

Reference. Inquiry the operation of the **QUEENSLAND BUILDING SERVICES AUTHORITY.(QBSA.)**

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████████████████████
Dear Sir

Thank you and the government to implement such a review it is long over due presently the first act in to put the bsa in it's right perspective is demolish the board of management as the board is made up of members aligned to the Qld.Master builders assoc

THE QBSA act was implemented by the QMBA so as to protect the industry of would be builders such as wharfies chook farmers real estate agents.

Any person wanting to be come a registered building requirements were trade related apprenticeship and a certificate in building. conducted through the qld. Instute of T echnology

Issues that has to be addressed

- Introduction of aprogress payment t certificate numbered and a detach proof of payment voucher
- Principal contractor brought before the tribunal licence to be sus pended.
- Contracts to be on the ASA standard for both contractor And subcontractor.

The QBSA. has a significant part to play today as when first implemented .The structure and the duties of the QBSA has to be restructured to suit the present day climate in the building construction industry where there is as many of 32 separate subcontracts on the one project.

Subcontractors are their worst enemy have little knowledge of office management or contract management believe that the head contractor is a nice bloke and will not screw him.

To resolve this issue a management courseshould be implemented not the certificate IV as conducted by the QMBA.*(this would have to be formatted suitable to the simplest requirements)*

Yours Sincerely

Sidney.Marr



The Research Director

Dear Sir/ Madam.

**Reference inquiry into the performance of the
Queensland building services Authority**

It is a well known fact that the QBSA is controlled by the Qmba (queensland Master builders assoc.)
[REDACTED] **of the BSA he asked the scurr inquiry to un tie his hands as he was**
restricted this did not get the boards approval so [REDACTED] had to go. Another Dept and a wage increase.

The restructuring of the QBSA is warranted and long overdue. The QMBA is not cable of doing this their track record is not at all good .

- Failures:
- subcontractors charges act.
- The failure of the QMBA to implement the scurr recommendations.
- The failure of the bsa to restrict or cancel licences for none payment
- the prompt payment bill of 2004. if this bill was effective there would not be a need for this inquiry.

As this is an inquiry as to how to make the BSA to be more effective If a construction Foreman is non performing he gets the **Big A**. no tears shed!

The board of the BSA To be restructured.

- **Industry groups too have 1 representative**
- **Trade subcontractors to be represented**
- subcontract ors associations too be acknowledged.
- Consumer affairs to be represented

I have enclosed a submission by the Subcontractors and suppliers assoc .in 1997 as requested by the qmba who claimed that they were minister for works Mr.

Connors ray of hope. Who were going too implement the Scurr recommendations.

Main items of the Scurr Recommendations

- trust accounts
- standard contract agreements '
- *establishment of a fund by way off retentions placed in a trust note this did not receive approval from the qmba.*
- *An payment claim form to be designed to have each claim form to be receipted to comply with the numbered claim. (Copy of proposed enclosed)*

Along standing building company iof Yeeppoon has closed Shop. Reason that the industry has become unscrupulous .

Action to take : **avoid putting a FOX** In charge of the hen house; result hen house full of feathers.

Restructure the board. My recommendation would be similar to the Scurr team.

It is hoped that this submission will be of use. As a guide to the biggest industry in the state.

Sidney c Marr

[REDACTED]

Deputation Request;

Prompt payment bill 2004.

Items of discussion:

- Court acknowledgement of tribunal.
- Tribunal to be assisted by Knowledgeable trade person
- Escape holes in present contracts.

1. The payment schedule flow chart in general operates comparatively smoothly up to the where the claimant has not received payment and claimant applies for Adjudication certificate Delay here is unnecessary. Adjudication Decision should also contain this certificate. post Dated ToBe affective from 5 business days of decision Notice

2. Claimant approaches the Magistrates court with all appropriate documents and is met with we don not have any involvement with adjudicate today or a dumb look as to what do you want us to do with It.? *My experience on this was that adjudicate today was not one of us.*

- Tribunal to be assisted by Knowledgeable trade person

This trade person has no in put in the decision making but to inform the tribune as of the nature of the practice as to quote Mackenroths reply builders do not know law. My response to that is lawyers and Barristers know Jack chi about bricklaying.

- Escape Holes in Contracts.
- From The Scurr report quote home brew contracts to be discontinued.

1. Reference to an adjudicators response (a prominent QC) to the contract agreement accepted and prepared by QMBA, HIA and QBSA

Clause 13(A)(i)(B) of the contract seeks to create an entitlement in the Respondent to set off against moneys owed for construction works any amount that it may wish to claim against the Claimant. The intended effect of this clause is to enable the party for whom construction work has been carried out to make a claim on any Basis and set this off against Amounts owed to a party who undertaken Construction Work. If effective the clause would Defeat the Statutory right to a Progress payment provided in Section 8 of the act. (Progress payments are payment of credit extended can be altered by Value.WorkCompleted. (VWC). but NOT WITHHELD.)

