

## INQUIRY INTO THE OPERATION AND PERFORMANCE OF THE QUEENSLAND BUILDING SERVICES AUTHORITY

### Inquiry Timeline

Referral from the House	2 August 2012
Public Briefing	27 August 2012
Close of Submissions	5pm, 21 September 2012
Public Hearing	9am-2pm, 8 October 2012, venue to be advised
Table Report	30 November 2012

### Submissions

The Transport, Housing and Local Government Committee invites written submissions on the Inquiry by email to [thlgc@parliament.qld.gov.au](mailto:thlgc@parliament.qld.gov.au) or by post to:

The Research Director  
Transport, Housing and Local Government Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Submissions closed **5:00pm, Friday, 21 September 2012.**

### PRELIMINARY

I am responding to AIBS as requested re:

- Enquiry into the BSA
- The proposed changes to the Qld Building Act.

In making these comments, BSA & AIBS need to understand that Private Building Certifiers operate in a competitive commercial environment, where all costs need to be accountable, unlike the BSA or Local Authority Building Surveyors.

**We know that any time the Qld government want to improve the system, it will ALWAYS be worse for us.**

Furthermore, as we are required to interface with the general public more often than Government employed Building Surveyors, there is a greater need for simplification of rules, laws & Acts as invariably, the rules have to be explained to the average person.

Therefore, I have framed my comments to reflect simple, effective changes to the Building Act, which was the vision & spirit of the IDAS system when it was introduced. Otherwise, these changes suggested by the QBSA are just modifications to assist the QBSA, and will not assist other parties when overly complicated & prolonged paragraphs become more difficult each time the Act is expanded.

In fact, if changes made to existing legislation are not made in a simplified way of speech, then it will only make it more difficult to adhere or enforce current regulations.

I have also included sections that are of concern to myself & other Certifiers, but have not been mentioned by QBSA. Other sections I have omitted, because I felt that they needed no response at this time.

Overall, it appears that there are many opportunities to penalise the Building Certifier by way of fines, yet, at the same time, there appears to be limited opportunity for any mistake to be made when implementing the current & proposed rules within the Act, or grounds for appeal to an independent body that could oversee decisions made by the QBSA.

We are placed in a very difficult position, where unlike lawyers who engage their clients and protect them under the laws of the land, we, on the other hand are forced to intervene when there is a breach of the rules, which sometimes leads to litigation by us, against our own clients. Surely this is a blatant **conflict of interest**.

Also, QBSA issue our licences, and then can issue penalties to us if QBSA perceive that we have deviated from the overly large set of rules, that even construction lawyers have trouble keeping up with, as the rules are taken from several separate sets of individual volumes of laws and Acts, and are in a perpetual state of change.

In fact, it only takes one person, who may not even be a party to our engagement, to make a complaint to the QBSA, then we are forced to drop everything and respond to the authority with our side of the story. In the mean time, because there has been a complaint made, our names & numbers are displayed on the QBSA web site, like a medieval public shaming, even if the Certifier is proved innocent of any charges. This needs to be resolved, because this sort of action by the authority only leads to animosity between the Certifier & the body that issues the licence.

As we are practitioners within the system, and as we are fee paying financial licensees of the QBSA, whose licence fees are syphoned off to fund the QBSA's activities, I believe we should be .....

**afforded more opportunity to allow our input into the decision making processes that affect the work that we are required to regulate.**

Otherwise, we will be forced to follow like sheep to the slaughter when things go wrong, which in most cases, is brought on by desired changes made by the owners, to approved building plans not of our doing. I would like to see regular committee meeting between AIBS & QBSA, but we never seem to know who is talking to whom, as this is not reflected within any AIBS bulletins that I am aware of.

Please note that we as industry experts have just been made aware of the Inquiry on Friday last, 14 September 2012.

The fact that we have been given only one week to make a comment says to every builder & Building Certifier in Qld, that the Qld government is not really serious about improving the system, and just want to do this to appease the general public.

Regards

Robert Davies  
Building Certifier QBSA A 74261

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## **THE ISSUES**

### **COUNCILS - Accountability**

When are the Councils going to take responsibility for the property information that we buy from them? A disclaimer appears on every piece of information we obtain that uniformly says across this state as follows, *"The information provided should not be relied upon when making financial or legal decisions, as this organisation accepts no responsibility for the information provided ! "*

If we followed this to the letter, we could not issue any permits for any project within a Council area.

