SUBMISSIONS to QLD Transport Work Committee (TWC)
PBA's and legilational changes "The Bill"
Feb 2020

Name: Darcy Ringland – Coolum Beach QBCC # 1149771

Dear Sir / Madam

Please find below submissions in highlighted form in regards to requested submissions as per the committee's email of Monday 11 h Feb 2020 as sent to myself.

Call for submissions
The committee seeks submissions on the Bill from the public and interested stakeholders.

On the above I understand the committee is required to *(as per fact sheet 3.9 QLD parliament)*

What do committees do?

Generally, the main task of committees in Queensland is to ensure government administration is accountable to the parliament and to the people of Queensland. Committees are able to do this in a way that the whole parliament cannot as they have more time, are more flexible, and can gather evidence by speaking to relevant persons and organisations in communities throughout Queensland. Committees carry out the responsibilities assigned to them by legislation or the parliament.
They consider and report on bills introduced into the parliament and subordinate legislation, consider the annual state budget Appropriation Bills (the estimates process), investigate issues of public importance, consider whether policies or past decisions could be improved and make sure that public money is used appropriately.
Committees also have an oversight role to monitor and review the performance of government entities (these offices and organisations are listed under the individual committee sections on page 3 and 4 of this factsheet).

I must say from the outset and be upfront.

1. These submissions are from industry based persons, We or I am not paid or reimbursed for such, they are also provided or written in somewhat industry trade talk and when time permits between jobs, 2 hrs here 4 hrs there and usually starting at 6am. They do contain minor grammatical errors and or spelling errors and above all, is or are the interpretation of industry participants / stake holders / actual licensee's typical in the self-certifying licensee class's "Sc's" (maybe up to Cat 1 $3m t'over) and *interpretation* of the some of the proposed laws. As self certifying licensee's make up for 82%+ of all financial licensees of which a certain unknown about are ABN's / sole traders and thankfully is a question on notice, which I do not have the numbers on or the reply to.
2. These submissions do not address every or a majority of the points of the proposed legislation and or associated legislation. As basically I don't have the time as I have to work and try and put food on the plate and table of my home, whilst also assisting industry participants with solving their unique issues and transgress thru current MFR regulations and rules along with trying to support regional Queensland trade personel ..of which CS4T was predominatly made for.
3. I am personally not a fan of the PBA's being used 100% through our industry and I am especially **totally** against the use of such legislation in the residential (housing) market and the current cost effective nature that part of our industry delivers to the end consumer and the effective nature of that side of our industry.

4. The below maybe long winded, Explained in detail and expanded upon, however I believe I have to write and explain myself in my words and my explanations (and errors contained within such – as we all make errors over time). I would love to have such condensed or a skill set that condenses such and provided in a more point form than what it is, however I do not have that effective writing skill set and find it difficult to do and or provide such, as with our industry one change effects 8+ other things. So please bear with me as it is supplied as a explanation and talk .. as these submissions have many times adjusted and added to, rewritten and explained (and maybe twice explained), dot points and items added over the past two odd weeks from the base where we started.

I do believe that the government's policy makers and writers have provided us with the following minimum levels, and as interpreted by myself a QBCC licensee and I agree with such.

PBA's - Not applicable projects / notes (Not applicable on the following and based foundations)

- Any project under 90 days (13 week duration)
- Any project which has 2 domestic houses (duplex) on it or less
- Any project which is under $1m in value **(ex gst)..** but there is confusion on $3m value. (I personally prefer $3m as the cost to implement are onerous on the builder and subbie and thus will be undoubtedly passed onto the consumer) or somewhere inbetween.
- Currently any non-government job... including that of local councils (even though funding may be by the state government and councils have not embraced the PBA's which is known in fact)

I do believe that PBA's are suited to a specific section of our industry and especially or predominantly government resourced or funded projects – whether it is federal or state ..as it is tax payers money or government financed works / projects.
In the case of the Ricon debarcle and insolvency on the Sunshine coast in January 2020 – and specific the Caloundra tennis centre. Not only have subbies been left out of pocket but funds from the local council of around $1.5m+ have been distributed by Ri Con to other jobs and other payee's and not payments made against or to that job or the workers on that project and to the detriment of the council and all rate payers.
I have openly questioned why this job and the council have not embraced PBA's and where the protection should have been for both the council, the subbies involved and others..as one could have assumed it could have been averted on many different aspects and fronts as it is noted the Mayor Mr Jamison was asked specifically 2 years ago to run a pilot PBA project and is now debated in council on why they did not, along with it will be now being openly questioned in the local papers and of future public discussion and debate.

I do believe the committee should take a very close look at this proposed change to legislation and guidelines to our industry as the following statement is supplied to the committee and is a somewhat well-known hidden cupboard style of fact within our industry.

HPW is not only the department to which our industry [construction] falls under but is also the policy writer and convenor for such legislation. The writer openly notates that HPW is also or could be considered the developer on several government projects and thus is placed in the precarious position of not only the department responsible for the works but also the government department for which expenditure on projects is justified from and the one whom writes or influences the policy and legislation detail.

It Is noted that this fact or representation is represented in the Dollette report, where the report as commissioned by DPW and does speak about the return particularly to government of future 20 year efficiencies and project reduction costs over time.

As with the above two points one can openly ask, is the legislation intended at the notated framework as initially supplied or is it been manipulated and politically and or policy changed to protect other main areas than it was originally intended for and has it crept away from the initial intent of the ministerial direction? And is it consistent in its values and representations to the industry and legislative intent.

The following is noted to the TWC at this point in time – as is the basis of our industry and a summary / starting point for discussions. I apologise if you already know or understand the below.

The QLD industry is made up of approximately 75,000 financial licensees of which when combined 65,000 are Sc1, Sc2 and Cat 1 licensee's. As you would or may know Sc1 is the starting ground of trades (trades only) and up to $200,000 ex gst annual turnover whilst the Sc2 is the basic starting point for builders $800,000 and trades whom require an upgrade on the annual turnover from the $800,000 of which Sc stands for Self Certified.

This is then combined with the well known or represented figures that there is approximately $7b in commercial construction and $13b in residential construction each year, These figures should dove tail into the PBA panels provided chart but it doesn't quite [Table 4 page 34].. and one using such figures and extrapolating to the best we can at the moment can assume that the residential housing market with less than 3 stories is around the (7+13-15) = $5b annually, which my gut instinct says is slightly higher and nil public facts to support such.

Notation and Discussion

The below chart has been supplied from QLeave to the PBA panel and specifically provided in their report [Table 4 – PBA evaluation] . It records value of projects, numbers and some very interesting summary information regarding our industry.

I note for the record and after some confusion & further review. The Estimated value column RH side is actually ex gst from our understanding

Table 4: Estimated number of projects valued over $1million which are likely to be for 'building work' requiring a PBA.

Estimated number of projects 17/18					
Value of project (inc. GST)	State government	Other government	Private sector	Total	Estimated value
$1 - $2 million	69	58	943	1,070	$1,362,696,801
$2 - $3 million	42	20	373	435	$967,424,989
$3 - $4 million	13	12	169	194	$608,802,901
$4 - $5 million	20	5	154	179	$732,437,255
$5 - $6 million	7	5	81	93	$466,549,606
$6 - $7 million	7	1	56	64	$379,829,642
$7 - $8 million	5	4	49	58	$396,902,763
$8 - $9 million	3	4	43	50	$387,446,335
$9 - $10 million	7	3	24	34	$294,606,083
$10 - $12 million	3	3	36	42	$424,600,501
$12 - $15 million	8	3	45	56	$676,022,539
$15 - $20 million	4	3	42	49	$769,177,806
$20 - $25 million	3	0	14	17	$344,794,879
Over $25 million	5	5	87	97	$7,301,169,956
Total	**196**	**126**	**2,116**	**2,438**	**$15,112,462,056**

Source: QLeave

.

