



**Submission of Taituarā
to the
Economic Development, Science, and Innovation
Committee
regarding
*Business Payment Practices Bill***

What is Taituarā?

Taituarā — Local Government Professionals Aotearoa thanks the Economic Development, Science, and Innovation Committee (the Committee) regarding the Better Business Payments Bill (the Bill).

Taituarā — Local Government Professionals Aotearoa (formerly the NZ Society of Local Government Managers) is an incorporated society of approximately 1000 members drawn from local government Chief Executives, senior managers, and council staff with significant policy or operational responsibilities. We are an apolitical organisation. Our contribution lies in our wealth of knowledge of the local government sector and of the technical, practical, and managerial implications of legislation.

Our vision is:

Professional local government management, leading staff and enabling communities to shape their future.

Even the smallest local authorities fall within the scope of this Bill.

Although local authorities are not 'businesses' in the dictionary sense of the word, all local authorities meet one or both criteria for inclusion in the reporting regime that the Bill establishes. To take an example, the smallest council (Chatham Islands) owns some \$86 million in assets and is this considered 'large' for the purposes of this Bill.

The regulatory impact statement is not a high-quality document.

Given this proposal imposes an additional compliance cost (albeit small) we would have expected a high-quality evidence base and a robust consideration of options. We noted the disclaimer that tight timeframes had constrained the level of consultation and a comprehensive evaluation. Although we have been consulted on a set of indicators, we have not been consulted on the exposure draft of the Bill that is referred to. Nor, to our knowledge were our colleagues at Local Government New Zealand.

We might have found the RIS more convincing had the Bill been brought in 2020 or even mid-2021. Indeed, the RIS itself suggests that:

- the data that MBIE relies upon suggests that payment practice in New Zealand is not out of line with those overseas jurisdictions surveyed (and there were only two looked at)
- the data presented suggests that (predictably) there was a peak in payment times during the lockdown of much of the economy in 2020, but that these have largely returned to previous levels. The RIS also notes that overall payment times are trending downward
- in an intervention of this nature, we would have expected that policymakers would have looked for evidence of differences across industries and sectors and considered options targeting those sectors. For example, we would have expected MBIE to be looking at sectors such as construction. In fact, there's little comment on sectoral differences beyond a few anecdotal observations about supermarkets and a general comment that *"there is considerable variation across different industries."*

Recommendation

- 1. That the Select Committee seek advice regarding those sectors with the worst payment practices, what commonalities exist, and invite MBIE to consider whether targeted options may be a more effective solution.**

The sector's payment behaviour is not a significant part of the problem this Bill addresses.

The intent of this Bill is good, that businesses are able to identify those entities which are chronically slow or late on paying their bills.

Section 10 of the Local Government Act establishes that the purpose of local government is to promote the present and future social, economic, environmental, and cultural wellbeing of their community. Procurement practice and support for local businesses are two important 'levers' that local authorities have to influence community wellbeing, especially the economic aspects of community wellbeing (though more local authorities are taking social procurement approaches).

In preparing this submission we asked councils for details of their payment policies and practices. All that we located state that local authorities will pay a *properly documented* invoice no later than the twentieth of the month following receipt (if received within a set time, often the 5th). In practice, many of the larger local authorities

Finance managers in local authorities advise us that the reasons why invoices are not paid on time generally come back to one of two major causes. The first and most common is a lack of sufficient information with which to authorize and pay the invoice (for example missing purchase orders or information as to who in council has received the goods or services).

The second, and less common, involve issues around GST compliance such as a missing supplier GST registration number. A local authority that accepts such an invoice would have difficulty in being able to reclaim the GST themselves. Given the constant 'churn' of small businesses it may be that some investment in the GST related education might assist.

We also understand that some business owners, particularly in small business, are not always aware of the relationships between local authorities and subcontractors and may consider an overdue payment from a subcontractor to be an overdue payment from the council. As separate economic entities, subcontractor performance will not feature in any statistics prepared by local authorities.

The powers to regulate are not accompanied by obligations to consult.

Clause 47 sets out the powers to make regulations regarding the disclosures, infringement fees and the power to regulate for any purpose giving effect to the Act. These powers are what we would expect for legislation of this nature.

What we were surprised to see is that there is no obligation on the responsible Minister, the Registrar, or the Secretary of Economic Development to engage with anyone in the development of the regulations. While MBIE are engaging widely on the development of the first set of regulations at present, we submit that there is no guarantee that a future Minister or Registrar might not see things differently.

Legislation need not prescribe a process or a detailed list of people to engage. All that is needed is a requirement to engage in a manner and with those that the Registrar considers appropriate having had regard to the nature of the proposals and the circumstances in which the proposals are made.

Recommendation

- 2. That the Select Committee insert a new clause 47A requiring that any making of, or amendment to regulations requires engagement that is proportional to the nature of the proposals, and the circumstances in which the proposals are made.**