

**From:** Richard Atkin [REDACTED]  
**Sent:** Monday, 16 June 2014 10:36 AM  
**To:** Transport Housing and Local Government Committee  
**Subject:** Hearings into Building and Construction industry Payments Bill 2014

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

16th June 2014

Dear Research Officer

**Re: Hearings into Building and Construction industry Payments Bill 2014 (Bill)**

I am an adjudicator, registration number [REDACTED].

I refer to the above Bill currently under consideration by the Queensland Parliament.

As you are aware, the current proposed amendments to the *Building and Construction Industry Payments Act (Qld) 2004 (Act)* arise as a result of consultation with industry and other interested parties. The consultation process culminated in the completion of a report by Andrew Wallace (**Wallace Report**).

Whilst many of the recommendations of the Wallace Report are supported, I am concerned about the recommendation for abolition of Authorised Nominating Authorities (**ANA**).

It appears the amendment Bill goes much further than either the recommendations of the Wallace Report or the Minister's media release regarding proposed changes to the Act, in particular requiring the abolition of the ANAs.

There are many valuable functions performed by ANAs, as discussed in the Wallace Report. However, the Wallace Report recommends that only one function, the appointment of adjudicators, be transferred to the Adjudication Registrar.

In my work as an adjudicator, I am familiar with the operation of Adjudicate Today and other ANAs in Queensland. I know that ANAs invests considerable resources in providing advice and assistance to industry participants in ensuring applications comply with the sometimes-complex provisions of the Act. ANAs provide many services to both adjudicators, claimants and respondents necessary for the delivery of a proper adjudication decision, including:

- Provision of information and guidance provided on their websites, including forms and templates of applications and responses.
- Delivery of the papers to nominated adjudicators.
- Communication between the adjudicator and the parties, if required.
- Release of the decision to the parties.
- Lodgment of the decision with the registrar.

- Telephone assistance to claimants and respondents in complying with the strict timeframes of the Act.

There services undertaken by ANAs will be lost to industry participants should ANAs be abolished.

Importantly, ANAs provide a point of separation between parties and adjudicators. I am most concerned that parties may ring me to make submissions without the other sides knowledge and capacity to respond, possibly creating a situation of potential denial of natural justice to one of the parties to the adjudication.

I understand that the proposed amendments to the Act will allow for adjudicators to appoint agents to undertaken the above services as well as provide separation between the adjudicator and the parties. However, as ANAs are currently well equipped to carry out these functions, it appears a waste to abolish ANAs and then permit the use of agents. In addition, ANAs are properly regulated by the Act, which may not be the case with agents.

If the proposed amendments are passed as drafted, with the exception of the appointment of the adjudicator and issue of an Adjudication Certificate, there will be no proper structure in place to properly handle the remainder of the functions.

This will be to the detriment of industry participants and the timely resolution of payment disputes in the building and construction industry.

I request that consideration be given to amending the Bill to enable ANAs continue their statutory functions other than the appointment of adjudicators.

Please contact me if I can be of further assistance.

Regards

Richard Atkin

RWALaw

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P: [REDACTED]