On the above basis and in discussion

Generally it is acknowledged within the industry that the current PBA review started in very late 2018 and went to a 31st March 2019 deadline date, of which I believe the following is summarised in point form.

- It reviewed 99 projects – okay lets round up to 100
- At a reported value (using a calculator of $343.4 – okay round up to $345m)
- Only 5 (or 7?) had received practical completion (as verbally reported by the committee) which differs from the 12 reported end of February and we assume this to be a typo error.
- NOT one project had a disputed use of the disputed funds account – or acknowledged as being a dispute on any of the project. *Which is inconceivable by the writer and objectionable*
- There may have been one (1) local council project and
- There were ***NIL*** private industry projects
- And ***NOT ONE*** job was followed thru upon after PC (Practical Completion aka finish) to see if subbies had been paid in the builders last cheque or can comment upon retentions after the committee was dissolved or provided its report on 31st March 2019.
- All Builders or PCS using in the PBA's would have had to be government PCQ approved and thus further financial testing completed above the QBCC MFR's **
- And the below chart is interesting to study, in regards to the Principle contractors (Builders) involved and number of projects the higher (or larger) contractors were awarded which is an upward exponential chart. (as basically cat 1, 2 or 3 licensee's only complete 1 project each vs category 7 licensee's which averaged 5 projects each over the review period *)

So in summary the panel reviewed and made comment upon

- 99 of 2,438 jobs (4%) or $345m of $15b of works (20-5 above) = 2.30% of our states industry that can be effected by PBAs

All of which were government jobs, finance assured and contractors that must also comply with the PQC requirements of HPW and government qualifications and are more than likely in a status of Prequalified ** (which one would assume being less than 2.0% ? of the industry – and facts / figures unknown).

Extract

8 Evaluation of the PBA reforms

8.1 Phase 1 of PBAs

Between 1 March 2018 and 28 February 2019, the Government awarded 100 PBA projects totalling a tender value sum of almost $405 million. Of the 100 contracts commenced, 12 had reached practical completion by the end of February 2019.

A total of 41 head contractors were awarded contracts requiring a PBA. The QBCC licence category of the 41 contractors varied from category 2 to 7 with most projects awarded to category 7 contractors.

Table 1: PBA projects as at 28 February 2019, by QBCC financial licence category of the head contractor

Financial category	No. of projects	Value of projects	Unique head contractors
Category 1 Revenue from $600,000 to $3 million	0	0	0
Category 2 Revenue from $3 million to $12 million	3	$4,414,036	3
Category 3 Revenue from $12 million to $30 million	11	$26,663,030	9
Category 4 Revenue from $30 million to $60 million	12	$25,478,799	8
Category 5 Revenue from $60 million to $120 million	29	$82,549,394	8
Category 6 Revenue from $120 million to $240 million	14	$55,959,476	6
Category 7 Revenue over $240 million	30	$148,564,120	6

Source: PwC analysis of DHPW pipeline (collation of self-reported department data) and QBCC register of licensees
Note 1: Excludes one PBA project that had the Council identified as the head contractor

March 2019 Page 22 of 95

So from the above, the panel's recommendations are limited in actual on site use, including the specifics of private projects (nil) and builders that are not secondary financially approved by the government (again nil), and or have been selected builders that either are PQC qualified or have been carefully selected during the tender process and would have runs on the board with government contracting. And there is issues with others at the lower end of the spectrum – as can be seen above only 3 head contractor from category 1 and 2 licensee's – of which there are 9,740 in such license class (0.03%) – and 37 unique head contractros from a pool of 1516 licensee's (2.5%) which confirms Mr Cassidys statement that PBA's are primarily for the higher contractors.. of which will this trend continue once implemented to the rest of the industry ?

As it is noted and recorded by the industry the PBA report was due to the minister in early April 2019 of which it was released in December 2019 some 8 months later, which has erred the industry and ourselves, as it could of come out earlier and thus more time for not only true and further consultation but a follow up. It has now been over the last 2 months changes pushed thru HPW and consultation sessions in somewhat of a knee jerk reaction and below notes are provided on some of the short comings of such. As noted in the above extract (screen shot) the report is dated March 2019 and concurs with the above remarks (as it has been sat upon).
Since the above time frame it is noted the report and the government's response (supplied by HPW) were publicised on the same day and contains 20 recommendations that have either been accepted in full or partial acceptance from the government and showing their commitment to such and prior to any recorded industry consultation sessions.

I question some of the report's findings, summaries and the governments acceptance of such along with the current governments purported interpretation of the findings and acceptances. And whilst thanking the minister (as I do believe his personal intent is honourable) and government for such. Understand that thru their own admission further reviews are to occur before implementing the PBA's to the public arena as this is self-evident (or evidence provided thru admission) thru the proposed future and staging and timings including that of the purported increase in minimum value ($3m) and future possible election in late 2020.

I personally do not hold the minister accountable or to be fully understanding of the minute detail of some of the legistional changes, as they are quite industry specific and should be completed by experts and industry consultation. I do however openly question those around him and those who may advise him.. as I DO NOT verily believe that are acting within the best interests of the industry majority or those most vulnerable ie sc1, sc2 and Cat 1 licensee's and thus having severe legislative consequences for such, of which the committee has the undue task of not only ensuring such, but also to the other aspects that are introduced in conjunction to this actual bill [secondary items] to which the writer is still confused upon and comments as side tracked items. That although they need to be addressed should not deviate us away from or cloud the review of the core attributes and delivery of the intent of the core legislative policy and its future success as this legislation can work in a certain part of our industry under government control and finance.

I have been to the HPW meetings, provided initial, further and final submissions to the numerous parties and swore I would never get directly involved in PBA's. I now believe because of the above and below and for the benefit of the 84% percentile of the industry (Sc1, Sc2 and Cat1's). I have an obligation or as Mr Basset would say due diligence to raise a voice of concern as they have NOT BEEN properly represented during the process.. and I believe it's now up to the committee and others to ensure such.
As the base legislation will work in a certain % of our industry, it will produce over time effectieces and payback to the state government and industry and will change parts of the face of the industry as we know it. It is similar to changes that were made 10 or 15 ? years ago and the distinct divisional line in the QBCC act between domestic or residential contracts and commercial contracts.
I note the PBA's are aimed at the COMMERICAL CONTRACTING side or sector of our industry and as noted by Mr Cassidy at the higher end of the scale / sector of our industry (as the above Blue chart clearly demonstrates) and again similar to the divisional line between the QMBA and HIA and the part of the industry each one specifically supports. The same with such other alliances like Subcontractors alliance and Support your subbies – whom are majority involved with members whom have discussions, disputes, and comments on commercial construction.

I note this as the lines are getting somewhat blurred and or confused, on such well known industry divisions and as requested. I have asked for the ABN numbers that are within our industry of which the committee has gracefully requested on notice last Monday.
As without knowing or having properly represented these figures ***legislative consequences*** will be unknown, substantial and exponential increased and may effect and area that the legislative intent and further writings may not be intended for and should be open and accessible to all stakeholders and decision making personal.

I provide the below chart for the use of the committee and understanding where our industry actual sits in regards to licence classes, numbers in such and reported insolvencies within our industry.

.

