



BCIPA: The new rules of engagement

Matt Bradbury
Partner

James Arklay
Lawyer

20 October 2015



Overview

In this presentation, we will discuss:

- what the *Building and Construction Industry Payments Act 2004* (Qld) (**BCIPA**) is;
- when and to whom it applies; and
- how it operates.



The magic words

*'This is a payment claim pursuant to the
Building and Construction Industry
Payments Act 2004.'*



What is BCIPA?

- BCIPA is a statutory, alternative dispute resolution process.
- Interim in nature but enforceable as a judgment debt.
- Litigation or arbitration can still occur to resolve the dispute.



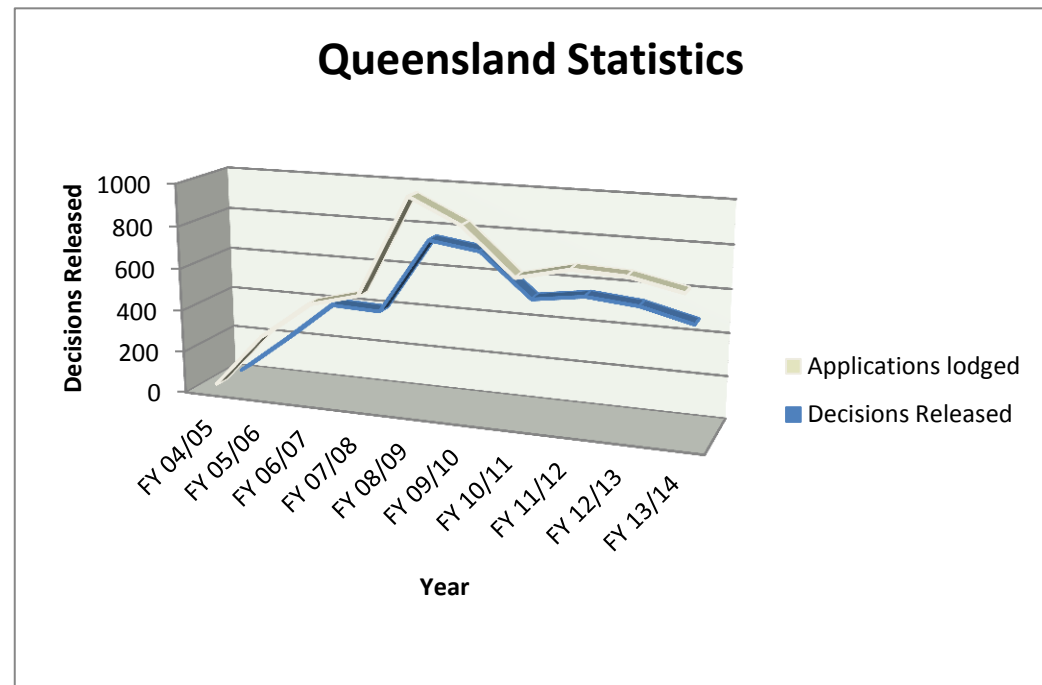
What is BCIPA?

- It applies to contracts or arrangements for the performance of construction work, or the supply of related goods and services, in Queensland.
- Construction work includes the installation in any building, structure or works of heating, lighting, air-conditioning and ventilation.
- Some exclusions (i.e. mining, residential).
- Can utilise either BCIPA or *Subcontractors' Charges Act 1974* (Qld).



Queensland statistics

Year	Applications Lodged	Decisions Released
FY 04/05	32	29
FY 05/06	289	211
FY 06/07	467	404
FY 07/08	529	395
FY 08/09	999	754
FY 09/10	887	720
FY 10/11	674	519
FY 11/12	731	553
FY 12/13	721	531
FY 13/14	670	471