We need to fix this aspect, so we can trust the Council information supplied to us.

Some of the Council data purchased these days is not scaled or dimensioned, so it is rudimentary at best & needs to be more accurate. In fact "dial Before You Dig" offers a better service in some areas & is cost free.

### **PD ON-LINE - Access**

Some large Councils don't have this function.

Beauresort have been promising this for over 5 years now!

### **PREVIOUS APPROVALS ON LINE - Access**

Brisbane only has Town Planning documents on line.

I have approached the web master for Brisbane city, and he said he would like to, but there may be an issue with the Privacy laws. I don't understand how other Councils have no problem with it.

They allow free access to lawyers, yet not to us when we are supposed to be acting in the public interest.

Logan, Redland, Ipswich, etc have this info.

Extremely helpful, especially if there a swimming pool on site, or within a character area. Otherwise, once again we are acting in the dark, where it would only be a matter of time before things start to go wrong.

### **COMMERCIAL COMPETITION WITH COUNCILS**

It is not a level playing field as we were promised in 2006, as Councils can pump out plans at a cheaper rate because there is some serious subsidising going on, so it makes it much harder to compete.

### **QBSA**

BSA seems to have a condescending attitude towards all licensees that remunerate them.

BSA needs to abandon the Spanish inquisition style of approach.

They need to lose the attitude that the certifier is wrong until proven innocent & adopt the rule of common law where you are innocent until proven guilty.

We are sick and tired of picking up the pieces from every bad job during & after it is completed.

When someone/anyone not even vaguely associated with the project complains to BSA, we are forced to drop everything and submit half a phone book of information for perusal by the faceless men of the feared BSA standover crew.

The second last complaint I received from BSA involved BSA telling the owner, Don't worry, the Certifier has PI! The BSA encourage owners to sue us! This simply has to stop.

### **QUALITY & CONTENT OF THE DRAWINGS**

Simply disappointing in most cases. See above.

However, it is conflict of interest for us to make a minor adjustment or recommendation on the plans.

New plans are required, why? Because they do not comply & we can't touch them.

This is time consuming & expensive for all concerned.

A basic minimum amount of required information should be mandatory on the plans to meet a standard good enough to accurately assess potential issues. This is not happening at this time.

### **CPD POINT SYSTEM FOR OTHER QBSA LICENSEES & ASSOCIATED DESIGNERS**

There does not seem to be a way of up skilling tradespeople, it is only voluntary.

The rules change every week. The designers, trades, & architects & engineers are not keeping up with the legislation.

How about cutting down on all the misconceptions, mistakes & general apathy towards the changing rules & make it a condition upon having a valid licence to keep up with the rules? Is too much to ask?

We already have great responsibility to get it right, but it is continually falling on us to educate the rest, when any mistake is going to be costly & time consuming.

The design will be .....

- a. drawn correctly
- b. conflicted with the Town Planning requirements
- c. changed by the owner in mid stream
- d. changed due to member sizes by the builder
- e. installed incorrectly by the different trades people
- f. not supported by the correct paperwork
- g. have paperwork but forms not filled out correctly esp Form 15 & Form 16
- h. not compliant with BCA or DTS or Alternate Solution not provided

or

the designer/architect/builder/owner will want to **know what the rules are** ..... BEFORE they even get the plans drawn up!

### **FEEDBACK FOR THE CHAIRMAN**

B. In Qld, Certifiers get little, to no feedback from the AIBS or BCA training committee(s) or co-coordinators on improving legislation reform from the Certifier's viewpoint.

Consider the following .....

Qld Sustainable Planning Act (over 650 pages),

Qld Sustainable Planning regulations (over 300 pages),

Qld Building Act (200 pages),

Qld Building Regulation (50 pages),

Qld Development Codes (approx 400 pages)

The moveable feast of the Building & Other Legislation Act (170 pages),

Building Services Authority Act ( 80 pages)

Building Services Authority Regulations (70 pages)

Building Code of Australia Vol 1 (400 pages)

Building Code of Australia Vol 2 (700 pages)

Town Planning

Various 75 Town Planning schemes that are beyond complex, all different, with different definitions & terminology, where Councils disclaim ANY information that they may consider providing, if they decide to let you see it, for a high price. Brisbane City Council alone has two volumes Vol 1 2,000 pages & Vol 2 around 1,000 pages.