				INSOLVENCIES		
		# in Category		Insol	ave insol *	
				sum	**p/year**	%
< $200k	sum	SC1	25674	87	19.3	0.08%
<$800k	59569	SC2	33895	390	86.7	0.26%
$800 to $3m		Cat 1	5155	140	31.1	0.60%
$3m to $12m		Cat 2	4585	255	56.7	1.24%
$12 to $30m		Cat 3	672	127	28.2	4.20%
$30 - $60m		Cat 4	300	27	6.0	2.00%
$60 - $120m		Cat 5	197	17	3.8	1.92%
$120 - $240r	sum	Cat 6	162	11	2.4	1.51%
> $240m+	11256	Cat 7	185	8	1.8	0.96%
			70825	**190**	236.0	

On that basis I wish to inform the committee for its review of the following issues with the current proposed legislation.

Implementation under $3m Project value

As per questions provided to the committee on Friday 14th feb via email there is a distinct offset weighting for projects between $1 to $3m and a disproportional 62% project numbers to 15% project value along with as either discussed above or below the required recalculation of the Deloitte breakeven number and 20% factor above such revised estimate break even calculation.

When the above is reversed 38% of the project numbers equate to 85% of project values and thus a review on value for money and the substantiation of the government or HPW for such. As the current rationale along with the implementation will or could / may not be considered efficient especially in light of the identification of the troubles with Category 3 licensee's ($12 to $30m turnover) and there more than triple insolvency rate of others and a factor of 12x across all financial licensees.

A more distinct rational would be to spend money on addressing this license class (in house industry) in regards to financial aspects than to wasteful bog down on our industry, the commission and others in administering an additional 1505+ project files all of which have onerous reporting and compliance requirements (1505 is the sum of the lower two tiers 1070 + 435). To a point where if the minimum project value is held @ $1m there is a more accepted route or alternative route of ensuring category 3 licensees are complaint with PBAs from a licensing perspective and completing or adjusting the regulatory balance or imbalance of insolvencies in the MFR area and thus shaking the tree and having the most over rip fruit be identified vs having a full across the board industry blanket approach where specific funding or budgetary areas are identified and specifically addressed. It is reminded that there are only around 670 cat 3 licensees of which maybe 40 to 65% ? are builders (exact facts unknown) and one would assume only a very small handful of ABN's / Sole traders.

I don't say this lightly, but I do question the bottom figure for industry effientcy and question why our industry policy makers can't see the simplistic nature of our industry and where it is actually hemoriging and stating that PBA's will fix it all (well at least insolvencies and retention held monies) ... it won't and it can't singularity as the above demonstrates.
As I believe the PBA's are turning into an onerous burden and not achieving their initial intent as we have now more than likely over complicated and over regulated them.. as assuming a 2% normal or max insolvency across the industry (which is more like 1.45%) the following equation is presented

Total value on $1 to $3m jobs = $2.33b x 2% = $46.6m vs the cost to administer by industry and the QBCC / regulatory services.

As with the above I have concerns with the increase in operating budget of the QBCC..as the following has been taken from annual reports since the BSA days and will more than likely hit $310 / $320m next year with the introduction of the new aspects and additional responsibilities legislated onto the QBCC and has gone from a self funded commission to rather heavily weighted on treasury finances and like

this legislation has deviated away from initial core values over time and especially over the last 5 years an dthe appointment of Mr Basset which is non correlated in fact.

The budget comparison for 2013-14 and 2014-15 for the Queensland Building Services Authority is shown below.[37]

Agency	2013-14 $'000	2014-15 $'000
Queensland Building Services Authority	155,363	..

Source: State Budget 2014-15, Service Delivery Statements – Department of Housing and Public Works

The budget comparison for 2013-14 and 2014-15 for the Queensland Building and Construction Commission is shown below.[39]

Agency	2013-14 $'000	2014-15 $'000
Queensland Building and Construction Commission	..	187,164

Source: State Budget 2014-15, Service Delivery Statements – Department of Housing and Public Works

The budget comparison for 2018-19 and 2019-20 for the QBCC is below.

Agency	2018-19 $'000	2019-20 $'000
Queensland Building and Construction Commission	238,232	274,838

Source: State Budget 2019-20, Service Delivery Statements, DHPW, p 37.

As can be seen above the QBCC has gone from $155m to $275m (+$120m) since the board removed the old annual reporting requirements in 2014 and the new MFR regulation and PBA Act (2% of licensee's) is only in its infant days. I humbly ask and or question can we actually afford this and or chasing / administering items. As in six (6) years we will have doubled the QBCC budgets and without doubling the industry building numbers and it seems somewhat disproportial as mentioned above and increases without real industry results. As the TWC has a requirement to review this.

It is noted like any recent changes the industry is where possible being asked to absorb costs. As with our industry lately the following has occurred... and switching costs from the QBCC to industry which is above and beyond the reported figures above

- In 2014 / 15 annual reporting was removed by the direction of the board to decrease red tape and reduce costs – which neither has occurred
- QBCC now have to the ability to pass onto the industry related QBCC licensee external audit costs and audits deemed at their sole discretion.
- MFR costs and the reintroduction of annual reporting including additional requirements for self-certifying licensee's.
- The industry as of 31st December this year in regards to annual reporting has spent approximately $25 to $35m in expected costs associated with such in the form of external accountancy services.

- As noted here – future PBA costs and as reported by the panel have not been provided and discussions vary from 1 to 2,5% in the early stages of the PBA roll out and will evitable decrease on existing users.
  On base $12b turnover figures there is a $120m+ yearly cost to the industry based on 1% conservative percentage to run such projects which will have to be passed ontot he consumer.
  There are a number of items in these submissions that will alleviate some costs once the industry and clientele accept the PBAs and changing payment times and providing education to the industry is a critical or crutial step in such.

In offsetting some costs to the industry – like with the PBA's, and supplied as a side idea I do not see a government department initiated like QLeave ie **RTrust** (retention trust) where the proceeds of retentions can be or could be optional put into a single fund administrated by one body and all the rigmoral of compliance issues on behalf of the industry (and at arm's length to the QBCC). With say conservatively

$10b of yearly works (from panel chart) at 5% retention = $500m of held retentions alone ..thus one state based organisation or optional organisation controlling and admistering cutting down the costs especially to the small business shall the $1m lower project value / echelon limit apply. As I'm dumbfound on why this current proposal has the builder to open a singularity retention trust fund account which they cannot access... however can or could be frauded by others.. it just doesn't make sense unless PBA's are not going to be future supported and everything we have done and are now doing is a waste of time and tax payers money.

Recommendation. That the Committee asks the minister or his representatives to review the bottom end (minium) figure of the PBA's against the dollettee report seeing it is now 4 years old and project such across to 2 years after the final implementation date. Alogn with adjusting the known PBA cost % from the Panel review and advise the committee of the revised amount.

Penalty Units & Imprisonment

The proposed system is substantially flawed and quite large in penalties and imprisonment. As per 2016 findings by the committee which has been red flagged this point

3. The committee recommends that the Minister review the appropriateness of the proposed imprisonment penalties for a number of new offences contained in the bill.

This is coupled with the inability since that time of the QBCC or any other agency to actually more the industry forward as can be seen thru the SJTF appointment, its recommendations and the leaning these changing of the legislation has to such. The question I personally ask .. is not only why did we have to get a SJTF involved but whom is following up on such recommendations and advice as given to the relative agencies? As it has been referenced through this proposed amendment.