1997

**SUBCONTRACTORS SUPPLIERS
ASSOC.**

MAJOR SUPPLIERS

OF

MATERIALS AND LABOR

AND

UNSECURED FINACIERS

TO

THE MAJOR STAKE HOLDERS

IN

THE BUILDING INDUSTRY

¹ INTRODUCTION

The subcontractors and Suppliers association was formed by the failure of major stake holders and unethical practices thrust upon them in the work place by major contractors.

From a rowdy and well covered by media the Girvan debacle paradise waters in cairns with **Ron** CREW uniting subcontractors to stand up and be counted.

Then the scenario with a Qld Rail contract near bundaberg and Sandy Warren at the forefront.

Chris white on the gold coast who lost 60 thousand dollars to the unethical practices of the major stake holders.

Bill Watson of pomona who brought the town to a standstill over non payment to subcontractors

Sidney marr of most recent episode of G.J.Constructions took up the fight on behalf of central qld subbies and organized a legal challenge against the Qld.Housing Comm. for mismanagement of a contract this was no idle threat as four thousand dollars had been raised for legal fees and barristers and Q.C. briefed.

Neil byrne of mt Isa who was arrested and locked up for endeavoring to obtain his goods from the Qld. housing com. site contracted to

G.J.Constructions

The majority of these people had not heard of each other or met until the hastily convened meeting in cairns On the 19 February 1996 at the trade winds motel organized by the qld housing commission and chaired by Ted Cripps.

All though the SSA was up and running before this meeting in cairns it was the catalyst that has now cemented the SSA into a united group through out qld.

The ssa is not associated with BISCOA but work harmoniously with this organization.

Membership is made up of the subbies at the coal face as the saying goes the hammer and nailbag trowel in hand brigade who actually do the building work without them nothing would be achieved by the major stake holders.

Sidney Marr.

SECURITY OF PAYMENTS.

THE COMMISSIONING OF MR ARTHUR SCURR, MBE

AS CHAIRMAN

The undertaking by Arthur Scurr mbe and his committee was not a task that one would relish in, this is the second such inquiry conducted into the building industry on the pretence of security of payments.

The first Green paper was put forward by the then Goss labor Govt. with m's Ross Kelly at the helm and brought in the Queensland building service authority ACT..QBSA and the Queensland building Tribunal. QBT

When reading the qbsa act of 1991 my reaction was what else would you expect from a lady barrister how ever I owe her an appology for thinking on these lines as being one of Arthur Scurr committee I read a majority of the submissions that was given to her to formulate her findings and instrumenting he qbsa act of 1991.

WHY? because the information that was given to her from industry groups accountants laweyers insolvency practioners BISCOQ focus on reform package, all had one thing incommon and that was their needs to be some sort of mechanisim into security of payments but no direct positive solutions to Securityof payments
Her only source of information would have been the industry groups who have a vested interest in avoiding such a secure payment system to Subcontractors and suppliers of the building industry

Recomendations no .84, 85of the SCURR. report secured payment , in the debate chaired by the MINISTER these two recomendations were to remain as being marked to stand. (the incentive was there for all to play the game. Yet in the ministers green paper these items have been deleted. Note! a dissenting report was gaiven to the minister on the second presentation to cabnet jointly from QMBA. and HIA, this report was never given nor debated by the other committee mmbers of the SCURR COMMITTEE.

We now have a DISCUSSION PAPER PUT OUT BY THE MINISTER.
some 99 items to be addressed by a committe appointed from industry groups but no representation from subcontractors suppliers assoc. THE UNSECURED FINANCIERS.

There is little faith in the COMMITTEE appointed by the minister to continue and formulate his RECOMMENDATIONS. As this COMMITTEE is formed from organizations that was manifest in forming the BRB.(Building Registration Board) and the present BSA. (Building Services Authority)

In my apprenticeship it was drilled into me by my mentors from both my master and tutors at college do the job properly once, if you do not, you come back and do it again and end up making a bigger mess of it because your heart is not in it.

Industry organisations are the dominant representatives on the NPWC, and CIDA. which was formed commonwealth wide to sort out the building industry problems including SECURITY OF PAYMENTS they achieved no positive outcome in 4years this is reason to question the ability of this committee appointed by the minister.

The Scurr committee was a well balanced team and was capable of continuing the role of formulating the on going needed formulation of legislation.