Hundreds of Australian Standards, some not even called up in the BCA

So don't spend a lot of time wondering why there are so many building screw ups or why there is not a large increase in building surveying member numbers.

Certifiers need some kind of certainty from Building Codes Qld, QBSA & AIBS to get on top of increasingly vague & oppressive legislation.

All we have become now, is an easy target, under the current legislation, with no protection under the law.

We are sick of being the target for every unqualified & incompetent person who wants to make a comment or complaint to BSA about work under construction in Qld.

## **PROTECTION UNDER THE LAW WHEN ACTING IN THE PUBLIC INTEREST**

- It appears that licensed designers, architects, licensed builders, professional developers, Private Town Planners, Council Town Planners, Council admin staff, the Qld Courts, the Qld Building Services Authority & the general public, all have different ideas about who has got it right, under the shifting sands of a multitude of constantly changing & vague legislation.
- Some Councils (unintentionally) give out wrong & misleading information (at inflated costs), then disclaim that the information provided by them, and cannot be relied on to be accurate or correct, and further state that no claim can be made on them for providing incorrect information.
- Add to this, the fact that a large proportion of those involved, blatantly lie to Council & the Building Certifier, about their proposed development, to get the approval of their choice.
- It has also become increasingly apparent, that all those involved need a scapegoat if there is a mistake, in the environment that we are forced to operate in, under the current set of constantly changing & vague laws, specific for each of the 75 Council regions of Qld.
- All Councils have a variety of interpretations, and even within some of their own Council regions, different versions of their own rules.
- If you don't believe me, just ask any other Certifier in Qld.
  
- So, while there is protection for Councils & licensing authorities who place restrictions (with penalty provisions), on applicants who provide false or misleading information to them, yet, it appears that same standard is not afforded to Building Certifiers, who as you know, "must act in the Public Interest", under the current laws.
- Perhaps we should wear shirts with targets on our backs & be renamed the Australian Institute of Building Scapegoats.
- Reform is needed & way overdue in this area, and would be greatly appreciated if this aspect of our governing legislation in Qld, could be considered by those faceless men, who preside on building committees that interface with the government departments.

## **QLD BUILDING ACT**

### **NEW SECTION (AT THE FRONT of THE QLD BUILDING ACT)**

SECTION No. 1 - This Act binds all persons, etc ..... Same as at the start of SPA, Sect 14

The Building Act – while specifying what it will control, lacks direction & authority if it can not show a clear direction as to who it can control. Also calls up the need to refer to SPA, which is a whole other Act.

SECTION No. 7 – What is building assessment works

Indicates that there is a difference between self assessable building & self assessable building works.

#### **COMMENTS**

From a Building Certifier's point of view, there is no difference.

When the Public see self assessable building work, they perceive that there is NO assessment or permit is required.

SECTION No. 10 - What is building certifying function

10 d (i) Indicates that there is NO frame inspection to be done by Certifiers.

SECTION No. 11 - Who is the assessment manager for a building development application

Under the Planning Act (which one?) 246(1)

However under Sect 48, it is the certifier.

SECTION No. 11 A - Who is the assessing authority for building work

1. The entity prescribed under the Planning Act ( Which one?)

2. a, b & c

#### **COMMENTS**

From the Public's point of view, it is still totally unclear who is responsible for the works on site, and who is either the "assessment manager", and who is the "assessing authority", for them there is no difference.

I think that the term "assessment manager" & the "assessing authority" are too similar to differentiate.

The Town Planners can stay as the "assessment manager", so that their role is now clarified.

I think it would more suitable for a building certifier to use the term " building works manager" or, " building works assessment manager" if the whole idea to amend the Act, is to clarify the words used within the Bldg Act.

SECTION No. 20 – Building works assessable under the Planning Act

All unless

- a. Sect 22 exempt
- b. Sect 21 self assessable
- c. As in carried out by or for the state or PS entity or local govt

#### **COMMENTS**

No mention of prescribed works? As in the Bldg Regs

a. should be expanded to include c.