Regards less of such we have investigated HPW's claims that the penalties are in accordance with other trust legislative guidelines. I tell you from such investigations its [redacted] not and that that statement or statements made that they correlate is not totally correct.
As from our preview there is a distinct legislative guidelines existing in other trust legislation between *indivuals and companies* and amounts of fines (as the company usually is twice that of the indivual) along with other substantial inconsistencies when reviewed with the legal fraternity trusts and that of real estate trusts and others. To create a linking to legal trusts in some cases would be better seen by linking to real estate trusts which I understand from review maybe or are lower than the legal ones, and it goes without saying much more on the subject but the policy personal and their writers / decision makers that they could be better aligned within the or our actual housing industry which as a related industry - real estate's trusts. Which I believe would have a significant more turnover than legal trust accounts.. but a final fact I am uncertain or exactly knowing of and or the figures is beyond my current grasp or knowledge along with the time to complete such research.

Recommendation. That the Committee asks the minister to again review the penalties as contained with the legislation with an eye on the statutory differences between corporations and indivuals and the natural tiering within our industry including the distinct differences between commercial and residential markets and the notation that 84% of the financial licensees are self-certifying and information as future provided on the numbers of ABN persons within our industry

Self note: I believe a penalty unit is now just under the $135 mark. And I question if the increase penalties have anything to do with the current yearly QBCC budget increases that are notated within this paper.

Project Cash Flow

It is beyond doubt that PBA's because of the "locked" or project specific main trust fund will limit project funding and ability for certain builders to rearrange their finances ie funds in that account are locked for that project and all future projects MUST stand on their own feet and the days of substantially or intentionally reducing contract tenders are more than likely gone.

This burden can be somewhat reduced by not only ensuring deposits and project funding is in place but also allowing builders without onerous paperwork and reporting to deposit start up funds into such and thus going back to old school values of the building industry where both owners and builders invest in their projects and are left with the final amount in the account after all the works are completed.

In regards to a mandatory deposit - HPW state this is a procurement policy issue and is coupled with the maximum deposit calculation within the QBCC act Schedule 1B, Division 2 Sect [33] of in this normal case 5%.

Due to the nature of the PBA's and project trust's and accounts. A legislative requirement should be acknowledged vs relying on a policy,which is or maybe procurement and contract based and tied in with the opening of a or the project specific PBA bank account. As procurement policy will change between government, council and private jobs. Legislation can allude to such and be as simple as a small inclusion such as..

Project deposits must be put into the trust account of deposits inaccordance with the QBCC Act or Project deposits shall only be deposited into the project trust bank account or

Project deposits shall consist of the minimum rate as set out in the QBCC act and be applicable on all project bank accounts where a project specific trust fund is initated

One could further expand on other items within these submissions ..stating that the Project bank account can not be closed until such time as that the principle or builder has provided to the client information that all sub contractors (and or beneficiaries) have been paid in full – Subdivision 5, Subsection 21 *or*

Note—A subcontractor beneficiary ceases to be a beneficiary when paid all amounts the contracted party is liable to pay the subcontractor in connection with its subcontract. See section11A(5)(b) and has been confirmed in writing to the main principle (client)

As lets face the fact – the builder has the responsibility to inform the commissioner to open an account – sect 18B[2] – along with closing the account Sect 21(2)(b) where is the notice to close to the actual client as that would assume that the commission has the responsibility to hold the paper stating everyone has been paid or that there are no beneficiaries left.. How will this work in the private sector and relative notices?

And this would confirm and notices sent that everyone has been paid, there are no outstanding disputes and in accordance with the preamble of this act that subbies and suppliers have been paid. And is simple sort of stuff

Recommendation. That the Committee recommends that on all PBA projects a 5% minuim deposit is manitory under legislation.

Termination and subsequent appointment

The current changes or proposals, have or will kill our industry in regards to cost and time as there has been a removal from the 1st legislation (2018) of the client stepping in as trustee (Division 2 sect 54) and the new legislation is quiet quiet on what actually occurs here in a very simplimatic approach and either alludes to the QBCC stepping in or other means and requires questioning by the industry and or committee representing the industry and QLD residents – and from both sides of the fence.

Old or current legislation

Division 2 Principal may step in as trustee
54 Right of principal to step in as trustee
(1) This section applies if a project bank account is established for a building contract and—
(a) the contract is terminated by the principal for a default by the head contractor; or
(b) if the head contractor is an individual—he or she is an insolvent under administration within the meaning of the Corporations Act, section 9; or
(c) if the head contractor is a company—
(i) the company has a provisional liquidator, liquidator, administrator or controller appointed; or
(ii) the company is wound up, or is ordered to be wound up by the Court within the meaning of the Corporations Act, section 9; or
(d) another circumstance, prescribed by regulation, happens.
(2) The principal may give a notice, in the approved form, to the head contractor advising that the principal will replace the

head contractor as trustee of the project bank account.
(3) From the day the notice is given to the head contractor—
(a) the head contractor is discharged as trustee for the project bank account; and
(b) the principal is appointed as trustee for the project bank account.
(4) The notice—
(a) divests the amounts held in trust under the project bank account from the head contractor as trustee; and
(b) vests the amounts held in trust under the project bank account in the principal as trustee.
(5) However, the head contractor continues to be entitled to an amount of interest that the head contractor would have been entitled to under section 44, up to the divestment.
(6) Nothing in this section relieves the head contractor of their liability for an act or failure committed as trustee.
(7) In this section—
head contractor includes an insolvency official for the head contractor.

New legislation

11(a)(3b) (b) ceases to be the trustee and a beneficiary of the project trust when the trust is lawfully dissolved.

As any builder and or building contractor knows the job must go on as quickly as possible and that delays are quite deadly to the PC and that of the sub contractors and suppliers and adds more cost to the project than initially anticipated or budgeted an da project just cant just sit around and needs to be rolling for everyone to get on with their jobs and ensure productivity.

I believe the new laws in this area are not simple and or self-explanatory and shall the trustee position go back to the QBCC there will be significant time delays invisaged. As the QBCC is not private industry and cannot work at the same pace or effectiveness of the private sector. Plus I do not know if the QBCC in its mandate or base workings (base constitution) legally can be an actual trustee. This will also confuse the project as the QBCC will have multiple hats as a regulator, and educator a licensing and a compliance and may not be quite effect in such a process... Why the QBCC was being drawn into the position we questioned at the consultation sessions conducted by DPW..

Recommendation. That the Committee asks HPW and or legislational writers and policy officers to clearly explain to it and stakholders what happens in the termination insolvency case and use an case example of say the Ri Con and council failure at the Caloundra Tennis centre on both the old and the new ways of dealing with such insolvency in an investigative sense. To see if and to prove that the proposed changes are to the benefit of the industry, clients stakeholders and the rest of the community and that it can be completed in an practical, inexpensive and timely manner and as a case study style of questioning and answering.

Minimum subcontract value - MSV *(and protection for subbies and small builders)*

It is beyond doubt may discussions were held in meeting and discussion groups regarding the minimum value of sub contracts and the costs (quite large an onerous) to administer these small contracts, Generally I believe there was agreement for a $20,000 to $45,000 amount [MSV] during the conversations we had and *this was directly related* to cost to hold retentions and lower retention amounts being of less than $1000 ie 2.5% of the contracted sum. I do thank Hutchinsons and Multiplex for their valuable input into these as I thought that they were quite fruitful and open discussions with the larger stakeholders of our industry and the best practice no nonsense approach and open statements of Multiplex in understanding by reducing sub contractors payments for subcontractors and minimising retentions reduces their ACTUAL project administration costs. A lesson or case study the whole industry or a decent part thereof in commercial contracting should review and or adopt imho.

I do believe with the above in mind HPW representatives did wish for these lower sub contacted amounts and contractors to *NOT BE bound* or protected by the legislation or have the governance of the legislation and its ability to embrace such contracts.. ie that these sub contracts below the MSV would be left out in the cold with no automatic legislative protection.