Previous legislation of the BRB and BSA was rushed through parliament from the first reading to the final reading was done in the matter hours with no time for debate after the first reading I beg the minister not to allow this to happen and give the opportunity for legislation produced by this new COMMITTEE to be analyzed and amended if needed prior to the second reading .

I do not intend waste time on an in depth analysis of all RECOMMENDATIONS as what ever is submitted will receive only a cursory glance. the RECOMMENDATIONS listed are ones of which needs to be addressed positively.

SUMMARY REFORM PACKAGE.

5. 1 Is all waffle and now POSTIVE measure to promote payment

5. 2 I agree with this except that the present industry groups dominating the board be relieved of these positions as they are set in their ways and are incapable of taking the industry into the next century.(a discussion with the qld President of the QMBA at the inquiry launch he stated solve the problem by canceling their gold card. it is a pity that QMBA board members did not implement his view.)

PROMPT PAYMENT.

5.12 As the industry is enthroned with subcontracting and placing the responsibility of supplying the PAYE workforce on to subcontractors that a wages bill be paid to subcontractors With in the first fortnight of commencing weekly there after, a wages sheet be presented for payment at weekly intervals, this is now more than having what would normally be done where the head contractor employed PAYE PERSONNEL and complying with union awards. Material accounts to be settled in 30 days. normal trading. Objection to this questions the financial capacity of the head contractor.

RECOMENDATIONS.

18. Attention be given to formulate an ethical work site practice. As a child learns from his parents so do fledgling subcontractors who somewhat look up to the head contractor as part of their learning curve only to be left devastated with the subbie crunching philosophy that exists on the work front

QBT

42 .To be carried out immediately and all disputes presently in progress be REFERED to the district court system. Untill the new adjudicating system is in place.

DISPUTE RESOLUTION

43. recommendation received more discussion and input than any other RECOMENDATION 3 days in july of which Warick Temby produced and be came known as the TEMBY TRIAGE. and was unanimously accepted. it was again debated in the minister presence in october over 2 days and raised again at the last debate on the ministers RECOMMENDATIONS and is what now is the format page 15 of the green paper. as this is a big step in the right direction I offer the following for consideration to be included and are from factual experiences .

- Compulsory conference be chaired by a counsellor with authority to advise both parties (presently mediator sits and listens and endeavor to get the parties to agree with no input)
- Same with mediation.
- All disputed money amounts to be paid into BSA trust ac. or other . prior to BSA licensing decision.(this brings both parties to an even playing field as the umpire has the ball so to speak.) Note : on now condition should money held in trust deposited by builder on the pretext of faulty workmanship be paid to the owner but paid direct from the trust to who ever does the rectification and at certification by Qbsa inspector, any residual to be returned to the depositor.

Previously in the QMBA contract document Known as EDition 5b. provision was made that on completion that retention money held on the builder by the Owner principle be deposited in a bank in favourof the builder on completion of the defects liability period unfortunately the new breed of architects that has emerged over the last two decades failed to have this implemented thus it is now lost .

In 1972 it was legislated that all builders to have a trust account full stop. as their was now directions for what purpose and was at that period not required .thus it was written out on the introduction of the QBSA act.

The industry in both housing and commercial have changed dramatically since then and I agree with the QMBA working COMMITTEE who had actually been working on the reintroduction of trusts accounts .Not as a means of security of progress payments or

contractual matters but as a security of home owners deposits paid and in the holding of retention moneys

TRUST ACCOUNT POLICY..

- deposits paid by home owners to be paid direct to the builders trust ac. as the builder has to lodge council approvals portable long service leave QBSA insurance as he completes these activities it his choice on how he utilizes the account he may opt.
 1. to pay direct from his trust account.
 2. pay from his general account and draw down from his trust ac. to compensate his general account expenditure on each particular contract involved
- In the commercial sector the superintendent would have to ensure that the builders security contract deposit and retention was secured in trust (this is not necessary in govt projects.) builders trust account would be used for the purpose of holding retention's on subcontractors that is in excess of the amount held by the superintendent.

For too long retention money has been used as working capital when in fact it belongs to others and is at risk in the case of insolvency. Retention's are actually money owing on work done and is an assurance that the contractor will continue. actually by time payment is made the investment by the contractor into the project is far more greater than retention's held.

By having retention money paid into a third party (rental bond; portable long service etc.) by the principle would also protect the major contractors moneys on insolvency of the principle after completion.

TRAINING

A submission from a central queensland lady who runs the family business books and her husband does the on site physical work and are also members of the QMBA stated that she was astounded when attending a training course that it was emphasized to have a pocket tape recorder so as to tape the discussions with there clients for future evidence.

"Is there no trust anymore?"

