



Lead.Connect.

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The Research Director
Transport, Housing and Local Government Committee
Parliament House
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Dear Sir/Madam,

The Electrical Contractors Association (ECA) welcomes the opportunity to provide input into the Transport, Housing and Local Government Committee's Inquiry into the Operation and Performance of the Queensland Building Services Authority.

Established in 1937, the **Electrical Contractors Association (ECA)** has been representing electrical contractors for more than 75 years, making it one of the longest-standing industry associations of its kind. It is a dynamic and modern trade association recognised by industry, government and the community as the electrical industry's leading business partner, knowledge source and advocate. ECA is registered as an industrial organisation under Queensland legislation with its operation in Queensland.

Master Electricians Australia Ltd (MEA) is a not-for-profit organisation that provides a national accreditation program to electrical contractors seeking to differentiate themselves from other contractors - similar to that process adopted by Master Builders within the construction industry. MEA is part of the ECA Group of Companies and operates nationally.

References to the ECA and opinions expressed by the ECA, within this submission, should be read as both the Electrical Contractors Association and Master Electricians Australia.

Our members, as well as the ECA directly, have had extensive experience in dealing with the QBSA and have expressed their eagerness for changes to be made in the way QBSA regulates the construction industry in Queensland. We have chosen to focus our comments on the issues of most relevance to the electrical contracting industry in the hopes that our input will lead to an improved QBSA that can better serve the interests of building contractors, consumers and wider industry.

➤ ***Whether the QBSA could make further changes in order to reduce regulations to lower the cost of building a home.***

One issue commonly raised by our members is the unnecessary cost to the consumer of engaging a certifier for a smoke alarm installation. As outlined later in this submission electrical contractors and electrical workers clearly have the skills set to safely install and test these installations and are equally capable of certifying the complete installation. Requiring a separate certifier is an unnecessary financial expense for a consumer building a home.

- ***The effectiveness of the QBSA to provide remedies for defective building work and to provide support, education and advice for both those who undertake building work and consumers.***

Several ECA members have indicated that the repairs undertaken for defective building work take far too long to be finalised. One member has reported house repairs that remain outstanding two years on with many customers deciding to pay for the repairs themselves. Our membership has made it clear that the QBSA does not do enough to inform the public about the builders who have been banned as a result of such substandard work. One ECA member proposed circulating a list of these rogue builders in a public forum such as the QBSA website for every home builder to access.

- ***The effectiveness of the Queensland Home Warranty Scheme and its protections.***

The ECA believes a more efficient way to handle the consumer protection issue would be to replace the Queensland Home Warranty Scheme with the consumer protection insurance requirements under the *Electrical Safety Act 2002*. This would alleviate the risk to Government of funding this scheme and leave the insurance issue to the insurance industry.

- ***Whether the current licensing requirements of the QBSA are adequate and that there is sufficient auditing processes to maintain proper standards.***

Onerous Licensing Criteria

Feedback from our membership is that the current licensing requirements of the QBSA are far too onerous at both a financial and administrative level. Electrical contractors in Queensland are already asked to meet the rigorous criteria laid down by the Electrical Safety Office (ESO) in order to obtain a licence for their core electrical business. These requirements include, paying a licence application fee, obtaining a certain level of consumer protection and public liability insurance, submitting a certificate of currency and providing the necessary proof of identity documents for the relevant qualified technical and business persons. The additional financial and administrative requirements of the QBSA are a burden many electrical contractors struggle to bear. The QBSA's *Financial Requirements for Licensing Policy* is particularly onerous and complex for licensed electrical contractors who only wish to provide a more complete service to consumers.

Electrical contractors who do not have the time or finances to go through this application process are put at a distinct disadvantage in a market where they can ill afford to rely only on installing power points and light fittings to keep their businesses afloat. We recommend that the QBSA review the current licensing requirements to examine whether their licensing criteria can be streamlined for the benefit not only of those in building occupations but for wider industry.

Solar hot water installations

The ECA has particular concerns with the restrictions in the *Queensland Building Services Authority Act 1991 (QBSA Act)* which prevent electrical contractors from submitting for jobs that involve an element of building work, regardless of how minor that building work may be.

A specific example of this issue involves the licensing arrangements surrounding solar hot water installations. In several cases that were brought to our attention earlier this year licensed electrical contractors received substantial fines from the QBSA after installing solar hot water systems. In these instances, the electrical work was completed by fully licensed electrical contractors, while the plumbing component of the solar hot water installation had been performed by a plumber with the appropriate QBSA license. However, because a single invoice sent from the electrical contractor to the customer included the portion of work

carried out by the plumber, the electrical contractor was deemed to be in breach of section 42(9) of the *Queensland Building Services Authority Act 1991* for unlicensed contracting.

