

TRANSCRIPT

LEGISLATIVE ASSEMBLY ENVIRONMENT AND PLANNING COMMITTEE

Inquiry into Employers and Contractors Who Refuse to Pay Their Subcontractors for Completed Works

Melbourne – Thursday 8 June 2023

MEMBERS

Juliana Addison – Chair

Martin Cameron – Deputy Chair

Jordan Crugnale

Daniela De Martino

Sam Groth

Martha Haylett

David Hodgett

WITNESSES (*via videoconference*)

Ms Elizabeth Doidge, Political Organiser, and

Mr Frank Akbari, Compliance Officer, Construction, Forestry, Maritime, Mining and Energy Union.

The CHAIR: It is so lovely to be here for the second day of hearings for the Environment and Planning Committee's Inquiry into Employers and Contractors Who Refuse to Pay Their Subcontractors for Completed Works.

Today we are meeting virtually, which means that we come from many different areas of Victoria and many different traditional owner areas. I am coming today from Ballarat, proud lands of the Wathaurong people, and I extend my respects to their elders past, present and emerging, and I extend those respects to all country which you join us from today and extend those respects to any Aboriginal people who may participate in our inquiry today.

It is terrific to be here to have the opportunity to hear from a number of different organisations today that will further our understanding of the issues of non-payment of subcontractors in Victoria and really finding out what we can do through this inquiry to make things better and improve the system.

I am really pleased to say that we have got the CFMEU as our first lot of witnesses, and I welcome Elizabeth Doidge and Frank Akbari.

Frank AKBARI: Nice to see you all.

The CHAIR: Thank you very much. Elizabeth, I know that you have been doing a lot of work in terms of really trying to make sure that the voice of subcontractors is heard in terms of the industries that you represent and that they understand what this inquiry is about. We are going to hand it over to you to make some initial remarks and to share some of your insights. We will really be led by you in terms of how much you would like to share with us, and then we will open it up to questions. I do not know how you and Frank want to do it, but we are all listening.

I will quickly introduce everyone. Martin Cameron is the Deputy Chair, and he is the member for Morwell and a former plumber, so he is well across a number of these issues. Daniela De Martino is the member for Monbulk, Jordan Crugnale is the member for Bass, Martha Haylett is the member for Ripon, Sam Groth is the member for Nepean and David Hodgett is the member for Croydon. You have the floor.

Elizabeth DOIDGE: Wonderful. Thank you very much, Juliana. I also want to begin by acknowledging the traditional owners of the land on which we are meeting today. I am on the lands of the Wurundjeri Woi Wurrung people of the eastern Kulin nation. I would also like to pay my respects to their elders past and emerging.

Thank you to the Chair Juliana and thank you to the committee members for not only holding this inquiry but for finding time for us today. My name is Elizabeth. I am the Political Organiser at the CFMEU in the construction division. My role basically works between policy and advocacy and with things not just about union members but also with things that represent the construction sector and property sector more broadly. I have got along here Frank Akbari, who is our Compliance Officer. He has been in the construction industry for many, many decades and has a really thorough understanding of some of the complexities and the intersecting issues that we find ourselves having and the things that we really want to bring to the attention of the committee today. Yes, I do have a short presentation. It is pretty simple; it is pretty chill. I just want to take you guys through that and then give you the time to ask as many questions as possible.

Visual presentation.

Elizabeth DOIDGE: I want to just quickly begin by explaining why this inquiry matters to the CFMEU. The CFMEU has over 32,000 members working in large-scale construction in Victoria. When I say large-scale construction, I mean: look around you at the high-rise resi apartment towers, office buildings, hospital builds, schools and all of those kinds of things and the major transport infrastructure projects. That is the sector we cover. We do not cover the domestic sector – I just wanted to put that out there.

The union has a very close relationship with subcontractors, which I think is important to highlight. It is a bit of a misconception that the union and employers are always sitting on opposite sides of the table. For us, it is actually not very true. The majority of CFMEU members are employed directly by subcontractors, and there are important relationships that exist between workers and their employers, especially within the construction industry, because it is such a fickle industry that changes a lot. They are very important relationships that we have.