No reference to / for operational works?

SECTION No. 35 – Relationship between BCA & QDC

This change is even more confusing.

If readers are to avoid **any possible** misunderstanding then, the correct wording should read –

" If the BCA is inconsistent with a part of the QDC, the QDC part prevails **over the BCA reference**, to the extent of the inconsistency."

SECTION No. 48 –

Why would there be need to take enforcement action **after** giving a Certificate of Classification?

The job is finished at that point.

This should be referred to the Local Authority for required action at that point, after the job is finished.

For what reason would BSA be interested, if we cannot get them to site during the progress of a non-compliant structure, or, to order a rogue builder, or owner to undertake the job properly?

BSA only comes to the site if the owner requests a site visit, they do not come to the site at the certifiers request.

**BSA has a conflict of interest between the consumer & the licensee.**

BSA's power should be directed to be helping us gain compliance through the acts of the builders & owners, not limiting our powers to control builders, & not expanded more to control the certifier to rectify. Decisions are made, which may be the best case of three or more bad scenarios. It is too easy in hindsight to say "you should have done this or that". This is the role of the tribunal.

SECTION No. 50 –

50.1 This term should be **building works application**.

The term "**development**" should be reserved for town planning & local authorities only.

SECTION No. 51 – Nominated owner

Is QBSA aware that there is currently no requirement for the **owner to provide their correct details on the IDAS application Forms 1 or 2 or sign their name**, unless it is an application requiring town planning assessment?

Consequently, correspondence sometimes does not go to the owner, whoever that may be.

Also, the building certifier has no way of contacting the owner to alert them that there may be aspects that need to be changed, to make a project comply.

Further, under SPA, most prosecutions must be directed to the owner, yet, if the applicant is not the owner, the building certifier does not have an effective contact for them.

Further, if the subject project is a new residence for the owner, the owner may be in temporary accommodation, and subsequently their address may change from the address given at the time of lodgement.

Further, there is no requirement for the owner to ensure that the building certifier has their current contact details during the assessment phase, or the building stage, or the post building stage.

SECTION No. 58 – Survey certificate

Section no. 58 & Section no. 78 are similar in that they deal with these aspects.

Why couldn't these 2 sections be amalgamated or run one under the other?

Also, there is no reference to storm water mains.

Most Councils are only concerned with mains over 150mm diam.

SECTION No. 63 –

It is still unclear if the "assessment manager" is the town planner or the "building certifier".

SECTION No. 73 –

It appears QBSA want to penalise either the "assessment manager" who is either the town planner or the building certifier, when neither do the building works.

Also, it is not clear who the penalty will be directed to.

Is it the building certifier for not ensuring the drawings are consistent with the works on site? Or

Is it the applicant for not ensuring the drawings are consistent with the works on site? Or

Is it the applicant for not ensuring the drawings are on site?

Why penalise the building certifier, when there are already enough penalties for non-compliant works in other sections of the legislation?

SECTION No. 78 – Survey certificate

See section No. 58

#### SECTION No. 83 – Storm water mains (First Part)

3. b. Appears to be a new permit from Council for lawful point of discharge. I agree with the concept e.g. like a driveway permit. However, I hope QBSA notifies the plumbers who do the job.

We have great difficulty now, when requesting a Form 16 from plumbers who install drainage systems for the roof & stormwater discharge & what about retaining wall drainage? Apparently does not exist.

#### SECTION No. 83 – Water mains (Second Part)

1 f. Appears to be a new permit from Council for building over/ near water mains. I agree with the concept, but it is incumbent on Councils to provide accurate data mapping, which is not available from many Councils at this time.

2. The offset suggested will mean that the depth of line will need to be recorded, which is also not available from many Councils at this time.

Also, when the depth of the line is over 3 metres, as it can be even more in some cases, this may limit the amount of available land to build on, especially on small lots.

#### SECTION No. 83 A – Additional restrictions

Why not either include this section in 83? Or

To be less confusing, use separate sections for sewer mains, water mains, stormwater mains, and private roof & stormwater lines.