Under Section 42 of the *QBSA Act*, a person must not carry out, or undertake to carry out, building work unless that person holds a contractor's licence of the appropriate class. In order to obtain this licence, contractors must demonstrate two to four years of relevant experience, hold the relevant technical qualification, obtain three written references and demonstrate financial capacity.

Section 56 of the *Queensland Electrical Safety Act* requires that a person must not conduct a business or undertaking that includes the performance of electrical work unless the person is the holder of an electrical contractor licence that is in force. In order to hold an electrical contractors licence an individual must meet rigorous financial and insurance requirements, obtain a certificate of currency, and have at least one qualified technical person and one qualified business person.

Clearly, the contractor licensing requirements under the *Queensland Electrical Safety Act* and the *QBSA Act* are equally stringent.

Demanding that electrical contractors obtain a building licence from the QBSA for performing the same work for which they received their electrical contractors licence creates a clear legislative overlap and offers no additional benefit to industry or the general public. In the cases we have been made aware of none of the work was unsafe and no customers were dissatisfied with the results. The electrical contractors fulfilled their obligations by engaging licensed plumbers but were still fined based on a legislative technicality.

In contrast, under section 56(3)(b) of the *Queensland Electrical Safety Act* a person conducting a business that includes the performance of electrical work, who does not hold an electrical contractors' licence, is not in breach of the unlicensed contracting provisions as long as the electrical work is to be sub-contracted to a person holding the appropriate electrical license. This provision enables QBSA licence holders to be engaged by a customer as a principal contractor for a job involving electrical work, provided the electrical components are performed by an electrical licence holder. In the interests of ending a restrictive trade practice, the ECA proposes that this provision be replicated in the *QBSA Act* to allow electrical contractors to submit for the same work as their building counterparts. The ECA is in no way suggesting that electrical contractors engage in activities they are not qualified to perform. The proposed amendment would still require the appropriate QBSA licensee to perform the relevant occupational work. The safety of the public and the integrity of the licensing regime would not be compromised in any way. What we are recommending is a long overdue amendment to the *QBSA Act* that will provide electrical contractors with the opportunity to fairly compete in the marketplace.

Fire Occupational Licence requirements

The Fire Occupational Licensing requirements introduced by the QBSA in January 2011 are a further burden faced by electrical contractors that necessitates urgent review.

Electrical contractors retain the ability to install and test of smoke alarms and emergency lighting as part of the service they offer to consumers. However, as of January 2011 the QBSA now prevents electrical contractors from certifying this work without obtaining a separate QBSA fire occupational licence in the certify class. While electrical contractors continue to be able to certify for electrical safety, the QBSA does not permit them to certify the remaining elements of the installation.

The motivation behind this licensing arrangement is unclear. The QBSA has indicated that public safety is the primary reason for the new licence class, this is despite the fact that the core components of such fire safety installations are electrical in nature. Electrical contractors and electrical workers clearly have the skills set to safely install and test these installations and are equally capable of certifying the complete installation. In light of this, we recommend a review of Occupational Fire Licensing requirements and for the QBSA to seriously consider permitting electrical contractors to perform, test and certify this work without the need to go through another expensive and time consuming licensing application process.

- ***The number of trades licensed by the QBSA and whether industry groups could take a greater role within QBSA in terms of licensing standards and procedures for their members.***

ECA is concerned that the QBSA will attempt to expand the scope of their licensing regulations to electrical work. There is an apparent trend of the QBSA seeking to license occupational areas that previously did not require a specific licence category, with the above mentioned Occupational Fire Licences being a key example of this.

Our membership would strongly oppose any move to take electrical licensing outside the ambit of the *Queensland Electrical Safety Act*. Electrical occupations have a very specific skills set and are clearly distinct from other building professions. This should continue to be reflected in licensing legislation. In the interest of the electrical safety of the Australian public, electrical work cannot to be integrated into the definition of building work under the *QBSA Act*.

- ***Examining opportunities for reform of the Authority with a view to enhanced assistance for both industry and consumers.***

Retention monies

A recommended area for reform in relation to the QBSA concerns retention monies. A problem commonly encountered by electrical subcontractors involves a principal contractor at a building site holding retention monies until they are satisfied that the work on a project has been completed. The subcontractor is then put in the difficult position of being subject to the principal contractor's opinion on the quality of the electrical work they have performed. In the meantime, the retention monies held are accumulating interest for the QBSA licensee while the electrical contractor is left unpaid for the work they have performed.