The union has 1261 enterprise agreements with companies in Victoria, and the vast majority of those are with subcontractors, with only a handful being principal contractors. All of the time in all of the work that we do, especially the work that Frank does, we are always conversing with subcontractors, usually about payments but also about lots of other things. In the lead-up to this particular inquiry we spent a lot of time working with, I think, just under 100 subcontractors directly in detail on some of the issues surrounding payments and, I guess, the system we have in Victoria. It is probably worth mentioning as well that the union is interested in this inquiry because when a subcontractor is not being paid or is not being paid properly, neither are their workers, and those workers are members of the union. It is important to us as well that members are always being paid.

I just wanted to begin by explaining what a typical subcontractor kind of looks like in the construction sector. We have some very large subcontractors who do major projects – formwork, for example, like the structure of a building – and they will have about 1000 employees. I must admit there are not a huge number of major subcontractors. The majority are small businesses; many are mum-and-dad, family-run businesses. A lot of businesses were set up by a parent, and the kids have taken over. Usually they do not employ a lot of people. Me and Frank can go into this in more detail later if you guys are interested, but we have many subcontractors that would literally just be a husband-and-wife team. And it is probably worth mentioning that with the state government's Big Build projects and all those investments in civil construction projects – you know, take a level crossing removal or a road widening – you will have many businesses that are just subcontractors who own three or four machines. So I kind of wanted to paint a picture of how diverse this industry actually is and what a business might look like. It might not be what we generally assume businesses look like.

I also wanted to put in there as well that a lot of these subcontractors are not well resourced with cash or necessarily educated in terms of, you know, being able to make submissions to an inquiry like this. I do not mean 'educated' in that they cannot read or write, but through the work we did there was a lot of hesitation about being engaged in this process, just because they were completely unfamiliar with what this might be.

I have tried to put here a little example of a construction project – so the intersecting relationships between subcontractors and a principal contractor. Now, this is just very much an example. If you look at the top, you have got the developer or the government if it is a government project, or sometimes it is a PPP – a public–private partnership – but then underneath that you have a principal contractor. And I have tried to kind of show, you know, how you have got major subcontractors who then subcontract to another subcontractor and then another subcontractor again. For example, if you look at plastering, we have got plastering sitting under the principal contractor. That plastering subcontractor will then subcontract again to somebody responsible for framing, who will then subcontract again to a specialist business who can look at stepping, and then they will subcontract again into board; or we have got demolition – for example, you have a major subcontractor working on demolition, but then they will have to subcontract to a subcontractor who operates cranes and manages cranes. But again, it is far more complex than this; I just did not want to put an overwhelming example to you all. If we look at the formwork subcontractor – sometimes there are packages for the formwork, reo and pour. There are so many different, you know, skills – and expertise – required to construct a building or a tunnel or even a road that you really need lots of different businesses with specialised skills, so that is what I have tried to paint here.

So the management of the project is assigned to the principal contractor, who has a direct contractual relationship with the developer or the government agency, but it is worth noting that the principal contractor does not actually employ the workforce in its own right. On each project the principal contractor will engage large specialist contractors, who then engage smaller subcontractors, as I have tried to show here in this chart. It is worth noting on this page that the direct consequence of such arrangements is the contractual and legal disconnect between those who are performing the work and the principal contractor, being the entity that is actually being paid by the government and the developer. So when you look at this kind of hierarchy structure, coupled with the necessary relationships that subcontractors must maintain with the principal or head subcontractor to be in future work, it culminates in, let us just say, a massive power imbalance, especially when

you get down to plastering, for example – what is called a finishing trade. If you are constructing a large residential tower, it is one of the finishing kind of parts of the project, and it is usually the part of the project where there is not a lot of money left. So if you are in a finishing trade and you are a very specialist finishing trade, you are most likely to be impacted by non-payments and also most likely to, say, have the least amount of power sometimes in the construction project.

I have got a few other examples here that I have written down. A level crossing removal project, for example – they are all individual; they all have different, unique parts of constructing a project. So there are some subcontractors we are familiar with who literally own three different types of machinery who will be subcontracted three or four tiers down the line and be brought in just to be able to access that type of machinery, because perhaps some of the other major contractors do not have access to those machines.