I ask that the committee to ENSURE that these lower contracts which maybe un cost effective to administer under a PBA will still have the protection of the basis of the PBA legislation and be protected by such as the are the most vulnerable on the contractual chain and the last rung of the ladder.

Recommendation. That the Committee recommends to the minister to review the minimum sub contract amount required under the regulation within the policy objectives of improved security of payment and protection or fairness to such persons / sub contractors and protection improvement there of ie improve and further protect the interest of sub contractors including those under the MSV and automatic protection there of that can easily be provided to the industry.

If there is not protection for all subcontractors and suppliers even under default conditions there is no use for this legislation as they can be protected under an automatic no nonsense degree as as dicussed with HPW and others no held retentions

Finance and Private industry

In regards to the first few pages of these submissions it is beyond doubt that the review panel has only looked at government projects and confirm that there was not a single private project reviewed.

On this basis I believe the paper is substantially flawed in regards to taking the PBAs to the private industry and that of a private developer along with a private financier and the complications that arise from such including but not limited to project funding, which is a major issue and the start of funds flowing down the contractual ladder.

I understand the panel has not addressed this issue in entirety or made any recommendations to hold both the developer and the financier jointly liable nor or thus ensuring the funds flow down the contractual chain. Until this is solved or negated there is no ability for PBA's to in the future be able to work within the private industry and are thus substantial flawed.

I can confirm that this was heatedly discussed at some of the meetings and the ability to ensure project financing and payment to the contractual chain and down the contractual chain. As problems occur not only when the developer doesn't have funds but also when the financier takes his time in approving funds as he/ she / they are NOT bound by the building contract nor its payment terms and possibly should be. As the words jointly and severally liable were mentioned

Recommendation. That the Committee recommends to the minister to review the ability for the current and future legislation to ensure that specific project funding is jointly and severally liable by both the developer and that of his finance arrangements. And that the sub contractor has the ability to up tier ateast 2 levels to such persons and not just on a single up tier arrangement by the builder that is currently proposed. As a single uptiering would further force the use of the sub contractors charge by a sub-contractor and not be embraced by this legislation.

Education

We have a problem in our industry with the ability to educate and the time taken for such along with the ability for base trades to down tools, give up income and to attend seminars and the likes. We also have an industry issue where the QBCC is confused between providing education and giving advice and the legal flag that is raised with advice.. that is wrong.

Professional Development [PD] is coming to our industry in whatever form it takes.

We also have unsuccessful seminars like what has been recently seen on the MFR's where the regional cities are not either engaging or the delivery aspect of the QBCC is not working and associations like the MBA have better results in actually speaking to their members and audiences – as shown in the PBA panels summary – road shows that were conduction with MBA had a distinctive (or substantial) increase in numbers.

On this basis I believe there is a bottle neck at the QBCC for education and dissemination of not only the actual legislation ***but the intent*** of the legislation and is bottle necked at the understanding or interpertainion of the QBCC officers.. as lets face the fact QBCC have been employing HPW staff recently as they understand legislative intent and the conversion of such intent including the discretion

the law allows. This (discretional ability and intent thereof) should be shared thru ought our industry and also directly for those whom engage with industry participants and arming such persons – as the facts lie in the current MFR's where the QBCC is in control of the interpretations of the legislation and dissemination to the industry ..which has possibly led to 50% non-reporting in the cat 4 to 7 licensee's in March 2019 and a further 30,000+ non reporting of the other licensee's whom were required to supply their financials over the Christmas break in 2019 (by 31st December)... which ironically with the new legislation is a shutdown period.

The current education process is not working as effectively as it should or could be. This point also ties in with the below point and should address other areas such as the regional areas of Queensland – where people and education is scare.

Recommendation. That the Committee recommends to the minister that during the legislational briefing sessions and hand over to the industry of the legislation and intent of legislation not be singularly developed and or provided to QBCC alone and be aimed and shared through the industry associations. And also have the minister or others provide detailed descriptions on how such education will be delievered effectively to not only metroplitian sectors but to the of regional areas and what vehicles it is proposing to dispurse the information thru.

Policy objectives and distribution to and thro ought the industry

It is quite clear from dealings with HPW, the Industry, QBCC and others over the last four odd years that policy and legislational objectives are not getting thru to the industry and similar to pass the message as we completed as young persons at school, scouts and any organisation that relates to training.

Its beyond doubt that it is not happening and is demonstrated in recent releases of legislation and the ongoing educational issues, budgets and amounts that are being seeked from not only the commission but that of public articles from associations like the QMBA whom are requesting educational changes to our industry and let's face it, we are on the edge of PD being implemented for all licensee's in the forthcoming years.

I / We / They suggest that in all legislation that not only are the QBCC involved but that of other industry associations along with other means and places. As the facts are of the 65,000 sc1,2 and cat 1 licensee's less than 15,000 are actually members of an association and the QBCC has issues with effective education vs being sued for advice and is not as effective as it could be. Also in the later argument or discussion shall the QBCC continue on to be the sole distributor of government policy and objectives the throating of the funnel will still occur and is coupled or complexities arise thru the QBCC's interpretation. This can be demonstrated in QBCC's latest guideline for financial licensee's which is in direct opposite of what the law actuals states. We are not health checking licensee's and the interpretation of WIP or Work in Progress.

Refer above recommendation

QBCC act and 67U

The PBA's and other industry changes will not be effective until the payment date to sub contractors is changed to ensure that payments made to such persons are before the next claim date. The PBA legislation changes touches on the subject and from my understanding many in the industry including panel members are under the same thought process. As the current system allows issues of non-payment to be dragged out to 90 days before reporting and does in no way complement any compliance paperwork that is provided to the client or governing authority / upper contract representation.

It is no different to the political scenes of the last 10 years and political correctness and identification including that of other issues such as mental health, suicide and hiding away.. we all know it's there is the background and will not bring it to the for front of our industry nor to the light of day.

To have not only an effective industry but an industry that can move forward and move forward effiently 67U has to be changed and reduced from its current requirement. As it ticks all of the boxes that the committee has to review from economic savings thru to protecting consumers.

Recommendation. That the Committee recommends to the minister to review the dates as contained in 67U of the QBCC act to ensure its current effeteness in regards to the reporting requirements of non-payment to sub contractors and suppliers within the reporting period and within the intent of the proposed legislation and policy objectives outlined in such and for the future effectiveness of our industry along with offsetting costs of the PBA's on the sub contractor base.

Self note:
As it usually ONLY the principle contractors (Builders) that use the dates / timeframes within 67U as the *latest possible payment* date in the actual contract and thus are not relying on best practice of payment of 14d as contained within the default conditions of the QBCC act (I think Multiplex are either 14 or 21 days). The reduction of such time frame is within the intent of the legislation explanations and out comes desired. And this should not be left to a political promise and or issue that can be raised later this year and for the benefit of re-election as it is of a public or industry specific importance. For those within our industry that make payments before the actual legislated maximum time ie 10 to 14 days I thank you as leaders of our industry along with being in a financial position and having controls over their finances to complete such.

3rd Note: - I have extracted a notation from the original Dollettie report – page 16 reference 3.6 which seems important at this time to remind all of some of the base ideals of the Dollittee report seeing it is or we are constantly reminded of such... and wonder why payment time frames weren't addressed prior to this time ..when it is clearly a cost reduction issue.. and in reflection and bluntly a no brainer decision making process.