Also, there appears to be a restriction on granting building approvals, yet we regularly see Plumbing “Certificates of Completion” from local government, yet, we have not been able to approve the building work due to a town planning compliance restriction being imposed.

There seems to be no restrictions on plumbing work to proceed without a building permit! Looks like Council Plumbing is out of sync & out of step with the protocols in the IDAS system, when the bathrooms are finished before the house can be approved. Council gets a free pass & makes IDAS look ridiculous.

#### SECTION No. 84 – Application must not be inconsistent with earlier approvals

2 d. This assumes that the town planning DA is correct.

We regularly see Development Approvals for dwellings in character areas specifying timber clad walls within 900mm from a side or rear boundary i.e. garages attached to a dwelling. I got one today!

What of the case within the QDC A 6 where a maintenance free surface is required within 750mm of a boundary? This in conflict with both the BCA & QDC.

Now QBSA want to penalise the private building certifier for town planning mistakes, or if the owner changes their mind about the external look of a project.

#### SECTION No. 88 – Approval documents to be lodged

AIBS should push for this to be deleted. Just make it a 5 day limit to lodge the plans with Council. Fines for non-compliance if you want them (as usual).

### **LATE NEWS !!!!**

Plumbing Approval is now going to self assessable by PLUMBERS soon !

That means WE will be responsible for the INTERNAL PLUMBING & DRAINAGE too!

Some plumbers can't get it right now, even when the Council Plumbing Inspector is looking over their shoulder when they are installing new pipe work!

Tell me how we are going to make sure that this is done right?

The new Vol 3 of the BCA is just a book of headings only.

This needs to be fully expanded to include explanations & diagrams & we will need extensive training.

Our fees will need to double if we are to take on another huge responsibility like this, which will make a Building Approval even more unaffordable, if that is possible.

I had a job last week on a commercial site where there is a need for a transportable building to hook up to, with no change to the existing sewer & drainage lines from the transportable structure. The plumbing fee to assess the hydraulic plan with one inspection, which is simply one connection to connect, was over \$1300 in Logan!

Surely this is profit gouging from Council.

SECTION No. 117 – Enforcement action required

1. Enforcement against the owner, is dependant on a few things i.e. who & where they live.

Once again, there is no mandatory requirement for the owner to provide these details on the IDAS Forms.

5. **New section required here** – Local authority should be required to notify the building certifier of a decision to either pursue, or, not to pursue the owner. This is not happening at this time, which keeps the original “assessment manager” or the “assessing authority” in the dark as to the status of a project, when it is possible for a person to take actions against the certifier, within the Courts, for any other reason. Also, why does the certifier need to provide ‘certified’ copies to the local authority? Don’t they trust us?

6. Associated with Section 117 Enforcement action required

I agree with this new section.

8. **Extra section** in regards to time lost by Certifier when assisting the Local Authority to be able to recover costs, including the costs of the certifier, to attend court cases.

However, while Council can impose penalties via a rates notice, a private certifier does not have the same opportunity. Why not include the costs & attribute them to the Owner via the rates notice?

No more chasing the funds owed as a result of an owners non-compliance.

Builders could be pursued through a Tribunal which could link to the builders BSA licence restrictions.

SECTION No. 128 – Conflict of interest

This section is quite specific on the restrictions.

Yet, there seems to be no conflict for engineers to produce designs for projects on their own land, and inspecting their own work! There is also no effective mechanism for the certifier to control the engineers who either commence works, or inspect works without an effective approval in place.

I have currently got a million dollar dwelling on my desk, constructed by an engineer, without a building permit, inspected by his own company! It also has a Plumbing Compliance Certificate!

SECTION No. 136 – Act in the public interest

AIBS should support the following new section .....

New section to be included – (3) If it can be proven that the building certifier has acted in the public interest, as they are compelled to under the terms of the Code of Conduct when undertaking assessments, then the building certifier should be exempt from prosecution for following the guidelines held within the Bldg Act or SPA, while acting in public interest.

SECTION No. 139 – Restrictions entering into engagement

1 b. & c. By what mechanism would we know if Councils as large as Brisbane do not have these details on the web site i.e. PD Online? Impossible! QBSA to clarify how this can be achieved.