So what do non-payments or underpayments look like? I wanted to give the inquiry kind of a quick picture of some of our experiences. Subcontractors within the commercial construction industry report that when payment is eventually received it will never equate to the total amount. You know, in some cases it is never received at all, but when it is, the payment will be missing sometimes up to 15 per cent of what is owed. This is what we call haircuts. Now, you will not hear the term ‘haircut’ in a formal setting; I guess it is a bit of slang. It is not used widely, but we use it a lot just because it is so prevalent. It is also something that the subbies, if you do not mind me using that language, say to themselves as well – ‘We’ve copped a haircut’, ‘haircut over here’, ‘got a big haircut’, ‘small haircut’, ‘manageable haircut’, those kinds of things – and it just means there has been a slice taken off what they were paid. It is worth noting that this is usually an amount that is not really worth the time cost or the impact on the relationships to try and pursue legally. We are talking, you know, sometimes \$10,000, \$40,000. A principal contractor can actually earn a significant amount of additional profit by just applying small haircuts to all the different invoices across the life of the project. In some cases, in a lot of cases, no ramifications ever happen because it is small haircuts to lots of different contractors – not enough for anyone to pursue, but in their back pocket that earns a fair bit of money for them over the life of the project.

Another type of non-payment we see is delayed payments. Subcontractors report to us that they are almost never paid on time, and often with invoices often months overdue. This causes a massive strain for subbies to be able to pay their workers, to be able to look at additional work that they might have coming up, to be able to invest in new machines or expand their business – things like that. It is probably worth noting it does take a huge amount of effort to run these companies. I will touch on it later, but a lot of the subcontractors said to us they all have someone, often their wife or somebody in the business, who just spends all their time basically chasing payments.

I will give a small example of that. One subcontractor who I spoke to in preparation for this inquiry reported that he was owed over half a million dollars worth of work, and this was over two years. This was actually on the West Gate Tunnel Project, so a government project. CPB was the principal contractor responsible for engaging this subcontractor, and basically CPB had refused to pay out any of the half a million dollars owed because a very, very small portion of the work had not been completed. But what is worth noting is that the work that had not been completed was because the construction program, which is basically a time line of events happening on the project, the construction time line, had been changed by the principal contractor. So this subcontractor could not actually complete the work because, you know, worksites have to be flexible and things have to change when certain trucks and materials are available et cetera. So, yes, we have got this subcontractor who is literally waiting on a huge, huge amount of money that they need, and it has been a very, very long time, but trying to chase that money would have a huge impact on them, especially if they pursued legal means.

A principal contractor like CPB is massive, and the risk of damaging that relationship is not worth just trying to wait for that money. Delayed payments are pretty much standard practice. I mean, Frank, feel free to jump in here if you want, but our subcontractors said to us that they never, ever receive payment on time – and again, this is even on government projects sometimes. A lot of the excuses they will get are that a major principal contractor cannot pay, because the developer has not paid them yet – ‘I don’t have any money to pay’ or ‘I’m not happy with the work you’ve done’ – and then the onus is on the subcontractor to try and fix it or rectify the issue.

Actually I will touch on my final point here. Reverse factoring is very common practice in the civil construction industry and on major transport infrastructure projects. I will just explain what that is, using CPB Contractors as

another case study. Just to give a bit of context, CPB Contractors are on the West Gate Tunnel project, they are going to be on the North East Link project and they have got projects in New South Wales. They are a massive construction company. It is probably worth noting that in Australia the large-scale construction industry has not been around for a very long time, especially on major transport infrastructure projects. We are relatively small compared to other global economies, so there are not actually that many principal contractors or major contractors that can pull off a \$10 billion tunnel in this country. But CPB are one of them. They are owned by a massive multinational company called CIMIC in Spain. I looked up how much they are worth. Their Australian revenue alone, CPB's, was \$3 billion last year, and CIMIC made \$14 billion – that is, the global Spanish company – last year. So we are talking about a major, major contractor with a lot of money in their back pocket here.

They commonly practice what is called reverse factoring. Reverse factoring involves basically offering subcontractors timely payment if they accept an unspecified discount on the invoice – ‘We’ll make sure we pay you within the 30 days or 60 days, whatever’s agreed, but we’re going to slice 10 per cent off the top.’ We have had so many subcontractors say to us that that actually works out better for them. Unfortunately, even though they have to take a cut, it is worth it for their mental wellbeing, I suppose, and actually being able to have their time to run their business rather than just chasing payments. I think it is important to talk about reverse factoring, because it demonstrates the exploitative nature of the constructive industry and the power imbalances that we see throughout the hierarchy on construction projects.

David HODGETT: Can I interrupt there just to clarify. When you said ‘unspecified discount’, 10 per cent is obviously specified. Do they sometimes do an unknown amount? Is that what you mean by that?