It has been the adage by both QMBA and HIA that subcontractors need educating and I could not agree more, not in the terms of bookkeeping but how to cope with the unethical practices served out on site and I quote one that is used frequently so much so that it makes one wonder if it is in the training curriculum of the industry groups, at present an amount of 150 thousand dollars is owing to subcontractors on a project in gladstone as variations

These variations are not variations of the principle. The subbies are given only portion of the work in their scope of works and the balance given as variations later consequently these variations although given in writing are not paid on the excuse " the client has not approved them yet"

THE BUILDING INDUSTRY INTO THE NEXT CENTURY

In 1973 a commission was set up into the apprenticeship decline through out the state it was chaired by a industrial commissioner by the name of Gibson supported by industry groups and the Union movement

The far northern apprentice ship committees Secretary Alf Keanane and the Late Ron Evans COMMITTEE member presented a well documented article in relation to the shortcomings and the problems in employing of apprentices, at this period tradesmans wage was around \$100 week gross. and apprentices first years pay at 20% and schooling in the bosses time. 1 day per fortnight.

It was emphasized that at this point of time it was just a break even point to take on a new apprentice small builders who were the basic employers of apprentices were collectively the major employer of apprentices greater than that of T.J. Watkins who would take on an average of 15 to 20 apprentices each year

Commissioner Gibson handed down his findings in february and backdated to September the previous year a pay rise of an average of \$15 per week costing the employers Thousands of dollars in back pay unrecoverable.

How ill-informed he was from the industry groups as he stated that his findings were on the basis of to smaller wage to attract apprentices. It was obvious from this statement by Gibson that he did not pay much attention of the submission put to him from the apprenticeship committe. as it had highlited that an advertisement by NQEA a large steel fabrication industrry had 274 applicants for 7 apprenticeship postions similiary other building companies would be inundated with applicants .The prospect of an apprenticeship to the youths was more important than the wage paid, and is still today.

Commissioner Gibsons deliverance was the down turn in taking on apprentices at this point of time intake was holding with natural attrition.

as more and more levies were applied to the building industry and it has all ways been a tight finical industry the major co. entered into a strategy of shed responsibilities by subcontracting and let the subcontractor worry about it.

Little did they realise that this strategy was a cancerous and spread into other fields of the industry shed responsibility " was the catch phrase. "Architects were screwd by developers down to a price who intern would subcontract to a drughtsperson or screw the builder to supply working drawings , constructional engineers were screwd consequently buildings over designed to protect themselves electricians being screwd to do consultants work, in fact it would be hard to establish who's up who and who was not being paid.

Unfortunately this policy has bankrupted the industry of trades men to carry this industry in to the next century and the policy of subbie crunching will be the Coup De Grace.

The govt departments (public works sector) and some training bodies have endeavored to fill the void such as the Capricornia Training co. and others like it but their production is like pouring water into a bottomless bucket, as their apprentice completes his time he is out it is into the lions den as no journeyman system is in vogue to give them confidence and ability to perfect their trade to allow them to gain a better understanding of their future roll in the industry.

I have been studying the Construction Industry strategy submission into security of payments dated 22 July 1996. as some members of this group are signatures to the memorandum of agreement to the minister and also have representation on the new committee. The introduction by Mr.B.K.Freeman gives one the impression of industry doing something for its self page 5 executive summary . has identified the associated highs and lows, of the industry .

Alas all hopes is dashed by going into the Key issue strategy and by reaching page 8 the same cancerous philosophy is emerging training responsibilities to be placed on the government bodies.

If this construction industry group beleaves in its own strategy then show the way by starting now with the 130 contractors surveyed employing 10 apprentices each and each year this will be a big start into redeeming it self out of manpower insolvency into the next century.

I have enclosed details of apprenticeship intake through out the state a comprehensive staement of facts that support my proficies that was made two decades ago.

This information was supplied from the Capricornia Training Company Ltd. of which I had asked for comment on the said matter and agree totally in what I have stated in this report and supplied the all the data on the industry which shows no skilled trades in the next century.

Unfortunately the Governments of that era to come will embark on the policy of emigration to solve the problems at the expense of our children and grand children too counter act the failures of their polictical parties to take heed and do something positive and listen to what the rank and file subcontractors are saying and stop placing as mutch trust in the Industry groups who are nothing more than the perpetrators of this demise in the building industry

My last and final statement on this matter is and I know how Les Fontain felt when he said at the inquiry

I was once proud to call my self a builder but not any more.

Yours Sincerely

Sidney C.Marr: Ch Dep. 2nd Div Q&A Htg San Cons Law and Bylaws

on behalf of the

Subcontractors Suppliers Associaation of qld.

P.S. The question is if bullshit baffles brains does politicians have brains to baffle?