SECTION No. 141 – Requirements for engagement

1 (ii) If the owner is currently not required to sign the IDAS Forms 1 & 2, then by what mechanism would we induce the owner to sign the engagement?

I agree it is a good idea as SPA seems to direct penalties to the owner (when they are not hunting down building certifiers). There is no automatic access to Council data. Why don’t we pose a suggestion for pathways for certifiers to access this data?

#### SECTION No. 144 A – Restrictions on discontinuing engagement

Which section of BSA will be deciding if there are grounds for discontinuance?

Generally now, if we contact BSA with a potential problem, they are generally non-committal, and side with the general public, as is their charter, or want to instigate proceedings against the certifier.

The owners – once again, there is a problem if the applicant is not the owner, because they do not currently need to sign the IDAS forms and contact details of the owner cannot be relied on.

A better mechanism to tag the owner with a property is needed.

Also, there should be **restrictions on an Applicant to disengage** when the project is under an Enforcement Action by either Certifier or Council. At the moment the Applicant can disengage & just get another certifier to continue, it has happened to me.

#### NOTE

I had to send a Show Cause to an Owner for not constructing to approved plans which triggered a DA by Council & building too close to a canal in Redland.

The owner simply disengaged me, and the Council send me an Enforcement Notice!

What rights have Certifiers got. Answer ..... None at this time.

#### SECTION No. 173 – Automatic suspension of licence upon failure to maintain insurance

2. BSA want to avoid the administrative costs to amend the licence.

I suggest a simple reminder via e-mail or phone call. We are all very busy managing a large amount of projects and sometimes little things like paying our fees & insurances on time get neglected.

3. Once again, the BSA want to introduce another penalty to the Certifier for not being punctual with current insurance. Seems to be a pattern emerging.

#### SECTION No. 190 – Making a complaint against a building certifier

This is far too easy.

It is easier making this complaint to waste our time (after the fact), that getting the builder to fix a problem, when if BSA had stepped in when we as the Certifier report a breach of the Building Act or a malfunction on site.

However, apparently BSA say that they cannot intervene when the work is in progress, as the work is under assessment.

I can tell you honestly, in ALL cases, when the approved plans leave the door of the Certifier's office, those plans have been well & truly assessed for compliance against the Town Planning Codes, Qld Building Act, the Australian Standards & other agencies if there is a referral agency assessment. It is simply up the builder to perform the work shown on the approved drawings, often with notes & red stamps to stand out as important things to observe.

5. BSA must not disclose to another person unproven complaints against a building certifier.

This is a good step forward. But you will need to convince all the other certifiers who have had unproven complaints made against them displayed on the BSA website for over five years, of which I am one. You will need to convince me that BSA is genuine about this.

### SCHEDULE 2 – AMENDMENTS TO THE QLD BUILDING ACT

ALTERATIONS – To include repairs.

This is currently prescribed = exempt

But if this changes, more work = more cost for the public.

It could be good if work was slow, but painful when work picks up. This will capture previously exempt work such as roof repairs or internal structural changes which seem to be happening all over the state, so overall it might be a good move.

## PART 2 - NEW SECTIONS TO THE QLD BUILDING ACT

A4. - Replacement certifier or local government must NOT charge fees

1 & 2 Question – Who is going to work for free? Is this some kind of new depth of BSA humour?

I am totally opposed to this change. If AIBS has any say at all, this change needs to be squashed ASAP.

2. Signage on building development sites

(2) The approval authority must make available to the person who carries out the building work ..... a sign conforming with the regulations showing the name, address and contact details of the approval authority.

### COMMENTS

BSA does not police the signage of builders now.

Builders may have up to 10 projects at the one time. Certifiers may have more than 100 or more. This is cost prohibitive if the average Builders sign is more than \$150 now. You do the math on that one.

Also, even if a sign was supplied, it only takes a backhoe driver to run over it, or a builder to move it, and the sign is gone. The next step, if QBSA makes it a rule and is true to form, will be to introduce on the spot fines for the certifier, thank you, but no thanks on this.

QBSA list the reason for the signage is so they can tell who has approved the works. Instead of forcing us to pay thousands in signage & erection, why not get QBSA make a phone call the Council, because the Councils have no problem identifying who the certifier is when neighbours complain?

