



Australian Institute of Building Surveyors

20 September 2012

The Research Director  
Transport, Housing & Local Government Committee  
Parliament House  
George Street  
BRISBANE Q 4000

To Whom it May Concern

Re: Inquiry in to the Operation and Performance of the Queensland Building Services Authority

Thank you for inviting the AIBS to provide a submission in to the above matter.  
As you are aware AIBS is a peak industry body representing those in the building surveying profession and therefore our submission will be from the point of view of building approvals and building surveying.  
We formally submit the following comments.

### **Owner's Engagement in Building Applications**

The BSA has in the past, promoted the concept of requiring land owners to be a party to the engagement of private certifiers/building surveyors, when a development application has been made to them. Given that many land owners can be International or Inter-State residents, including those people in to an engagement under the IDAS process will prove very cumbersome and indeed frustrate the approvals process.

The body of evidence that would seem to require this implementation does not seem apparent in our Members eyes. It is respectively pointed out that Private Certification has been in operation for over 14 years in the State of Queensland and in that time, there is no apparent evidence of any problematic issues in the engagement process. The AIBS requests that this matter be no longer pursued.



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### **Fire Professional License**

The BSA implemented a license regime for individuals who intend to inspect and/or conduct audits on special fire services on existing buildings. They call this license a “Fire Professional License” and have included it with those persons who conduct fire safety engineering services by designing alternative building solutions, particularly on special fire services. Their intent was to fill a gap that existed at the time with persons conducting fire safety engineering practices, but inadvertently mixed the audit role with the fire safety engineering role. Since then, the Engineers Board have created a license class for fire safety engineers, thereby rendering obsolete, BSA’s creation of that license. Discussions between the BSA and industry representatives have recognised this point and all agreed that the BSA drop this license class. At these meetings, BSA representatives in agreeing with this, did specify that approval from the BSA Board will be required before the license class can be dropped. We have been given to understand that the BSA Board is having second thoughts over what Industry has clearly expressed should happen. The problems of maintaining this license class are wide ranging, but of particular concern are the issue of professional indemnity insurance costs and the inability of Building Surveyors who perform this role at the approval stage, not being able to perform this same role, after the approval stage. We ask that this enquiry look in to this matter with a view to implementing what has already been agreed to by industry representatives and indeed, the highly placed BSA officers convening those meetings.

### **BSA Recourse on Recovery of Costs from Private Certifiers**

It has started to become apparent from our Membership, that the BSA in having made a payout from its home owners insurance scheme, decides to seek recovery by initiating recovery actions against those persons/entities who were performing a role in a particular case it believes failed in their duties. Quite often, the Private Certifier is the last person standing with a PI insurance policy that would facilitate a means of recovery and has never been notified of the case until this point. Of concern, is the lack of the Private Certifiers rights to mitigate their loss at the time of the allegation and in doing so, be a party to the initial investigation in to the allegations. It is the AIBS view that if the BSA under their Act, has a statutory insurance scheme requiring them to have the Builder take out owner’s protection insurance against defective or uncompleted work and also ensure the risk for the owner’s protection to access that insurance, then that insurance is the risk that BSA takes. Further, it is respectfully pointed out that the BSA in deciding to make a payout should at that stage have considered the Private Certifiers role and indeed afforded the opportunity to protect themselves and or mitigate damages at that time and not well after.

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Another major concern that AIBS has, is the separation of powers between Government and the Judiciary. In making decisions involving insurance payouts, under their insurance scheme, is an action that should be at arm's length from the licensing functions and obligations to Certifiers under a different act, namely the *Building Act 1975*. A major concern is the ability of this one body to fulfil its obligations under one Act and then be readily able to recover under another. There is no clear transparency in the current situation and there is evidence mounting, of potential abuse in which Private Certifiers are being caught up without undue notification, in to recovery actions. The AIBS ask that the enquiry consider a clear delineation and transparency of separation between Government and Judiciary matters and consider the maintenance of private Certifier/Building Surveyor rights to mitigate potential damage.

### **Conclusion**

The AIBS encourages that the enquiry look in to the matters raised above and indeed provide a satisfactory resolution to each. Should you wish to speak with AIBS representatives to gain further understanding of the issue raised, please notify Fran Washington of our Brisbane Office on the contact details below.

Yours faithfully,

Stacy Kennedy  
President  
QLD/NT Chapter of AIBS