> *PBA - Reduction in project costs*
> *2.5% In other jurisdictions around the world, building and construction procurement costs fell by 1-2.5%[9] as a result of PBAs being introduced. We have assumed a 2.5% reduction in project costs due to the implementation of a PBA scheme. We have also sensitised this assumption in our modelling.*
> *Textura Europe surveyed UK subcontractors and identified that late payment risks led them to add 4% to bid costs, while they would discount 2.3% for early payment. Although we note that this is a stated preference and not a revealed preference it is consistent with other research that suggests subcontractors add a 5-10% premium to quotes to compensate for the extra risk of non-payment, and is in line with our experience. The PBA significantly reduces this risk as funds are quarantined in a trust account, and is therefore expected to lead to a reduction in project costs. The basis for this assumed reduction, driven by allocative efficiencies (i.e. risk being reallocated from subcontractors to head contractors, who are better able to manage the risk), is also discussed in section 8.2.3 of this report.*

Further to the above and after reading some more sections of the proposed act such as 65 ie amendment of Sect 75 which I provide the extract to...

> ***supporting statement***, for a payment claim, means a written document—
> (a)declaring that all subcontractors have been paid all amounts owed to them by the claimant at the date of the payment claim; or

So in analysing (and more than likely boring you) the following scenario is developed based on the current status.

1. I put in my tradies claim #1 on Tues 25th of this month February for $30,000 – as per contract conditions and claim date of 25th of ea month
2. The principle (builder) puts in his claim to the client on the 29th – which reverts to 2nd March (as 29th is a Saturday and rolls over to the next working day).
3. I then put another claim #2 in on Wed 25th March for say $35,000
4. In accordance with 67U and minum time frames I'm supposed to be paid (latest date) on Tuesday 31st March (28 business days) however extends a day as there is a PH in our little town of Toowoomba on 26th March – which extends my payment date conveniently to 1st April...

5. And the builder puts his claim in on Monday the 30th March.. (or maybe 31st March) providing a stat dec saying I'm paid all I am entitled to.

THE CURRENT SYSTEM DOESN'T WORK now does it..... and I'm $65,000 outstanding which cannot legally be provided to the end client and can legally be sworn as not payable... and one also has to check that the stat dec is the same day as the builders claim...and not 3 days before...

It is noted the above is further compounded if the contract requires a 30th or last day of the month sub contractor's reference date or claim date. Then we start throwing in Easter, holidays and so forth which only delays the process.

Im sorry but 67U has to change ..and I bring this to your attention so that you may act on it.

I ask the question of the committee – what is the use of funds sitting in a Trust bank account from say the 12th , maybe 14th of the month that are not available to the beneficiary? It's stupid not to have these guys paid before the next claim date when funds are readily available for use. We as qld citizens and government organisations are not getting the benefit in project saving and sub-contractors discounts for early payments.. now are we even though it has been clearly mentioned in the Doolittle report...as a cost saving... and I am frustrated over and over again – and apologise for sharing my frustrations with TWC... but it's just dumb and nothing more than insane governing and hidden adjenda's.. if a 2.5% sub contractor reduction is seen (as proposed in the Doolittle Report) why are we not as a society of industry benefiting from such..?

Christmas Shut down

Now that you have read the above I would like to lead you into the changes they are proposing for 67U and the Christmas shut down "Period".... as referenced and extracted below

(2)In this section—business day means a day that is not—
(c) a day in the period from 22 December in aparticular year to 10 January in the following year, both days inclusive

The above proposed change removes any chance of the subcontractor being paid on the 31st of December and have monies available for returning workers in the second week of January.

It also extends out the payment times by at least 20 days ...and co insides with the QBCC office holiday times... and as with BCIPA of BIF / Adjudication claims must be into the office by 4.58pm that day (or 5pm). I really question the above along with the practical nature of such.. ask for this to be removed whilst also asking for the QBCC to open its offices at 6am when the industry starts and thru to 9pm when quiet often a licensee is completing his or her bookwork on the office which is more than likely in ABN scenario the dining room table that is cleaned after the family has been feed and dishes packed away.

On the above basis alone (and to make it work or offset on averages) 67U has to be taken down to 19 business days and we just throw our hands up in the air and pray for Santa to provide cheques, cash or money orders over the Christmas period shut down period... or the alternative is to default all sub contractors payments back to the 14 days(?) as per the default condition in the QBCC act.

As the proposed legislation seems to be written in a quite disingenuous way, whilst purportly being aim towards the industry and ironically under the preamble of the intent of the legislation and Explanatory notes that are provided with such. This is coupled with the disastaerius 31st December 2019 MFR proposed reporting requirement which is in direct conflict – but one is about payment and the other is about reporting.

This change is not in accordance with the explanatory notes nor the intent of better payment for construction personnel and is plainly stupid and should not be endorsed by the committee.

Recommendation. That the Committee asks the minister directly to explain the intent of these changes as suggested or proposed by his department and the effect it will have on cash flow of the

subcontracting body including their requirement to pay suppliers on 31st December and whether this was the ministers intent or a legislative consequence of the, or an action of another “general” policy of the current government.

Or in the later bring forward all payments that should occur on 31st December to before the proposed shut down period date.

The last Cheque / Payment

The panel thru its own admission was not allowed or *did not go past* the final practical completion date or provide a follow up in regards to the final payment of the project. And in accordance with the legislative policy objectives

Now 2020

enhance Queensland’s security of payment legislation and further extend the protections for industry

and then 2017 ?

improve security of payment for subcontractors in the building and construction industry by providing for effective, efficient, and fair processes for securing payment, including the establishment of a framework to establish Project Bank Accounts;

Well I wish to open up that section and discuss with the committee as everyone else seems to me to run in the other direction when our industry starts talking about ensuring sub contractors are paid on the final cheque / payment, final and or follow up statutory declarations and the follow up that could be implemented to ensure sub contractors and suppliers get paid.

There is an issue in our industry that that the job must go ahead and move on and we ensure this during the actual works by ensuring payments are made... but what about the last payment and the final certificate and statutory declaration by the subbies, the builder and others... and to ensure the project is closed out properly. As with our industry (and built in checks we do) certification forms are usually not handed over at the end of the job by sub contractors unless an agreement is made to ensure that the builder pays the last claim and or outstanding amount. And in the case of the final claim stat declaration there is no follow up on the final payment claim and that all sub contractors and suppliers have been paid the month after.

This can or could be in review be easily and neatly cleaned up in regards to the closing out of the project trust, either written above or below and the notations of informing the commissioner and or client in a practical and use full sense.

I have a proven case file which indicates this and stems from a BICPA or BIF application between Mager Constructions and Cassowary Coast Regional Council (referenced below).

Where from memory the Applicant (Builder) successfully had an adjudication in his favour of which the concreting sub contract portion was around the $135,000 of which he actually paid the concreter after the successful adjudication either $100,000 or $110,000 only and the council or others did not follow up on ensuring the claimed payments went to the subcontractor nor was the concreting contractor fully reinbursed.

Recommendation. That the Committee recommends to the minister and or others to ensure that the last payments on contracts ie at practical completion is tied together with other items to ensure that sub contractors and or suppliers are paid and paid in full along with legilational checks and balances. Alogn with initating a FINAL contract statutory decleration which differes from every other one.

Unfair contract conditions

In providing these submissions and in light of the above and follow up of the unfair contract conditions as noted to myself from Subcontractors Alliance and the frustration they have with them. I understand and wish to advise the committee that the recommendations as provided to the minister in 2017 by the committeeare still not full filled as in the case of unfair contract conditions is still in discussion phase and thus cannot be put into regulation until such is finalised as is being chaired or run / legally checked by Mr Troy Lewis whom was one of the PBA panel representee's.