Elizabeth DOIDGE: No. Sorry, I should be clear. No, that is not what I mean. When I say ‘unspecified’, what I mean is that it is not a consistent approach. It is not that reverse factoring is always a 10 per cent discount or slice. Sometimes they might say, ‘Oh, we’ll give you min cover: 5 per cent, 10 per cent or 20 per cent.’

David HODGETT: My mistake. All right. Thank you.

Elizabeth DOIDGE: No, thank you for asking. I would rather be clear.

Frank AKBARI: Can I just come in and mention something, Elizabeth. Good afternoon, everyone. I have been involved with the CFMEU for the past two decades, I think, and for the past 10 years I have been involved with contractors having issues with certain builders and developers and what have you. I think what Elizabeth is trying to tell you is that sometimes the contractors put an invoice in to have their invoices paid, and because they are in a bit of a financial dilemma the principal contractor might release the money to them in a shorter turnaround than a normal invoicing cycle and as a result they might charge them a certain fee or say, ‘Yes, we’ll release the money to you a little bit quicker, but you have to give us a certain discount in a certain way, as we are rolling your cash flow.’ As for the previous section that Elizabeth was talking about, the issue at the moment that we have – sorry, Elizabeth, do you mind if I just touch –

Elizabeth DOIDGE: No, please.

Frank AKBARI: At the moment, for example, in Victoria we have got a developer. Just as a hypothetical example, the developer could be made up of many investors. It is not just the one entity. It could be many. These particular entities will engage a builder – and it could be any particular builder – to do the structure for them or to deliver a building. And the builder will engage a contractor who has a direct relationship with that builder and the contractor. That particular contractor might engage so many other contractors that might be involved within that package who do not have a direct contact to the builder because they do not have a signed contract with the principal builder. Their only relationship is with that particular contractor. And as a result, they invoice the contractor and the contractor invoices the builder for the payment of those invoices. And during that process the contractor itself might not pay out the entire invoice to the people underneath him, and therefore there is going to be a short payment, and as a result they cannot pay their workers and so on and so on. So it is an uphill battle for those smaller contractors – like Elizabeth said, mum-and-dad companies – who are engaged by the actual principal contractor, not the builder, who, if they do not get paid on multiple jobs, cannot actually meet their obligations as far as their superannuation or long service or other wages and so on. So I think that is where we are heading. Sorry, go on.

Elizabeth DOIDGE: No, perfect. Did anybody have any questions on what Frank was just telling us?

Daniela DE MARTINO: Yes, just a quick one. Looking back at your chart of the principal contractors, following that all the way down, say, for example, someone who is doing concrete patching, how long potentially do they have to wait to get paid for the job they did?

Frank AKBARI: Did you want me to answer that, Elizabeth?

Elizabeth DOIDGE: Yes, go ahead, Frank.

Frank AKBARI: Okay, so let us say for the formwork you are the person or the contractor that does this structure. They need to go and do some patching and what have you. They get awarded the contract; they get on the job. They might do a job that might take, for example, a week or two weeks. They invoice at the end of the month to the contractor, and sometimes – in the olden days, in the good old days, they used to be between 30 to 60 days, and they used to have their invoices paid – now their invoices actually get stretched out to about 120 days. And the issue that we have with those invoice turnarounds is that if I invoice you for, let us say, \$50,000 for the job that I have done and I have got to pay my wages and deal with my cash flow for 120 days, when the deadline arrives, out of that \$50,000 I will be lucky if I get \$25,000, because then they say, ‘We will pay you the rest of it perhaps in the next turnaround,’ and that is if they do not find any excuses not to pay you – like, you know, ‘the job is not done to our satisfaction’ or delays and what have you, any other issues. So the majority of the time after 120 days you do not get the full invoices paid, which is a very common practice at the moment in our industry.

Daniela DE MARTINO: And that would obviously have quite a negative impact on the people involved, especially for operators. How are they coping? What are the stories coming out to you from the people affected?

Frank AKBARI: Okay. Believe it or not, I have been involved, like I said, for the past 10 years, and we have recovered \$67 million in unpaid superannuation, unpaid invoices, contractual disputes, many other contracts between the builder and contractor and so on. So to answer your question, yes, a small contractor might work for, let us say, the formwork company on three different projects. And these people have to wait. Depending on which project pays on what date and how much of that money they are going to recover on that invoice, they have to carry the people. Hence we have got this term in our industry that the builders and the developers are actually building their buildings on the back of everybody else’s financial wellbeing – because, you know, they get their building built, but down the track so many people do not get paid. And if the contractor is working on three projects and two builders are profitable and one is not, well, the contractor will lose the entire amount if they go into liquidation or administration.

