Submission to the Queensland Productivity Commission Inquiry into Construction Sector Productivity

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Introduction

I appreciate the opportunity to contribute to the Commission's Inquiry into Construction Sector Productivity. My submission draws on my direct experience with Queensland's trust account requirements, having previously worked for the Queensland Building and Construction Commission (QBCC) and, more recently, supporting industry participants through my own consultancy, Building Trusts. Through this work, I have gained first-hand insights into how trust account regulations impact builders, subcontractors, and head contractors, as well as the opportunities and challenges these regulations present for improving productivity and financial management in the construction sector.

This submission will focus specifically on the element of trust accounts and the impact I observe these requirements have on productivity within the industry.

Background

<u>QLD Trust Account requirements</u>

Trust accounts in Queensland were introduced in stages over recent years, with the most significant reforms commencing from 1 March 2021 and continuing through subsequent phases. They apply to head contractors working on eligible projects, with thresholds gradually expanding to capture more projects and companies.

These requirements were designed to address longstanding issues in the construction industry, including:

- Late or non-payment to subcontractors
- Lack of transparency in how project funds are managed
- Head contractors using subcontractor payments as working capital.

The purpose of trust accounts is to protect subcontractors' funds by ring-fencing payments that are owed to them, ensuring that money intended for subcontractors is not used to prop up other parts of the business. Although this has direct cashflow impacts for builders, these impacts are intentional – they aim to drive more financially sustainable business practices and improve overall trust and transparency across the sector.

Impacts on productivity

At first glance, trust accounts can appear to be a regulatory burden, introducing increased compliance, more record-keeping, and additional administrative effort for businesses. However, while trust accounts do add complexity and time and effort to manage, they are necessary to improve trust, transparency, and fairness in an industry that has operated on a broken business model for too long.

<u>Positive impacts</u>

- **Improved subcontractor confidence:** Subcontractors gain confidence to order materials and allocate resources on time because they know payments are protected.

- **Better financial management and financial discipline:** Builders must now price projects more accurately, forecast costs, and manage cashflow with greater discipline. Trust accounts enforce financial discipline by making it harder to rely on subcontractor funds as free working capital.
- **Job-specific funds management:** Trust accounts require that each job be treated as a separate bucket of money, preventing the diversion of funds from one project to pay debts from another. This helps ensure payments are used for their intended purpose and reduces financial risk.
- **Fairer industry practices:** In the event of insolvency, subcontractors have a higher chance of recovering money owed to them, which helps prevent a knock-on effect of insolvencies down the supply chain.
- **More financially sustainable businesses:** Trust accounts drive businesses to operate in a financially sustainable way, avoiding significant financial risk with money that ultimately belongs to others. With trust accounts, businesses shift their focus toward building trust, maintaining reputation, and pursuing sustainable growth rather than chasing short-term success or rapid, high-risk expansion.

<u>Negative impacts</u>

- **Increased administrative burden**
  Managing trust accounts introduces significant additional record-keeping, reporting, and system upgrades for businesses. This is due to the requirement to manage multiple accounts, allocate payments in and out of each project-specific account, and comply with additional notification and record-keeping obligations to the QBCC, the contracting party, and the beneficiaries of the trust account. A key challenge has been maintaining compliant records, especially given that accounting software has been slow to adapt and support these new trust account requirements.
- **Short-term cashflow challenges**
  Builders and head contractors must adjust their financial models to ensure they have adequate working capital, rather than relying on subcontractor payments as free working capital to fund their own operations. This can create immediate cashflow challenges, especially for businesses that lack sufficient cash reserves. The impact is particularly acute when a company is involved in a payment dispute or when a project is underperforming and operating at a loss.
- **Complex implementation**
  Implementation of trust accounts can be challenging for many businesses, especially smaller ones, due to the diversity in business models, systems, and processes. Each company has its own way of managing finances and workflows, making it difficult to align new trust account requirements with existing systems. For smaller businesses with limited time and resources, navigating these changes can be stressful and confusing.

What can be done to improve?

To ensure trust accounts actually improve productivity, the following measures are recommended:

<u>Do NOT:</u>

- **Repeal the project trust account requirements**
  The requirements currently affect only 0.4% of licensees (400 out of 100,000 licensees), at the $10 million threshold for private sector and local government projects and $1 million for State Government and Hospital and Health Service. These businesses have the capability and capacity to manage the required trusts and have been doing so for the last 3 to 4 years. They have already adapted to and invested significant time and effort into updating their systems and processes to manage the trust accounts as required.
- **Remove or reduce the record-keeping requirements**
  The separate ledger requirements, unique to trust accounting, are a critical aspect of the requirements. They ensure there is a clear record of who is owed what from the trust account at any time, safeguarding subcontractor payments and improving the likelihood of subcontractors being paid in full and on time. There have been significant improvements in software to assist with the automation and management of trust accounts, further work is being done in this space with the support from the Department of Housing and Public Works Software Assessment Framework.

<u>Continue:</u>

- **The phased implementation approach**
  This allows businesses time to adapt their financial models, systems, and processes to comply effectively. It was sensible for the Government to pause the further rollout of the Project Trust requirements until there are approved software providers available to assist with compliance.
- **To provide education and support**
  Industry desperately needs clear and practical guidance on not just what the requirements are, but also how to apply them in their day-to-day operations. The QBCC's information is outdated and insufficient and following an audit, a company is not given appropriate guidance on what they did wrong and how to fix it.
- **To support smaller companies**
  For businesses not yet impacted by the requirements, broader education is needed on financial sustainability, cashflow management, and payment rights and obligations. This will help them build stronger foundations before compliance becomes mandatory. The greatest impact of trust accounts is on a company's cashflow. Businesses need to be prepared to manage this change effectively rather than risk folding under the pressure.

<u>Consider:</u>

- **Broadening the retention trust account rollout**
  Consider separating the retention trust account requirement from its current limitation to project trust projects only. This would enable the rollout to a wider part of the industry, further safeguarding retention funds and ensuring they are paid to parties rightfully owed. It would also align Queensland with other jurisdictions that have implemented similar requirements. For example, Western Australia applies retention trust accounts to projects above $20,000, while New Zealand requires them on all commercial building projects regardless of value.

Why trust accounts are crucial

Unlike other regulatory requirements, trust accounts enforce positive and necessary change. They are not just additional red tape. Trust accounts make it difficult for head contractors to continue using subcontractor payments as free working capital, which has long been a broken financial practice in the construction industry.

This obligation and change are necessary for our industry, and Queensland is well and truly leading the way in this space. By enforcing ring-fencing of payments, trust accounts protect subcontractors from financial collapse when head contractors fail, rebuild confidence, improve supply chain stability, and ultimately support a more financially sustainable and productive industry.

Where the money goes, the work flows. Trust accounts and financial sustainability are critical aspects of productivity in our industry.

Thank you for the opportunity to contribute to this Inquiry. I would welcome the chance to provide further comments or to expand on any of the points raised.

Sincerely,
Laura Hattin
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