4. Restrictions on giving final inspection certificate or C of C by private certifier

Involving .....

1. Plumbing & drainage that is regulated &

2. Stormwater drainage requiring a termination at an authorised discharge point.

### COMMENTS

Sounds good, however, it would be better if Council plumbing work did not start BEFORE a Building Permit was issued. I have had several jobs that could not be approved because I had to wait for further permits –

I.e. Building over sewer, boundary relaxations, town planning.

However, the plumber can start before we even approve the structure! There seems to be NO connection between Plumbing & Building, yet we are both QBSA licensees!

I have confirmed this with the Chief Plumbing Inspector of Brisbane City, so this has got to be resolved or building permits are just a joke when the plumber can work on a house before it can be approved.

Also,

The Council Plumbing final inspection and compliance certificate –

The certifier is generally the applicant for the plumbing approval, yet, Council is only obligated to send the compliance certificate to the Owner, under the Plumbing & Drainage Act, which means not sending it to the certifier. This causes much downtime & grief to the builder, plumber, while the owner does not realise what this paperwork is for. This need to be sorted out ASAP. Just get the Council to send a copy to the certifier.

5. Private certifier employees

### COMMENTS

It appears that QBSA want to restrict private certifier employees, unless they have employed at least 3 employees as spelled out in the reasons No. 3.

I think this would be deemed a contravention of the Trade Practices Act, when the QBSA are now telling us how many people to employ when running our businesses. I do not agree with this change.

No doubt there would be tediously, predictable on the spot fines again. No.

Enforcement notice given by private certifier (class A)

COMMENTS

7.4 There does not seem to be a mechanism to recover fees other than by having the matter attended to in a **court of competent jurisdiction** (what does that mean?).

My interpretation of this is it means the private certifier has lost lots of time, and then will lose even more time trying to regain some costs for recalcitrant applicants or owners, hire lawyers to retrieve costs, then whatever comes back will get deducted to pay for the lawyers and will actually lose money if an enforcement action is protracted. There is significant opportunity cost loss as a result of an enforcement action, due to downtime, additional paperwork, and neglect of current projects, causing delays & limiting the ability to look at new projects due to the horrendous time loss of the enforcement required.

7. Recovery of costs of enforcement action

COMMENTS

It would be far better if these cost matters could be heard by perhaps a building tribunal to award costs, then those same costs applied through the rates system, without involving further court costs for all involved, where the cost merry-go-round starts all over again for the private certifier, where as under SPA, the thrust of penalties can be attached to the land owner.

Also, if costs are due to a certifier, there should be a provision for interest until the debt is paid in full, much like all building contracts currently available, so it is a familiar format & would be an incentive to pay debts without prolonged delays.

We are sick and tired of picking up the pieces from every bad job during & after it is completed.

When someone/anyone not even vaguely associated with the project complains to BSA, we are forced to drop everything and submit half a phone book of information for perusal by the faceless men of the feared BSA standover crew.

The second last complaint I received from BSA involved BSA telling the owner, "Don't worry, the Certifier has PI (Professional Indemnity Insurance) !

The BSA encourage owners to sue us!

This simply has to stop.

It appears that the BSA are in most cases ensuring that their bottom line (which is funded by us) is guaranteed not to be drawn on for fear that the BSA might have to intervene and pay someone out for the screw up on site.

## **BUILDING REGULATIONS QLD**

### **23. COMPETENT PERSONS MUST NOT GIVE FALSE OR MISLEADING DOCUMENTS**

Good.

However it does not prevent Applicants or Owners from supplying false or misleading information, leaves the door wide open so that they can elude the requirement to be truthful to Councils & the Certifier to get whatever they want, as long as they sneak it through & past the assessment process.

This is most prevalent when DA specifies something, then the BA is different, or, fake certificates of glazing or waterproofing, or durability treatments, or roofwater disposal.

Also, does not seem to capture Owner / Builders who can do whatever the hell they think is adequate.

This issue is too serious to ignore any longer, and needs attention.

## **NOTICE FOR INSPECTION**

### **27 - BUILDERS OBLIGATION**

This is not happening at this time. The penalties are a joke.

### **29 – NOTIFYING BSA IF NOTICE NOT GIVEN**

This is not well interpreted within QBSA who at one stage had a section on their web site to deal with it.