In order to overcome this situation and prevent electrical contractors being out of pocket for their work, ECA proposes the introduction of a system whereby retention monies go to Escrow pending completion of the relevant works. This would be similar to the process adopted by the Residential Tenancies Authority (RTA) in which the bond paid by a tenant at the start of a lease is refunded in full provided no damage or loss has been incurred by the owner. An industry or government trust style fund could be established for the building industry where these retention monies could be held pending project completion. Introducing this system would undoubtedly involve establishment costs, however, it would also create a more equitable balance between the interests of QBSA licence holders and the subcontractors engaged on a project who are lawfully entitled to payment for the work they have performed. As is the case with landlords provided with some security for loss through the RTA, this system would also continue to protect the rights of consumers by ensuring work is performed to a certain standard in order for funds to be released.

Liquidation laws

Another major issue faced by electrical contractors, along with other QBSA related subcontractors, is builders using liquidation laws to avoid paying outstanding debts. Members have found little support from the QBSA in attempting to recover this money and even less support when chasing arrears leading up to liquidation. An ECA member has advised that he is currently owed \$8500 for work he performed in March this year. He is having extreme difficulty recouping this money as the builder concerned has gone into liquidation and appears unable to pay the arrears owing. According to the ECA member involved he contacted the QBSA for assistance in recovering the monies but the authority was not willing to intervene on his behalf. We would urge the QBSA to consider further assistance in matters such as these to preserve the integrity of the building industry.

Members have also suggested that in order to discourage builders from relying on liquidation laws to avoid debts, a comprehensive database should be kept by the QBSA which would record the details of builders who have become bankrupt and banned from conducting business for a period of time. If such a list were to be made publicly available, consumers would be reluctant to engage these businesses. This could act as a powerful deterrent to unscrupulous builders trying to avoid paying subcontractors by hiding under the shield of bankruptcy. Feedback from our membership is that the QBSA needs to take a stronger stand against builders repeatedly relying on bankruptcy laws and not paying subcontractors their entitlements.

Provision of information

A survey of our membership has revealed that many electrical contractors are receiving conflicting information on licensing issues when they contact the BSA for advice. These contractors, who are endeavouring to fulfil their obligations by confirming QBSA requirements, are not always receiving consistent information from the QBSA.

A common complaint from our members is that the officers responding to enquiries at the QBSA are not electrically trained and so do not have the level of occupational knowledge needed to respond to electrical questions involving building work. Given the highly technical nature of electrical work we would recommend that electrically trained officers be available to answer enquiries to ensure consistent and accurate information is provided to industry.

Below are two examples of conflicting advice electrical contractors have received from the QBSA that have had serious implications for the parties involved.

Example one:

An ECA member contacted the QBSA to confirm the licensing requirements when supplying a quotation for an automatic gate (including the manufacture and installation of the actual gate) to the end customer. The electrical contractor enquired as to whether he could provide the complete quote to the end customer. In his initial contact with the QBSA, the contractor was told his electrical contractor licence covered the supply and installation of automatic gates (including the gate). However, in a subsequent call to confirm the information he was told he would require a QBSA license as the gate would be supplied and installed by another contractor licensed under the QBSA. Such conflicting information from the QBSA puts electrical contractors in a very precarious position when performing work in the construction industry. Despite their best efforts electrical contractors are being put at a real risk of breaching of QBSA's licensing requirements.

Example two:

An ECA member attests to experiencing serious business implications based on the vagaries of QBSA's Licensing Information Statement #25: Installation of Split System Air-conditioning Units. According to the ECA member licensing statement #25 indicates that a QBSA licence is needed in order to carry out split system air-conditioning installations if the contract is over \$3300.

The member concerned had an eight year history installing air-conditioning units for a large organisation in a number of their facilities throughout Queensland. However, the member was informed by this organisation that based on Licensing Information Statement #25, they could no longer engage him for any air conditioning installation work. Prior to being made aware of Licensing Information Statement #25, the client was very happy with the member's work but felt this legal technicality prevented them from continuing the relationship with the ECA member.

The QBSA does not issue air-conditioning licences and yet they have this company convinced that the QBSA have the final word in deciding who gets the air-conditioning work. This information statement distributed by the QBSA has effectively cost this electrical contractor a large split system air-conditioning contract and is a prime example of how the information distributed by the QBSA can have a significant impact on those who engage with the building industry.

The ECA is optimistic that this inquiry will result in the improved operation of the QBSA for the benefit of the building industry, consumers and wider industry. We would also be eager to participate in any further discussions or industry forums regarding our and our members' experiences with the QBSA to better inform this inquiry.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Malcolm Richards', with a stylized, flowing script.

Malcolm Richards
CEO