The CHAIR: Frank, thank you for being here today. That figure of \$67 million is eye watering. It is incredible to think that – and I am sure the issue is much bigger – that is what you have been able to achieve. That is really important. I am just wondering if we could talk about the impact practices such as competitive bidding for contracts, pay-when-paid and pay-if-paid are having on cash flow through the broader sector. You were just talking about it then in terms of jobs being done on pretty much other people’s misery, but what is the impact of this competitive bidding and pay-when-paid? What are your observations from being on the ground, both of you?

Frank AKBARI: Sorry, are you talking to me? Put it this way, there is not much at the moment. Look, the construction industry has been amazing for the past 10, 15 years, in Victoria anyway. That is where I am based. You have to understand that at the moment the sort of residential and the towers are coming to an end, so the bread and butter in Victoria at the moment is the civil work and all the infrastructure – the freeway, the tunnel and all of that. But if there is, for example, a contract going out, let us say, to plastering contractors, depending on the size of the job, there are only three or four contractors in Victoria who can do a major plastering. But what we call tier 2 and tier 3 builders will do small to medium-size jobs. Then you open up the doors to so many contractors who are geared up to do smaller contracts, and the bidding is extremely fierce. I mean, there is only so much money that you can save on buying plasterboard, for example, or stopping compound. Wages are roughly the same. The only thing that people cut corners on is the superannuation, people’s redundancy – they do not pay the wages on time. They do not pay what they are meant to pay as far as what their agreement is on the CFMEU sites. But we see people cut each other’s throat by \$100,000, \$300,000. On a \$5 million

plastering package there might be a fluctuation of \$600,000, \$700,000. I am the figures man, so having a look at the contract I can see that there is no way anyone can fulfil their obligations under those terms of contract. You know at the end someone is going to miss out, and they will always find the reasons not to pay.

I am actually dealing with a few people at the moment – we were just talking about plastering – who did not even get paid their retention after the job was finished, a year and a half ago. The builders are not paying the retention, because their excuse is, ‘Sorry, we haven’t got any money at the moment.’ The job is done and dusted, people have moved in and everyone has walked into the sunset, and people are losing \$120,000, \$130,000, \$140,000 retention that they are never going to see. And it is very common at the moment.

The CHAIR: Thank you, Frank, for those insights. Elizabeth, did you want to add anything to that?

Elizabeth DOIDGE: Yes. Just one example that really I think stands out for me is there is a contractor called Dongga plastering – again, focusing on plastering – and the way that they have a competitive advantage is blatant migrant worker exploitation. There was a finding back in 2016 against Dongga plastering. They were working on the Werribee vet hospital build at the time. A plasterer had been working on an elevated work platform which was unsafe, and he had fallen and had a serious injury. He seriously hurt his head. He was taken to hospital. Then when he woke up and the doctors were speaking to him they realised that the man who was in hospital was not the same person who was on his white card, which is your induction health and safety card. He was not actually legally in the country. He was not the same man as on that visa. Basically, as soon as he was out of hospital he was put on an aeroplane and sent straight back to China because he was in Australia illegally. I mean, practices like that would not be occurring if everything was above board and people were being paid and looked after properly.

Dongga phoenixed that company at a particular time, but they are operating again under another company with a similar name. Gordon Dong is the name of the man who owns that company, and it is registered in his wife’s name, his current company. But, you know, we see him pop up again. Actually he was recently on the eye and ear hospital upgrade, and again we had payslips that showed that the workers with foreign surnames were being paid far less than the workers with Anglo-Saxon surnames. It was really, really difficult to, one, be able to speak to any of these poor migrants workers but also to be able to get them to speak up, because who knows where their passports were and what kind of pressure they were under. But we wanted to go to Fair Work or even to the building industry disputes panel to try and highlight this issue, and we could not get any of the workers willing to come forward and speak about what was happening to them, despite the fact that we could see that they were not being paid correctly. That is just, I guess, a little example of some of the things we are seeing in this industry, especially with certain subcontractors who are able to exploit their workforce.

The CHAIR: Absolutely. The workers are so vulnerable.