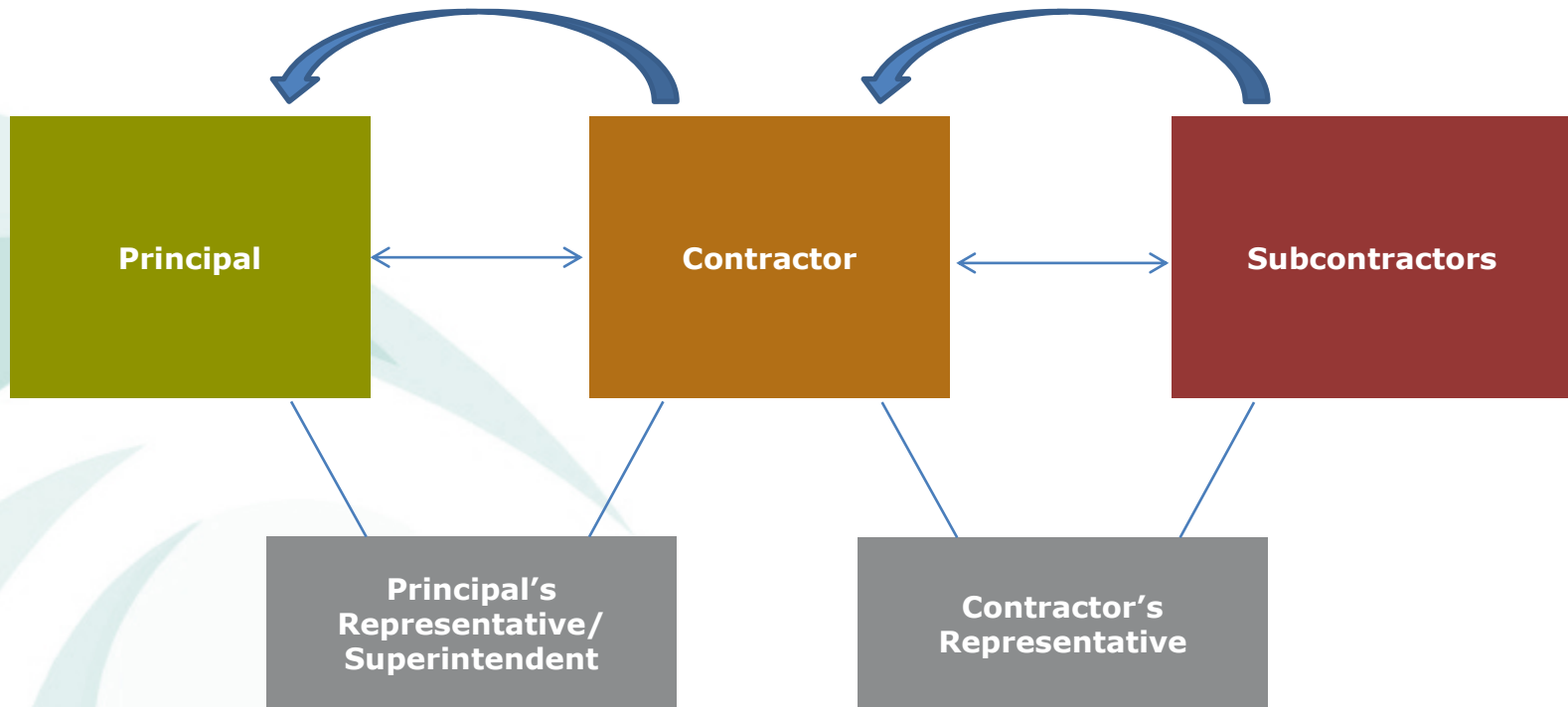


Rationale for BCIPA

- Hierarchical nature of contracts
- Cash flow



To whom does it apply?





How it generally works

**Payment claim
served by
contractor or
subcontractor**

1

**Payment schedule
served by principal
or contractor**

2

**Adjudication
application lodged
with the QBCC by
contractor or
subcontractor**

3

**Adjudication
response lodged by
principal or
contractor**

4

**Adjudicator's
determination**

5

**Any adjudicated
amount is payable
within five business
days, or
determination is
enforceable as a
judgment debt**

6



The recent amendments

- BCIPA was recently amended.
- There is now a distinction between standard and complex payment claims.
- Monetary threshold is \$750,000 excluding GST.
- Different procedures and time limits apply depending on whether a payment claim is characterised as standard or complex.



The length of the process

- From the date of service of the payment claim until the due date for payment of any adjudicated amount, the process can take:
 - 45 business days for a standard payment claim; and
 - 60 business days for a complex payment claim.
- Extensions can be and often are sought by the parties and the adjudicator.



Tips when dealing with BCIPA

- Administrative procedures
 - ensure that staff handling invoices are aware of BCIPA (accounts, receptionists, project managers)
 - have invoices with BCIPA endorsement referred to a nominated individual for consideration
- Registered office
 - payment claims and payment schedules can be served on a registered office (i.e. accountant or lawyer)



Keep in contact



Matt Bradbury

Partner

T +61 7 3233 8972

E mbradbury@mccullough.com.au



James Arklay

Lawyer

T +61 7 3233 8824

E jarklay@mccullough.com.au

Disclaimer: This presentation covers legal and technical issues in a general way. It is not designed to express opinions on specific cases. This presentation is intended for information purposes only and should not be regarded as legal advice. Advice should be obtained before taking action on any issue dealt with in this presentation.