

20 September 2012

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

Dear Ms McGuckin

### **Submission—Inquiry into the Operation and Performance of the Queensland Building Services Authority**

Please find the **attached** the Building Advisory Group's submission in relation to the Transport, Housing and Local Government Committee's Inquiry into the Operation and Performance of the Queensland Building Services Authority.

### **Community consultation**

Community consultation undertaken 29 July 2012. Key issues identified:

- The BSA current process are complicated for the consumer
- The BSA/QCAT are not responsible for the actions in that
- QCAT process takes 4-5 years and should be reduced of between 6 weeks to 6 months
- Challenging a QCAT decision is costly and bias towards the QBSA or Contractor as the Contractor is seen as the expert, even if they are the perpetrator
- Delaying tactic to support contractor and remove the QBSA
- BSA loses in QCAT are rare, if they do, they change policy to adjust example 'may' or 'at the discretion of the BSA', or as resources permit
- Current legislation confined to QCAT no other court jurisdictions
- BSA insurance removed from the BSA responsibility to other organisation such as private provider example Alliance or similar or QGIF
- Building inspectors not skilled/qualified to undertake the inspections at the 'expertise level' required. Certificate qualifications not adequate.
- BSA conflict BSA licence/insurance body, who is the client?
- QCAT members not experienced to make decisions ie building works, which by nature are multifactorial and complex
- QBSA demerit system soft and not enforced
- QBSA demerit system the QBSA 'may' and choose to educate
- Contractors not losing licence fast enough, can take considerable months
- Consumers do not see full history so are unable to make clear informed decisions
- Building contracts biased towards industry, and not consumer, easy for Contractor to fraud consumer
- Define what is needed in the Contract more detail than a window, but a window this size of this material
- Why is the BSA holding onto the insurance?
- QBSA do not re-coup from the contractor enough, they 'may'
- Ombudsmen body for building issues, including certification and other mandatory notifications
- Why does the QBSA spend unparalleled amounts of money on legal fees, fees often greater than the payment required to avoid an insurance claim.

## Unseen effects

The contractor is quite happy to take the consumer to court. They prefer this process. They have many benefits in doing so—contractors seen as the experts despite being the party at fault. There are numerous financial benefits, as all legal costs are a tax deduction over a period of years. The consumer is not the expert they go to the only source available to them, being the QBSA. They believe that their \$800,000.00 house they are building is insured for \$800,000.00 not \$200,000.00 for incomplete (if the Contractor goes bankrupt), or \$200,000.00 for defects. It is devastating to learn when something goes wrong, they are left financially crippled making the shortfall.

The financial effects on families is long lasting and devastating. There is no other body to adjudicate if the QBSA fails in their obligations to uphold the legislation, such as fine the contractor or take their licence.

Marriages of many years crumble due to the stress and pain because of a bad contractor or QBSA experience. It has been said 'at least you're still married', offensive as this statement is existing is more an accurate description. Families go in as a whole unit, and come out the other end glimpses of their previous self.

Yours sincerely



Christine Eason  
**Interim Secretary**  
**Building Advisory Group**

# ***Building Services***

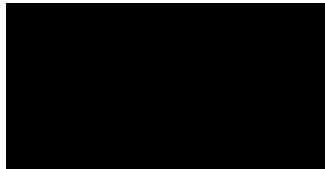
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My experiences with the QBSA over years of practice in the building industry have been many and varied, however there has been a number of common themes.

Firstly and the most common being the perception or otherwise of collusion between the BSA inspector and the builder.

As a building inspector I have actually been witness to this myself as a representative of a disgruntled homeowner.

The case in question was a renovation at [REDACTED] where the Builder and inspector virtually ganged up on me becoming very defensive. The inspector obviously defending the builder even after I had contacted a structural engineer from site who confirmed my opinion on speakerphone that the structural components, joists to the veranda, were undersized for the span. The same inspector also stated that no extra bracing was required even though the whole building “wobbled” as we walked through the house.

Included: extract from a current case.

This extract was taken from a very recent email sent to [REDACTED] of the BSA . and is in relation to a property at [REDACTED].

*“In regards to you not being advised of my concerns about impartiality with the licensee or his representative having access to the roof however the body corporate representative not, well, you can now consider yourself having been advised. It was witnessed by others on site that day, including owners, the body corporate representative, my husband and a lot owner’s representative”.*

So my concern still stands with the licensee or his representative attending the roofing inspector’s re-inspection of defects this week. I have noted on every occasion this licensee has re-attended to ‘go over’ rectified work, he speaks quietly and directly to the inspector on site, whether it be an external inspector or the BSA inspector and often myself or my representatives are not privy to his quiet explanations of what he’s done.”

Another experience I uncouncted on a job at [REDACTED] where the BSA Inspector not only displayed similar tendencies, but also a distinct lack of knowledge of the building industry.

Secondly, and probably just as important, is the apparent lack of action by the BSA especially in the initial stages of problems becoming apparent. I have personally been involved in a number of these cases where, it is my opinion that if proactive action had been taken in the early stages the situation would not have blown out to the protracted and always distressing and costly and documented episodes I know have already been submitted. ie: the [REDACTED] and the case of [REDACTED].

Various houses at [REDACTED], including one for [REDACTED] at [REDACTED] where the defects were so serious I believe both the builder and engineer should have faced charges of gross negligence in court as the structural integrity of the house was compromised to the point of catastrophic collapse. Certifiers are also

This leads me to a further point where the BSA could be more proactive in relation to the qualifications and ongoing training of those in the building industry. Whilst I applaud the BSA and associated organizations ie the HIA and Master Builder's Association in running seminars, they are only voluntary and obviously not attended by those most in need. Other professional groups, eg Architects and engineers must do yearly courses just to keep their registrations, so why not the tradespeople at the pointy and most critical end of the process? The incentives could be on a rewards basis rather than a penalty basis.

Thirdly, it is also a common perception that the Home Warranty Scheme is not only inadequate to recompense the major defects often incurred, but the experience throughout the industry is that it is poorly administered to the point of obvious obstruction by those doing the distribution. ie the QBSA.

I could give many examples but time and commitments will limit me, however I am sure many submissions will mirror my concerns.

More publicity should be given to explaining to the public the limitations of the Home Warranty Scheme, as at present, virtually all those concerned believe it is a unqualified guarantee. Just listen to a real-estate agent using it as a selling point.

I will conclude my submission in the hope that these few words and examples will assist in reforming the procedures of the QBSA to the benefit of all.



**Nick Newton**

*Chairman Building Advisory Group*