Frank AKBARI: Can I just add one small point here. It was only about a week and a half or two weeks ago – this particular underpayment with people not getting their invoices paid does not just happen on private jobs. About a week and a half ago we recovered nearly \$6.5 million on government-funded jobs. These builders are actually on state government and federal government jobs. Supposedly the government had vetted them out and they had got everything in order, but people were not getting their contracts paid, some to the tune of \$4.5 million, \$5 million – which we recovered only a week ago.

The CHAIR: Thank you, Frank. Martin, do you have a question?

Martin CAMERON: Yes. Elizabeth, thanks for broaching that point on overseas workers because that was going to be one of my questions. What is the percentage rate that you think that is going on? Is it across all trades, or is it just certain trades that are – I suppose we can say – rorting the system and doing the wrong thing?

Elizabeth DOIDGE: Are you asking specifically in the field of migrant exploitation?

Martin CAMERON: Yes, like with overseas contractors coming in and not having everything as it should be.

Elizabeth DOIDGE: I am actually going to deflect to Frank for this one, if you do not mind.

Frank AKBARI: Okay.

Martin CAMERON: That is okay. Sorry.

Frank AKBARI: I am more than happy to answer that.

Martin CAMERON: Thanks, Frank.

Frank AKBARI: Let us put it in a simple form – what we call liquid gold, which is concrete and the structure. These people are usually paid properly and everything is paid above board, because that is the part of the project that the builder or the developer wants happening really quickly and very systematically. As we go down the line to what we call the finishing trades, that is where the exploitation happens. By the time we get to the plastering, painting, tiling, caulking, cleaning or anything that has got to do with actually finishing the project, that is where the exploitation happens. When you are talking about plastering, 99.9 per cent of the workforce are Chinese or of Asian background. We find perhaps 15 per cent of them are illegal workers. Then you go to tiling, and perhaps 99.9 per cent are Afghans from Afghanistan. These people have bridging visas and are allowed to work in the country, but they still work on an ABN and their invoices do not get paid. They are new to the country, so they do not know how the system works. Then you get to the cleaning sector, where it is divided between the Colombians, the Chileans and the South Americans, and again you get back to the people who may not have working rights and do not get all of their entitlements paid. Some of them are working for \$25 an hour or even less. Then you get to the caulking and what have you, which is again open for the boss doing a deal with the worker.

You are obviously from a plumbing background. The registering of trades that the CFMEU is trying to push is predominantly because of that, because the builder needs the contractor to sign off. The electrician, the plumber, the stressing people – these people need to give you a certification for the project to go forward. When it comes to the finishing trades, that certification no longer exists. Hence the builders do not have any urgency to pay anyone because they can finish off the project, people can move in and really no-one is going to do anything, because (1) they do not know anything about how to go about it, or (2) they have to spend \$20,000 of their own money to recover \$10,000 that they are owed through the legal system, which is wrong every way you look at it.

Martin CAMERON: Thanks, Frank.

The CHAIR: Martha, did you have your hand up?

Martha HAYLETT: Yes. Thank you so much, Elizabeth and Frank. That was really important. Just what you are telling us is pretty scary actually. But we have been hearing from other witnesses a lot about the current legislation that we have as a Victorian government and, you know, the strengths and weaknesses of it from different people's perspectives. I am just keen to hear both of your inputs on what strengths you see in the legislation currently, what is weak and what we need to improve on. And especially around the compliance side of things, are there things that you think we need to be doing much more strongly? I am just keen to hear your feedback about how you view the current legislation on security of payments.

Elizabeth DOIDGE: I will kick off and I will throw to you, Frank, because I really want to begin with a little anecdote. When we held a meeting in our boardroom in preparation for this inquiry and we had a whole bunch of subbies in with us, I put that question to the group. I said, 'All right, help me to understand what is working.' You should have seen everyone in the room just shake their heads. They could not point to anything. One man did raise that there is a lot of work going on at the moment. And this was in the civil sector, so the major transport infrastructure sector, where we know we have a lot of work going on. He said that this was the only thing that was keeping him alive – the fact that he knew he could just keep bouncing around jobs to keep him floating until he could, basically, get paid – which is interesting to note, because you look out in the regional areas and we do have a bit of work going on, especially out in Morwell and out in Gippsland at the moment, but that work is not always there. Regional contractors have an opportunity at the moment to really get some secure work down in place, to build their businesses up and to perhaps even look at venturing out into building their businesses for the upcoming wealth of jobs in the city on level crossing removals and things like that. But, you know, if there is only one job in Gippsland and you are not getting paid, it becomes a really, really big issue for you.