Extract 2017 PBA TWC recommendations
5.The committee recommends the Minister consult with the building and construction industry when developing the regulation that will mandate and prohibit certain conditions for building contracts and with regard to any subsequent amendments to the regulation [sic] –WHICH is STILL outstanding from the original PBA

I ask like the above that the committee follow thru on its request to the minister in 2017 and enquire on the status of such and when this review will be finalised and or presented to the industry.

I still don't know why the ACCC unfair conditions of November 2016 of termination by both parties has not been issued to the industry for their knowledge and use.

https://www.accc.gov.au/business/business-rights-protections/unfair-contract-terms

including but not limited to the specific points below, which our industry rely upon – Extracts below

Types of terms that may be unfair

The law sets out examples of terms that may be unfair, including:
- *terms that enable one party (but not another) to avoid or limit their obligations under the contract*
- *terms that enable one party (but not another) to terminate the contract*
- *terms that penalise one party (but not another) for breaching or terminating the contract*
- *terms that enable one party (but not another) to vary the terms of the contract.*

The below notes are supplied after watching the parliamentary video footage on Monday 17th Feb 2020 and or discussing the proposed legislation with others. I note NON of these items were discussed in any consultation meetings that I attended with HPW. Apart from initiated discussions questioning the lower contract threshold.

Recommendation. That the Committee asks the minister when Unfair Contract conditions review will be completed and issued to the industry for the industry use.

Sect 53BB – Due Diligence

Section 53Bb has been highlighted to me and seems quite harsh and directed at a very narrow section of our industry without thoughts of the legislative consequences for others that may be effected. As reading I have noticed (or tripped over) section 53BA above which states

53BA Licensee must comply with requirement to give information
A licensee must comply with a requirement to give information to the commission under the minimum financial requirements.
Maximum penalty—200 penalty units.

Recommendation. That the Committee asks DPW the following:

- What is an Executive officer and how does that relate to the definition of an Officer under the corporations act?
- How does this section relate to Self certifying Licensee's along with
- Licensee's whom may only be required to supply internal management accounts
- And how does this relate to Australian Accountancy Standards and particularly AASB 113 – Interim Reporting [redacted]
- And how does this tie in with the recent QBCC initiative and QBCC statements that Australian Accountancy Standards may not apply to certain sections of the industry.

- Further to the above would have this been in legislation would the QBCC be issuing fines to the 30,000 licensee's whom have NOT replied to the dec 31st reporting date.
- How does the maximium fine of $27,000 differ between a category 7 licensee turning over $500m per annum and a Sc1 whom turns over say $40,000 pa on a part time basis.

Supervisor licensee's

I understand from the above discussion that the QBCC and or HPW are proposing to automatically remove supervisors licensee from industry personal in the event of an insolvency and is contained somewhere or hidden in the changes to the legislation.

My personal response is *"what correlation is there between a person whom has had a business and finanical failure and that of the work that they do supervising either trade works or a project"* and further to that I question practically why the QBCC would want to remove the ability for that person to shall they get a supervisory job in their field of trade, wish to stop the creditors of such insolvency to be able to retrieve further funds shall the person gain suitable employment in his actual trade works – not as an actual trade contractor but that as a supervisor and or tickets that they may have picked up over their time within the industry... I also have a major issue whether it is applicable under the human rights act that legislation is being asked to consider of late and consideration for regional towns where that expertise maybe lacking in numbers and availability.

I'm sorry but this is just over the top and when figures reviewed below on insolvencies, trades and questions on notice of how many ABN persons are in the industry an dit is a kick in the guts or face for regional Queenslanders.

This is also further complicated in regards to the QBCC and or using *a flick of a button* to remove the supervisors license. Whilst in the case of a recent insolvency – [redacted] which some of the committee members are across such. The silent director whom ran the company into the ground (or may have) [redacted] is allowed not only to keep his supervisory tickets BIT ALSO that of his trade tickets and licensing and is currently working as a trade contractor in our industry. This proposal if accepted by the committee it will further enhance these well-known double standards of actions by the QBCC. It's like jailing a man who disciplines his child in a public place whilst drawing the curtains across a private bedroom room during a paedophile act and walking away. I am sorry from my brutal assessment and lack of political correctness.. but it is what it is and it is wrong and we are holding the wrong end of the shovel in this instance and placing double standards into written legislation and allowing double standards into our industry without properly investigating and or reviewing.

This also leads into the shadow directors duties and when cross referenced against the duties of the nominee in regards to "advising the directors of the company" as case law which should in future be addressed by DPW's policy and legislative team vs

> *Section 9 (b)(ii) of the Corporation Act states that a person will be a director when "the directors of the company are accustomed to act in accordance with the person's instructions or wishes".*
>
> *There are exceptions to the general proposition:*
> *the person who, in the proper performance or functions attaching to that person's professional capacity, provides advice to the directors who in turn act on that advice;*
> *Referencing Buzzle Operations Pty Ltd v Apple Computer Australia Pty Ltd [2010] NSW*

Legislative time would be well spent and value for money in ensuring the above and ensuring that during the normal course of events of the company and Nominee position that the nominee is there for quality and cor odination purposes not financial.. and thus creating a distinct legislative guideline and common industry rule / line in the sand.

As with [redacted] .. he has crossed such a line as evidence provided to the commission will or would show. BUT he still has his contractor's license ..now doesn't he and this is a working example of the double standards that can apply in this instance.

I am awaiting and official complaint number from the QBCC in regards to this (Director of Major Investigations) and will advise on receipt. Which the committee may at their desire ask the QBCC to report upon in a closed door environment (as this event is specifically relative to this legislation along with those effected from North Brisbane to Wide Bay regions as an insolvency has occurred and ███ were predominantly derived a or the majority of their income from government and local council as a builder / contractor) and were a category 4 financial licensee - $30m to $60m approved QBCC allowable turnover.

Recommendation. That the Committee asks the Director of Major Investigations Service Trades & Regulatory of the QBCC to report in person and advise the committee in private on the ████████ failure and complaint report thereof and thus provide a case study in the alternative to the proposed legislation and conditions there of including the status of the nominee and investigation into a shadow director position.

Doloitee Report (and constant reminder)

I have somewhat read thru the initial and secondary (?) Doloitee reports from back in 2016 /17 of which these were used, as I understand as the basis for the PBA's and review of such in a theoretical approach.

I cannot thru such documents find any specific recommendations, evidence figures etc that CLEARLY STATE jobs between $1m and $10m in value were "highly suspect for insolvencies" and since such date around 2016 have conducted my own analysis and issued FOI requests on the QBCC and have found the following, which I supply to the committee at this point in time

That a category 3 financial licensee is almost three and half times the amount of other certifying licensee (ie excludes self certifying) more likely to go insolvent. When compared with every single financial licensee (ie the total) Cat 3 licensee is over twelve and a half times more likely to go insolvent on the average calculation.
NB: A Category 3 license has the ability to trade between $12 and $30m in total yearly revenue.

Even though there is somewhat or a chance of a correlation between yearly turn over and project specific value (refer above Blue chart above) it is more a systematic and licensing approach and can be simply related to swimming at the beach and having the constant ability to get out past the actual breakers and rips to get out the back and having experience and systems in place.. a Category 3 licensee should have this in place and be able to constantly get out the back of the surf or in the later regional requirement – be able to go out in the bush for two weeks and be self sufficient at such regardless of any matters that occur.

