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Mr Richard Cooper  
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Dear Mr Cooper

#### **MASTER BUILDERS RESPONSE TO THE BSA ORGANISATIONAL REVIEW**

Thank you for the opportunity to respond to the organisational review of the Building Services Authority (BSA).

Master Builders is the peak body for housing and construction in Queensland and represents the interests of over 9,000 building-related businesses across the State. The review is of significant interest to Master Builders' members and the industry broadly.

We appreciated the opportunity to hold detailed discussions (on 18 August) with your colleagues Michael Hiller and Chad Gardiner, regarding the BSA's functions and services. The following summarises those discussions.

Master Builders believes that the BSA's functions and services should be focussed on the following:

1. Administration of a licensing system for builders, building trade contractors and owner-builders;
2. Provision of dispute resolution service for consumers of building work and implementation of dispute prevention initiatives;
3. Administration of a statutory residential construction insurance scheme for consumers that provides a warranty against non-completion, defective construction and subsidence or settlement, and
4. Provision of information and advice to improve consumers' and contractors' awareness and understanding of their respective roles, rights and responsibilities in regard to domestic construction.



By and large the BSA has performed these functions well over time; however, we believe there are a number of external and internal issues that need to be addressed to improve these services.

Before discussing those issues we would make the comment that the first of the objectives of the review is to examine and evaluate the sustainability and funding of the current regulatory model. Clearly this is important; however, it needs to be considered having first clarified the level of services and functions that need to be provided.

#### **Administration of a licensing system for builders, building trade contractors and owner-builders.**

Master Builders supports a comprehensive licensing system that is focussed on the protection of consumers.

We believe that protecting the interests of consumers is best achieved by:

- maintaining and improving building standards by ensuring that accredited training is a condition of licensing; and
- ensuring the financial viability of building contractors by requiring all contractors to meet regular and on-going financial tests as a condition of licensing.

We support the need for licensing of all contractors carrying out building work who contract with the public and/or other builders.

However, while the current system works for contractors who contract directly with an owner, it falls short for trade contractors who work for builders in sub-contracting arrangements.

We acknowledge that the builder is ultimately responsible for the on-site management of all building work. The BSA must take steps to ensure that all building contractors (including trade contractors) are held accountable for their work.

In this regard the role of the BSA should be to ensure strict compliance with the licensing regime.

There are a number of operational issues that need to be addressed to improve the efficiency and effectiveness of the licensing system, including:

- revising the current threshold for licensing (\$3,300 value of works) downwards in order to provide greater consumer protection;
- exploring a scheme of Continuing Professional Development for builders at least, to ensure that building standards are maintained over time; and
- introducing a five year license, subject to the existing financial checks and balances.



**Provision of dispute resolution service for consumers of building work and implementation of dispute prevention initiatives.**

Builders should have access to a process to resolve disputes concerning subcontractors' defective works.

Currently the BSA only pursues the builder (residential and commercial building work) to rectify defective building work. We believe there is a need for the BSA to be involved in those cases where a subcontractor's work is defective and the subcontractor has failed to rectify (subject to a number of checks and balances).

Currently, the only action builders can take if a subcontractor does not respond to a directive to rectify is to have the defective works completed and then sue the subcontractor for damages. Subcontractors can go from builder to builder carrying out defective works without any fear of redress by the BSA. Without the BSA's involvement in building disputes between contractors there is little incentive for subcontractors to perform to a reasonable standard. In essence it is the builders who are left to monitor and then finally censure the subcontractor through word-of-mouth within the industry.

Master Builders accepts that one of the primary responsibilities for a builder is to ensure that the works are adequately supervised. We are not proposing to abrogate the builders' responsibility for on-site management and overall control of the contract.

The Building and Construction Industry Payments Act has proven to be an effective means for resolving payment disputes in certain cases. However, the existing regime needs to be revised – extending coverage to resident owners and finetuning the process for commercial disputes. We are addressing these issues in detail in a separate submission to the BSA.

**Administration of a statutory residential construction insurance scheme for consumers that provides a warranty against non-completion, defective construction and subsidence or settlement.**

Master Builders strongly supports the BSA's existing monopoly arrangements for home warranty insurance in Queensland.

To ensure that all consumers are protected from the loss and distress that can result from defective building work; we believe consideration should be given to extending the existing insurance scheme to cover owner-builders.



**Provision of information and advice to improve consumers' and contractors' awareness and understanding of their respective roles, rights and responsibilities in regard to domestic construction.**

One of the BSA's strengths in this regard is its network of regional offices. We support maintaining a strong regional presence.

We have observed over time an expansion of the BSA's scope of operations – beyond their core responsibilities. This functional creep is causing resourcing pressures. In some instances there are similar services and products already being provided. The BSA should not be competing in the marketplace.

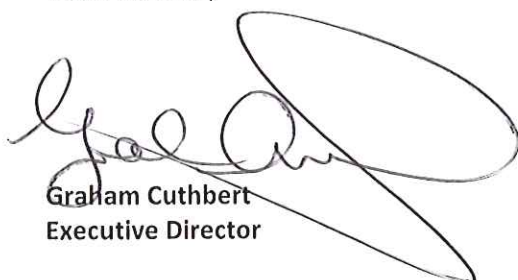
For example, the BSA has taken an active role in managing the state governments' building response to a number of natural disasters (including the floods in south-west Queensland, Cyclone Larry, The Gap storm). While the BSA has performed this role admirably, it distracts from the organisation's core responsibility and on that basis, is not an effective use of resources.

The BSA needs to be very focussed in providing information and training to consumers and builders. For example, rather than providing information to builders on industry-related issues such as building practices and apprentices pay rates – which industry bodies such as Master Builders and the Housing Industry Association are well positioned to do – the BSA should upgrade its systems to collect detailed information on the nature of building defects. This would provide groups such as Master Builders and the Housing Industry Association with a basis for targeted industry training.

Master Builders has maintained a strong and constructive relationship with the BSA over many years. We sincerely hope that the review confirms the need for the organisation to retain strong links to the industry.

Please contact me direct on 3225 6400 if you wish to discuss any aspect of this submission.

Yours sincerely



**Graham Cuthbert**  
**Executive Director**