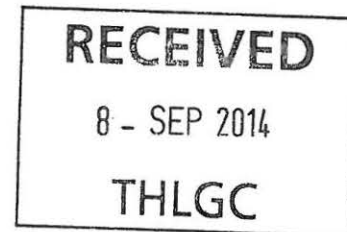


4 September 2014

Research Director
Transport Housing and
Local Government Committee
Parliament House
George Street
Brisbane QLD 4000



Dear Sir/Madam

Queensland Building and Construction Commission and Other Legislation Amendment Bill 2014

It was with some surprise that when I reviewed the submissions made to the Committee that little or no mention has been made in respect of the proposed omission of section 56AD of the Act.

My surprise relates to the exclusion of any opportunity to pursue permitted individual applications, as you would have thought that building practitioners and their representatives would have been concerned about the withdrawal of an existing right. There does not seem to be any discussion as to why it was thought that this amendment was appropriate and the only anecdotal evidence I can obtain seems to suggest the reasoning for this was that each of the members of QCAT and indeed Judges on appeal have trouble grappling consistently with the terminology used. It seems to me unjust to completely withdraw the right rather than attempt to better draw the provision to deal with some perceived inconsistency. This is especially so when these provisions deal with building practitioners livelihoods.

On further reflection, it seemed to me that there may be other reasons that could be arguable that there be changes as follows:-

Possible problem

From experience in dealing with QBCC, many of their decisions in respect of a permitted individual applications are delayed either by reasons unknown and lack of resources or by reason of the fact that the parties pursue applications before QCAT in relation to excluded individual applications (56AC). As any final penalty runs from the date of the actual event, (i.e. bankruptcy or liquidation or otherwise) and licensees continue in practice until a final decision and/or review is made, the longer these applications take the less the penalty is. In some circumstances delays can arise where the penalty would be minimal or nothing.

Possible solution

While no doubt legislators are mindful of limited resources, I would counsel more resources in this instance so that QBCC have the resources to deal with the decisions in a timely manner. In addition to that, or indeed in substitution, one could easily make the time for the exclusion to commence following the exhaustion of all reviews and appeals.

The current proposed amendments result in some undeserving parties receiving less time (three years) while deserving candidates for permitted individual applications are denied any right to become permitted. The above solution seems simple enough and I would urge consideration of this submission despite its lateness. Reasons for the lateness include:-

1. I had urged the appropriate committee at the Queensland Law Society to make some submissions along the above lines, but unfortunately no submission was made.
2. After having read the lack of submissions in respect of this aspect of the Bill, I felt compelled to write to the Committee in the absence of any submissions from QLS.

Yours faithfully,

