

14 June 2014

The Research Director
Transport, Housing and Local Government Committee
Parliament House
George Street
Brisbane Qld 4000

By email: thlgc@parliament.qld.gov.au

Dear Research Director,

Re: Proposed Changes to the Building and Construction Industry Payments Act 2004 [the Act]

I write in response to the invitation to make a submission regarding the proposed changes to the Act. While I am not in favour of appointment of adjudicators by a single adjudication registry as frankly there is no factual evidence to support the finding of the Wallace Report on that matter, my submission is concerned with the Registrar's proposal to abolish ANAs.

There is no recommendation in the Wallace Report to abolish ANAs. It seems to me that the Registrar's intent to abolish ANAs is ill conceived as it will require adjudicators to engage agents to collect and issue documents rather than to rely on experienced, licensed and professionally managed ANAs.

I am Senior Adjudicator of the Authorised Nominating Authority, Adjudicate Today. I reside in Sydney and I rely on the professional services of Adjudicate Today to collect submissions from the parties, issue notices and correspondence on my behalf, and liaise with the parties on matters relevant to adjudicated disputes. I have adjudicated 79 matters under the Queensland Act, 110 matters under the NSW Act, 35 matters under the Victorian Act, 5 matters under the ACT Act, 3 matters under the SA Act and 2 matters under the Tasmanian Act. I consider myself to be an experienced adjudicator and I value the professional services of Adjudicate Today, without which I would not have been able to adjudicate well over 200 matters across six jurisdictions.

If ANAs cease to operate in Queensland under the Registrar's new regime of managing the adjudication process, I would face a dilemma of either relying on an unregistered and unlicensed agent for the purposes of collecting documents and issuing correspondence on my behalf or ceasing to be registered as an adjudicator in Queensland. There is no guarantee that such an agent will provide professional and reliable services upon which I depend in my role as adjudicator. In those circumstances, I would find it difficult to continue to actively participate as an adjudicator under the Queensland Act.

This brings me to the key question: Why is it necessary to create 'agent's for adjudicators when there already are well established and adequately resourced ANAs, such as Adjudicate Today, to assist adjudicators? Most presently operating ANAs in Queensland do more than

what the Wallace Report has identified as appointing adjudicators, accepting adjudication applications, advising and assisting parties regarding the adjudication process, issuing Adjudication Certificates and training adjudicators. In addition, most ANAs provide website and other information to industry participants, which promote the legislation and provide wealth of information on the adjudication process. This is particularly important to smaller organisations in the construction industry who don't have detailed knowledge of the Act and of the adjudication process, and for whom ANAs are invaluable source of information. ANAs also assist adjudicators in:

- Acting as a buffer between adjudicators and the parties, sourcing from the parties submissions upon the adjudicator's request and providing adjudicators with slip rule requests;
- Providing a Queensland address for service of documents;
- Arranging conferences, if required;
- Receiving and proof reading adjudicator decisions for typographical errors, providing the parties and the Registrar with the decision; and
- Collecting the fees.

In my opinion, services and functions provided by ANAs in the past have been invaluable to the parties to a dispute and adjudicators, benefits of which were shared by the entire construction industry. Accepting that changes to the Queensland Act will required the Registrar to nominate adjudicators, I appeal to the Committee to conclude that the changes to the Queensland Act would best be enhanced by retaining ANAs in their present role, albeit not as organisations responsible for nominating adjudicators.

Yours sincerely,

Dr Thomas E. Uher

Adjudicator

Registration Number: [REDACTED]

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