

Department of Finance, Services and Innovation
Estimates Committee hearing, Thursday 1 September 2016
Responses to Questions taken on Notice

Impact contracting (page 14 & 15)

The Hon. Justin Field: *My understanding is that legislation is being prepared for next year and that you are undertaking consultations at the moment with various stakeholders in relation to all of the recommendations including this. Have you started those consultations with stakeholders about how that money will be spent?*

Mr Stowe: *There has been, I believe, targeted stakeholder consultation by my staff. I am sure that this area has probably been part of that. I have not been privy to those discussions.*

The Hon. Justin Field: *Can you name the stakeholders who might have been spoken to about these particular considerations?*

Mr Stowe: *I understand that the Tenants' Union is certainly one of the groups that has been in consultation with the agency about the recommendations in the report. Again, I am happy to take that on notice and give you some further advice as to what has been covered in those discussions.*

The Hon. Justin Field: *If you could take that on notice that would be great.*

Mr Stowe: *Sure.*

ANSWER

An informal discussion has been held with the Tenants' Union to clarify recommendation 7 of the Report on the Statutory Review of the *Residential Tenancies Act 2010*. However, no discussions have been held with any stakeholder, including the Tenants' Union, over possible new uses in the future for rental bond interest money.

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The Hon. Justin Field: *Noting that this data is not published in Fair Trading's annual report, what was the income of the real estate statutory interest account in 2015-16, if you could?*

Mr Stowe: *I will take that on notice.*

The Hon. Justin Field: *Could you also take on notice income figures for the three years preceding the most recent year, and the same for expenditure for that period?*

Mr Stowe: *Certainly.*

The Hon. Justin Field: *If there are details of what the expenditure was on, that would be greatly appreciated.*

Mr Stowe. *Sure.*

Real Estate Statutory Interest Account	2012/13 ('000s)	2013/14 ('000s)	2014/15 ('000s)	2015/16 ('000s)
Revenue				
Statutory Interest Income	39,751	\$44,534	\$48,872	\$48,078
Expenses				
Admin Fees	31,213	\$27,483	\$17,223	\$23,550
Grants TAAP	4,548	\$3,237	\$6,972	\$6,985
Total Expense	35,761	\$30,720	\$24,195	\$30,535

Notes:

- 1) TAAP – Tenancy Advice and Advocacy Program.
- 2) Admin Fees is charged to cover costs for the following functions / items within Fair Trading:

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Impact contracting (page 13 & 14)

The Hon. Daniel Mookhey: *Has your department undertaken any enforcement actions for any investigation in respect to the collapse of Impact Contracting? Can you offer any explanation as to why every time one of these problems emerge other Ministers of Government automatically put it on you to do something when you are saying to us that you have no such jurisdiction?*

Mr Victor Dominello: *Mr Mookhey, I will take that on notice. I understand it is complex. I understand it is obviously involving the other Ministers. It is appropriate you get a coordinated response.*

ANSWER

NSW Fair Trading does not have jurisdiction to take any action in regard to the collapse of Impact Contracting. Any action regarding Impact Contracting's insolvency would fall under the authority of the Australian Securities and Investments Commission (ASIC).

The *Building and Construction Industry Security of Payment Act 1999* (Security of Payment law) establishes a process for subcontractors to be paid for work undertaken or services provided under a contract.

The Security of Payment law sets out the procedures for making payment claims and a process for adjudication of payment disputes while companies are still in operation. As Impact Contracting is insolvent, the processes under the Security of Payment law cannot help unpaid subcontractors obtain payment of any amounts still owed under the terms of a contract.

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Impact contracting & Better Trading Strategy (page 14)

The Hon. DANIEL MOOKHEY: *I will conclude by simply saying: Are you able to come back with a response on notice about what exactly is this Better Trading Strategy for non-residential?*

Mr VICTOR DOMINELLO: *Mr Mookhey, I will take that on notice. I understand it is complex. I understand it is obviously involving other Ministers. It is appropriate that you get a coordinated response.*

ANSWER

The Security of Payment law is currently undergoing a comprehensive review. This review process provides an opportunity to examine how the existing payment processes could provide greater certainty for sub-contractors. One proposal under consideration is to introduce a process whereby principals will need to obtain confirmation from sub-contractors that they have received their progress payments, before the principal pays the head contractor.

Furthermore, the NSW Government has completed a trial of project bank accounts (PBAs) on Government construction projects as part of its response to the recommendations of the Collins Inquiry into Construction Industry Insolvency in NSW.

The purpose of the trial is to assess if PBAs are a practical, cost effective and efficient means of improving security of payment and transparency of payment processes throughout the contracting chain. PBAs are an alternative payment mechanism through which payments from a principal are made directly and simultaneously to the head contractor and participating subcontractors. The fundamental difference between a PBA and a normal bank account is that the PBA has trust status providing additional protections for subcontractor moneys.

At the conclusion of the trial the NSW Government will assess the effectiveness of PBAs and the costs associated with the establishment and administration of the account. The trial outcomes will determine whether PBAs are rolled out across other Government construction projects.