, deliver and install grass trees at Yagan Square. I will not try to pronounce the scientific term for grass trees.

The ACTING SPEAKER (Ms M.M. Quirk): It is xanthorrhoea, member.

Mr S.J. PRICE: Correct; thank you very much.

Unfortunately, Grasstrees Australia's contract, valued at around \$60 000, was to a subcontractor named Excedo Contracting. Excedo Contracting went into voluntary administration six days after Grasstrees Australia had completed the second stage of its contracted works. As a result, Grasstrees Australia suffered a significant financial impact. A reduction in payment times to small businesses has also proven to impact on the success of a small business. We are also well aware that in the long chains of who should receive payment, the person who receives the last payment is often the subcontractor at the end of the chain. This delay in having to carry these invoices and expenditure for an extended period has a significant impact on a subcontractor's business viability as well. That then has a flow-on effect on its ability to pay its employees and workers.

The Small Business Development Corporation and the Small Business Commissioner provide a dispute resolution service to small business and subbies, which has been in place for a while now. However, there is a reluctance amongst a lot of the small to medium-sized enterprises and subbies to use this facility to help them get some resolution in their payment dispute with their contractor. The reluctance to use this is for fear of retaliation on other jobs. WA is a small place and only a small number of tier 1 contractors can undertake some of these big projects. The same contractors are working on projects throughout the state, and a subbie does not want to develop a bad relationship with one of the principal prime contractors that they work for, for fear of not picking up work on future projects. In that regard, we need to do what we can to protect small business operators and subbies while utilising the great service that is already there. We can look at ways of doing this. We could give the subbie or contractor the ability to have an anonymous conversation with the commissioner to raise their concerns so that the commissioner is aware of something, but there may not have to be a formal mediation process in which they sit across the table from the person with whom they are in conflict. This could also be extended as we see multiple occurrences of non-payment on a job by a particular contractor. If a lot of red flags are being raised on particular contracts or projects, someone needs to look at that to try to prevent future financial difficulties for small contractors that are working on these projects, whether that be an SME or a subbie. Unfortunately, the previous government did not do anything to address this, and a lot of small businesses failed, which had significant flow-on effects, as a result of non-payment.

I would like to ask the Minister for Small Business what he will do to make sure our small businesses and subcontractors will never be in that position again, when the previous government washed its hands of any responsibility to those subcontractors. Can the minister outline how he plans to make sure that into the future there is a fair voice for small businesses that work on projects in our state?

MR P. PAPALIA (Warnbro — Minister for Small Business) [9.54 am]: I thank the member for Forrestfield for his interest in this matter and strong advocacy on behalf of small businesses in his electorate. The anecdote regarding Grasstrees Australia is concerning, but illustrates the issue perfectly. As the member alluded to near the

end of his contribution, there are some terrible examples, which are ongoing, of what I found most concerning, which is subcontractors being treated appallingly on government contracts, not just in the private sector. The scale was significant, particularly during that period when the Rudd government was addressing the global financial crisis and huge amounts of money were given to the states to stimulate the economy and stave off the threat of the global financial crisis. In Western Australia, billions of dollars were given to the then Barnett government, particularly in the Building the Education Revolution program, in which a lot of the problems arose, and projects that should have been reliable and good work for subcontractors turned out to be devastatingly bad for them. The member would recall that several primes or even large subcontractors not only went out of business and failed to pay subcontractors beneath them in the chain, like in the example the member gave, but also then phoenixed or reinvented themselves and got further contracts and, extraordinarily, further government contracts. That was an appalling situation that appalled me and a lot of people across the community. We felt that there must be something we could do, particularly with government contracts. There should be some manner of responding that at least limits that likelihood from occurring and, hopefully, prevents it.

As a member of Parliament, I was personally touched to receive a call from one of my constituents, Max Hannah. I was driving towards Parliament and I pulled over to receive the call. Max Hannah is a good person, who subsequently got quite a profile in Western Australia through advocacy around this matter. He was a landscaper with a good landscaping business that employed scores of people. He came to grief on several government contracts for building schools in which he was the one landscaping. Primes did not pay him and they subsequently went bust and he was left in the lurch. He ended up selling not only his own house that he and his partner lived in, but also his investment property, which was his super, because he was a small business person; that is how he had intended to financially care for him and his partner when they retired. Both his own house and his investment property were sold in an effort to retain the business and keep paying his employees. He was a good businessman who cared about the people he employed; he wanted that business to be sustained and continue and he cared about paying his workers. He did that, which is extraordinary. At the time, thousands of other subbies were impacted in the same way. This is about five years ago, I think. Many lost their homes, many marriages broke up as a consequence of the stress and strain, and, tragically, some took their lives.

That has motivated us. We are very determined not to allow that to happen if we can avoid it. The member would have heard that we have introduced and second read the Small Business Development Corporation Amendment Bill 2019. We want that to pass through both houses of Parliament as rapidly as possible so that we can empower the Small Business Commissioner to do exactly what the member suggested. He will be empowered to receive information notification from subcontractors. He will not have to reveal them because he will have the power to demand information on proof of payment from prime contractors and he can also look at the behaviour of principals to ensure they are not creating undue stress on the system and encouraging bad behaviour. He can investigate without reason and randomly audit, and demand proof of payment. That will provide a shield in situations in which a subcontractor may have notified him anonymously. He will be able to receive an anonymous notification and investigate, or he may just have chosen to audit that particular project and asked for proof of payment.

I am hoping that this will achieve a change of culture. The Attorney General in his other role is also pursuing the recommendations of the Fiocco review, and that is a far greater and more expansive response, looking at cascading trusts and protecting money in the system so that there will be payment in the event that people go bankrupt or go out of business and have not paid people further down the chain. I am hopeful that the subcontractors support unit, in supporting the Small Business Commissioner carrying out audits and receiving notifications, will prevent bad behaviour in the first place and encourage good behaviour. Good behaviour will be identified and acknowledged and hopefully, in due course, rewarded. As acknowledgement of good behaviour, the companies that do the right thing will be elevated up the chain of likelihood of receiving government work.

The sooner the Small Business Development Corporation Amendment Bill 2019 can pass through both houses, the sooner we can get the commission out there as the cop on the beat in defence of subcontractors, and that will be better for everybody. It will then be more likely that we will bring about a change in culture and a shift in behaviour. It has been welcomed by everyone, including the Master Builders Association and the Motor Trade Association, which are both working with us on it. There is a lot of goodwill in the community towards changing the culture and getting better outcomes. I am hopeful that as soon as we get this amending legislation through the house, we can get to work on fixing things for the better.