We looked to the system that they have got in Queensland. So Queensland has a very robust security-of-payment system, I suppose we could say, which has cascaded project trusts, and then those trusts are cascading

so that money can be paid in and out at certain periods throughout the project. We would really like to see a system like that in Victoria, where there are project bank accounts held for every level of contracting as well, of subcontracting. It kind of balances the power a little bit between major contractors, principal contractors and subcontractors, because suddenly the onus is not all on the subcontractor to either chase those payments or justify those payments. It puts a little bit of power in their back pocket as well that the principal contractor or head contractor or subcontractor has to justify why they are not paying all of a sudden.

Just on that note, Frank, before I throw over to you, I just want to point out that I am conscious – we are very aware – that the construction sector in Victoria is under a considerable amount of pressure at the moment. We are seeing subcontractors ourselves collapse fairly regularly. I mean, it is probably worth noting the construction sector does fluctuate a lot. It is not uncommon to see businesses go under or fold, but at the moment there is a lot going on.

That is also true for Queensland; however, Queensland has this model in place that works. And yet they are desperate to get more workers into Queensland because of the amount of work that is going on there, and it is commercial work. Queensland actually has more commercial work than Victoria at the moment. So I think it is worth noting that greater regulation does mean a different way of working and it might mean that some people – especially, in our eyes, the big business – might have to change the way they do business somewhat, but it is not going to destroy the construction industry. It is not going to stop development. It is not going to stop investment. It is simply going to mean small and medium businesses can get a fair share.

Frank, I will throw over to you.

Frank AKBARI: Look, perhaps my input will be pretty simple. The security of payment at the moment, the legislation that we have got, just does not work. In all these years I have been doing what I am doing for people who cannot speak for themselves, I think I can only mention one case about a plastering company that took a builder to court to get a judgement to have their invoices paid. He won the case. He spent a fair bit of money. He was lucky that he was awarded the costs and the builder ended up paying him, but he never worked again in the industry, because they went around and bagged him to every contractor, saying, ‘Don’t give any work to him, because this is what he does. He is not very flexible,’ and so on and so on. The red tape that is involved in people actually getting their money is so expensive and so intricate, and this is where we go back to what Elizabeth was touching on before about people being educated about how they go about even initiating that process. It is so complicated and so costly, hence people always turn to CFMEU, because we have our members covered and we have our members best interests. We do have a good working relationship with the contractors, big or small, building companies, big or small, or even developers after so many years of doing what we are doing, so we can bypass the legislation and use our industrial muscle in more than one way to actually get people paid without using or actually triggering off the security of payment.

Probably the best way to go about it is the government should make sure they beef up the ASIC’s powers, which they did slightly after the royal commission into banking, to stop giving people that have already gone into liquidation or administration and are not financially set up to do this type of work from ever working in the industry. They are starting to go for the directors of the company personally, which is very good, because they just cannot put all the company under the wife’s name and keep going the way they were going. Perhaps make sure that contractors are getting paid for that job specifically, so they cannot carry the burden of the debt from one project to another, have it compounded, eventually go bust or go into administration and hold the contract as ransom – ‘If you ever speak up, we’re never going to give you a job.’ There has got to be a bigger cop on the beat rather than just the CFMEU.

The CHAIR: Frank and Elizabeth, thank you so much. We have gone over time, so I am sorry that there is not more time for questions and I am sorry that we had the late start. Can I just also say that all of this information has been recorded and all evidence that was taken is protected by parliamentary privilege as provided by the *Constitution Act 1975* and further subject to the provisions of the Legislative Assembly standing orders. Therefore the information you have provided during this hearing is protected by law and you are protected against any action for what you might have said during this hearing – I was supposed to read this at the start, so I apologise, Elizabeth – but if you go elsewhere and repeat some of the same things this privilege will not be extended. What we will do is we will thank you very much for your contributions and we will also remind you that you will receive a copy of the transcript in the next couple of weeks for proofreading, just to

make sure that you are right. Thank you so much. We know the mountain of work that you have put into this, and we really, really appreciate both of you taking the time today. So thank you, Elizabeth and Frank.

Witnesses withdrew.