

**From:** Sam Wilson [REDACTED]  
**Sent:** Monday, 16 June 2014 10:26 AM  
**To:** Transport Housing and Local Government Committee  
**Subject:** Hearings into Building and Construction industry Payments Bill 2014 - Proposed Abolition of ANAs

To whom it may concern

I have been an adjudicator since the commencement of the NSW BCISOP Act in 1999.  
I am qualified as an adjudicator by Adjudicate Today and IAMA in NSW, Qld, Vic, SA, Tas and the ACT.  
I have considerable experience with the equivalent NT and WA legislation.  
I have been registered in Queensland as an adjudicator since 30 July 2007 – Registration Number [REDACTED].  
I am a Fellow of the Institute of Engineers, a solicitor specialising in construction disputes and a Grade 1 arbitrator with IAMA.

The NSW BISCOP Act has recently been amended in ways that very few practitioners support. The consequences of some ill-conceived and poorly drafted amendments have not had time to manifest, however, there is a general perception among adjudication practitioners to the effect that, if the changes can be made to work, it will be due to some skilful construing of the changes by the Courts rather than as a consequence of skilful drafting.

With regard to the proposed changes to the Queensland legislation and administration canvassed in the Wallace Report, I support most of the recommendations contained in the Report and in the Minister's media release of 9<sup>th</sup> April 2014 on potential amendments to BCIOA 2004.

The amendment Bill proposes the abolition of ANAs, a proposal that was not canvassed in the Wallace Report or in the Minister's media release.. The Wallace Report recommended that the appointment of adjudicators be taken over by the Adjudication Registrar.

I are familiar with the operation of most of the ANAs, particularly Adjudicate Today and IAMA. Some ANAs provide very little support after the nomination process whilst others, in particular Adjudicate Today provide comprehensive support and Quality Assurance throughout the process. The great majority of my adjudications are carried out with the support of Adjudicate Today. I make extensive use of their website, specifically of their templates and I receive support from staff who are commonly specialists in a single jurisdiction. Adjudicate Today are able to accept service of voluminous documentation on a

24/7 basis. The lack of that capacity in other ANAs has, on occasions, caused jurisdictional / service problems. The ANAs provide a QA service, with the less skilled adjudicators being reduced over time. Importantly, by restricting the numbers on their panels, ANAs can provide the panel members with sufficient work to remain up to date with the changing case law. The proposed changes threaten that capacity.

I am unable to discern any substantive reason for the proposed abolition of the ANAs. I note that a major source of concern within the industry is the perceived quality of adjudicators. I have been unhappy about a number of determinations, out of a much larger number. On each occasion, I have complained to the relevant ANA. On each occasion, my concerns have been thoroughly investigated and passed on to the relevant adjudicator. Although nothing substantive can be achieved, absent an appeal, it does assist with quality assurance.

It would be my strong preference for the ANAs to retain their statutory functions other than the appointment of adjudicators. The ANAs would supply the Registrar with their panel of nominees for appointment. Presumably the ANAs would prune their panel sizes with the net effect of that action and the Registrar's own review functions being a multi-level quality assurance filter.

Simon Wilson



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