I believe the Dolittee report is practically flawed in a practical and theory sense (as noted above), and has been influenced and HPW or the government had the chance during the panels review period and lengthy time to check the proposed theoretical costs vs the sample testing that was conducted at that time and thus adjust Dollettie's Break even contract calculation and thus value and or reported on such during their findings. My gut feeling is its now around the $1.3 to $1.7m+ value... and SHOULD take into consideration the 15 to 20% buffer on top of the calculated break even contract value as has been provided in the original Dollettie report

In house insolvency chart – *QBCC financial licensee's and cross reference QBCC Jan 19 insolvency numbers along with 2018 HPW industry licensee numbers (as provided in the MFR request for submissions)*

		# in Category		Insol	ave insol *	
				sum	**p/year**	%
< $200k		SC1	25674	87	19.3	0.08%
<$800k	sum	SC2	33895	390	86.7	0.26%
$800 to $3m	64724	Cat 1	5155	140	31.1	0.60%
$3m to $12m		Cat 2	4585	255	56.7	1.24%
$12 to $30m		Cat 3	672	127	28.2	4.20%
$30 - $60m		Cat 4	300	27	6.0	2.00%
$60 - $120m		Cat 5	197	17	3.8	1.92%
$120 - $240r	sum	Cat 6	162	11	2.4	1.51%
> $240m+	6101	Cat 7	185	8	1.8	0.96%
			70825	**190**	236.0	

Recommendation. That the Committee recommends to HPW and policy writers / invesigators or those who lead such as the assistance director general to go back and examine the break even contract value (minimum PBA value) from the Dollette report in 2016. Have the figure adjusted to suit known conditions along with adjusting to suit the four year gap, adjust or predict for two plus two **(4)** years future time (so we don't have to change it in the meantime and fits in with the governments proposed timing schedule) add 15 to 20% and issue such figure to the committee as use that as the basis for the minimum PBA value.

Extract(s) or examples

From 1 July 2022, project trust accounts will apply to all building work contracts for $1 million or more (excluding GST).
Legislation

Mr Cassidy: The department engaged Deloitte Access Economics in 2017[sic]—and it is a publicly available document—to complete some cost-benefit analysis. The $1 million threshold was based heavily on its analysis.
Public Briefing Mon 17th Feb 2020 – Transport Committee

Regulator to regulate the regulator (Triple R System – RRR)

Finally and this maybe not the right place to discuss this however as Brett would say I have due diligence to raise this with the overseeing transport committee and particularly seeing there has been a recent Panel review, a SJTF review an Audit of the QBCC licensing thru the Audit office over the last 18 months. I personally believe there should be in place a regulator or regulating body, team group, person to regulate the regulator (QBCC) especially now seeing the QBCC has been more than likely been asked / told to step in as Trustee for PBA's and the ever increasing intent of the legislation and QBCC roles.

As seen with the SJTF – out of 76 odd recommendations I believe there has only been a single prosecution. On this basis I question the effectiveness as it's just not good enough in my playbook and questions should be asked as the complaints were filtered by one of our highest ex judges and integrity person.

I'm sorry but we as an industry and the large industry we are cannot nor should not be treated as a political football bouncing from one end of the field to the other as it does no good for our industry. It is beyond any reason that the removal of annual reporting by the QBCC board in 2015 has had disaterious effects along with the knee jerk reaction and the initial PBAs where there were more accounts required than were actually need or used and along with this legislation which is being directly affected or influenced directly by third parties without thought to or consideration there of the majority of the industry.

Our regulating body needs a regulator especially if their powers are increased, as we as an industry need somewhere to go and the commission needs a regulator or overseeing powers that is effective – as with the case of ... there are issues that need to be completed and cleaned up in house and powers or a controlling body / group that the commission is answerable to... as let's face it Justice Byrne's

over saw 67 or 76 recommendations to be forwarded ..of which there has been only 1 actual prosecution. Does Hon Byrnes or other have the ability to follow this up ..is the question I ask and base my submission point upon such.

Summary

The committee and or others have the current ability to put the greater good of the industry / community before others here and now and set the final direction of the legislation before it goes to print for use by the industry and before such above mentioned items above are used as a political football / leverage or future promise by political parties and persons later this year and or pork barrelling that has been recently seen in federal government and particularly in the sports arena. As we know from most or some Politian's (without disrespect) their election promises are usually not worth the paper their written upon apart from the tick they get during the election process.

We as the lower end of the industry (whom are the majority 84%) along with regional licensee holders ask for your understanding in these matters, as minor adjustments and practical items interlocking the legislation together can be achieved here and now, as let's face it there are numerous holes in this legislation like the MFR regulations that could be tied together weller / betterer ..or should I say better in a format that protects the industry and the participants within and keeps the legislation in a simple KISS format with in built checks and balances that complement each other *(as in the case of the finalisation of the project trust fund and declaration to the client and QBCC).*

Legislation is not only as the QBCC describe "*to be used in the courts of this state*" ***but also*** for that of industry participants so that they may know the law and work within **and also** should be written for the understanding of industry participants and in a simplified unabiguatal process.. as legislation isn't just or solely for courts and lawyers or the QBCC to prosecute and administer... that avenue is ONLY a last resort.. and the cultural writing of legislation is changing which should, and needs to be addressed as the next generation coming thru our industry if this style and understanding continues will not have the simple nature of the intent of the legislation and ease of use and further regulatory burden to administer (as the BIF act used to be so simple and attitude of pay now argue later.. which has been lost over the years of manipulation of such an industry reliant Act and simple base thereof of ensuring that the cash flows in our industry and participants are not bleed dry by unscrupulous operators – and thus again I call on 67U to be changed and a significant step or milestone in our industry in the requirement to accept change and an offsetting item)

As with this legislation since conception there have been significant structural changes and incorrect assumptions or practical approach by the legislative policy personal and writers, which are now being addressed in these changes and we are also as an industry going thru the same mess or a similar legislative issues that have occurred on the MFR regulations of 2019.

We as an industry ask for simple and harmonious legislation that complements what we actually do in the field and the particular divisions and tiering in such thro ought our industry. I have supplied the above in trying to ensure the legislation is not only practical, effective but also can go forward without the current threats of the abolishment of such in the future and shadow ministers whom will not commit to 67U changes and states alogn with other well known industry Stakeholders...

"Darcy we will see what comes out of the consultation/ submissions on the bill" Member for Burleigh 19/02/20

"Oh I did not know subbies could be dragged out that long... so what does a stat dec actually do?" unnamed.

"...and sat on the governments expert panel, we have looked at this thing from every possible angle and run every possible argument. There is nothing more to say to this government that will make a difference." Certain HIA manger

" its all in the detail now.. there is nothing we can do..apart from look at every word and see what they have slipped into the legislation this time...." Unnamed senior MBA person

The legislation MUST be tiers to reflect the industry, the regulatory commissions duties and shall have checks, balance and discretional ability in place to suit both the minority and the majority of our industry

and commission who controls and administers such, be unambigious in nature and also that of a simple and effective delivery to the industry along with offsetting cost benefits that outweigh the cost and time burdon. Along with providing protection to those whom are most vunerable as we as a effective society are required or should do.

Shall yu require further information please contact using the below

D Ringland
[redacted]
Yaroomba QLD
[redacted]

Self note – 4 blocks of 3 to 4+ hrs + say 6 additional
Plus 6am til 2pm 26th Feb

Changing 67U of the QBCC act to a payment before the next claim date or earlier will be one of the most significant changes to our industry and thus reducing not only the notification period of issues but ensuring a quicker and faster payments to sub contractors will convert to more cost effective jobs and projects. It will also acknowledge the exsiting good companys whom don't use the max legislational time frame whilst also acknowledging the residential industry which over the years has had shorter time frames to most sub contractors... an din the PBA case ..the money is just sittign in the account.

The rest is procedural...and discussionary and will benefit the industry and or keep the [redacted] honest
Don Chipp 1977Independent