The current general type available form now should be restricted to owners.

#### **COMPLAINTS AGAINST BUILDERS**

There is a whole section about how to complain about a certifier, yet nothing for the certifier to complain about a builder, when we are supposed to be regulating the work, with QBSA limited assistance. This has got to change for the system to work.

There should be a gazetted IDAS or BCQ Form, like a Form 6, 61, 21, 22 etc (you pick a number) for Certifiers to notify QBSA that the builder has committed an offence, as referred to in Sec 29.

All the details of the address, applicant, owner, builder, certifier & non-compliant issues listed on a standard form.

From QBSA as advised .....

"Section 29 of the *Building Regulation 2006* remains in force, imposing an obligation on building certifiers to notify BSA of a licensed builder's failure to call for a stage inspection under section 27. However, please be aware that the requirements under section 29 applies **only** to a builder who is a "BSA licensed builder".

### **33. NONCOMPLIANCE NOTICE**

I assume this the Form 61, but it is not stated within the Regulations.

Would be good if it was called up as Form 61, then it might be more meaningful.

No penalties are specified for this & need to be, as the builders deem it as a nothing penalty.

### **35. CONSEQUENCES OF NOT COMPLYING WITH A NON-COMPLIANCE NOTICE**

This needs to be another standard form (say Form 62?), so it is readily recognisable within the industry, and

Then the seriousness of the consequences may become a reality. At the moment, this is a free for all roundabout of threats & promises from the builder or owner that an outstanding aspect "will be taken care of" which is clearly inadequate to deal with non-compliance matters. Alternately we have the long running Show Cause & Enforcement procedure, which is far too lengthy for smaller projects, which is the majority of construction in Qld, and is out of step with the streamlined procedure required here, as in the spirit under IDAS. Enforcement procedure is an extreme, costly & lengthy measure, that should be reserved for when extreme breaches have not been rectified by an Applicant or Owner or Builder.

### **45. QBSA LICENSEE MUST NOT GIVE FALSE OR MISLEADING CERTIFICATE**

Give to who? Not specified?

Owner builders? No restrictions for them.

(See Section 23. BR) Owner / Builders who can do whatever the hell they think is adequate.

#### 48. CONTENT REQUIREMENTS FOR CERTIFICATES

A certificate **MUST** be in the approved form, but does not call up form 15 or 16!

If you talk with QBSA officials they say a form 15 or 16 is optional! Make up your minds!

If it is mandatory, make it mandatory. QBSA is undermining the entire certificate system & weakening the IDAS system with these type of off- the cuff sentiments.

Yes I am talking to you Chris Boyle & Wayne Blackman of QBSA who do believe this despite Building Codes Qld Newsflash - 258

Sec 46 - 2 of the BR says it **must be** in the approved form set out in Sec 48.

Building Newsflash 258 confirms the same.

#### 49. OPTIONAL ACCEPTABILITY BY BUILDING CERTIFIER

Relies on the person giving the certificate to be competent. It does not sat that the certifier can reject the certificate.

For roof trusses – No QBSA licence is required.

Roof trusses - See the ridiculous assessment procedure specified in Building Newsflash 258 .....

#### **Building Newsflash 258 page 4, issued Jan 2007 .....**

*" Before accepting the certificate, the certifier **must have decided** the person responsible for the design of the frame or truss system is competent".*

*" In some cases an engineer may be considered a competent person to give a certificate about a design of a prefabricated frame or truss system. However, most frame and truss manufacturers use 'detailers' within their organisation to design systems using predetermined computer software packages. There is **currently no requirement in Qld for a 'detailer' to be licensed or registered to carry out the design of prefabricated walls and trusses systems**. A certifier can accept a 'detailer' as a competent person for a design for a frame and truss system **provided they are satisfied that they have the skills and experience in using the relevant software packages**".*

What program has been used?

Who is signing the certificate?

Should not be treated like window glazing as it is now, as 90% of roofs & 90% of all project homes are pre-nailed frames & trusses, yet, there is no proven competency required by QBSA.

If licensed, we could count on the product & QBSA would have another revenue stream, taking some burden away from our fee paying & BSA funding.

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