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**Executive Workflow System**  
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System Ref No: 03016-2013 Item Type: Ministerial Correspondence  
 Concerning: MBN: Walton Construction (Qld) Pty Ltd  
 Currently Assigned To: BSA - Building Services / DU14/10/13  
 Receiving Office: Adviser  
 Campaign:  
 Security Classification:



DOCUMENT TYPE BASED FIELDS

EDRMS Reference No:

DATES

Created: 04/10/13 Date of Letter:  
 Received by BSA - Building Services Authority: 04/10/13 00:00 Recv Receiving Office:  
 Ack Letter Due: Ack Letter Sent:  
 Draft Due to BSA - Building Services Authority: 11/10/13 Draft Received by BSA - Building Services Authority:  
 Substantive Response Due: Substantive Response Sent:  
 Final checks due by BSA - Building Services Authority: 14/10/13 Sent to DG: 04/10/13  
 Due DH - Divisional Head: 15/10/13 Sent for Redraft:  
 Signed: Finalised:  
 Completion Date: Response Posted:  
 YOUR DUE DATE: 14/10/13 EC Officer Allocated:

ALLOCATION DETAILS

Division: BSA - Building Services Authority Region:  
 Templates: Divisional Templates:  
 Document Type: Min - Briefing Note Hard Copy Attachments:  
 Further Details: Transfer To:  
 Redraft Reason:  
 Executive Contact: Emma SANDERSON Agency Author: Emma SANDERSON  
 Signing Officer:

INVOLVEMENT DETAILS

Role	Name	Assistant	Due Date	Received	Response
Signatory	DG		17/10/13	04/10/13	
Signatory	DH - Divisional Head		15/10/13	04/10/13	04/10/13
Agency Author	Emma SANDERSON			04/10/13	
Executive Contact	Emma SANDERSON		11/10/13	04/10/13	
EMG Officer	BSA - Building Services Authority		14/10/13	04/10/13	04/10/13
Creator	Emma SANDERSON		04/10/13	04/10/13	

CURRENT SIGNATORIES

Signatory	Due Date	Date Completed	Submitted To	Received From
DG	17/10/13		04/10/13	
DH - Divisional Head	15/10/13	04/10/13	04/10/13	04/10/13

CLIENTS

Role	Name	Address	Client Type	Electorate	Primary
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QUALITY INFORMATION

Standard Words:

Yes  No

Address-Salutation

First-Last Paragraph

Words to Avoid

Style Guide-Other

Typos & Typeface

Grammar-Readability

Issue Not Addressed

Potential Majesterial

Comments:

Review Outcome: Acceptable

COMMENTS

**Date Added Added By**

**COMMENT HISTORY**

Date Added	Added By	COMMENT HISTORY
04/10/13 10:40	DPWSERVICES\Emma.Sanderson	Item was submitted for SignOff to DG
04/10/13 10:40	DPWSERVICES\Emma.Sanderson	Item was submitted for SignOff to DH - Divisional Head Cleared by Es. To the DG for endorsement
04/10/13 10:35	DPWSERVICES\Emma.Sanderson	Brief endorsed by Ian Jennings, advised by the BSA an advance has been provided to the MO.
04/10/13 10:34	DPWSERVICES\Emma.Sanderson	Unsolicited Signature Only Item sent for Approval to BSA - Building Services Authority by Emma SANDERSON (who was acting for: BSA - Building Services Authority).
04/10/13 10:34	DPWSERVICES\Emma.Sanderson	Emma SANDERSON nominated as Executive Contact for Unsolicited Workflow.
04/10/13 10:33	DPWSERVICES\Emma.Sanderson	Item created by Emma SANDERSON

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Requested  
 Unrequested

For noting   
 For approval

## Department of Housing and Public Works

### General briefing note

**To:** Minister for Housing and Public Works

**Subject:** Walton Construction (Qld) Pty Ltd

**Decision/action  
 required by:** N/A

**Reason:** To provide the Minister with information regarding the financial failure of Walton Constructions (Qld) Pty Ltd – possible media interest

### Recommendation

It is recommended that the Minister note the contents of this brief.

### Background

Walton Construction (Qld) has been licensed since 2002 and is currently licensed in the class of Builder Open.

Mr Craig Hall Walton has been a director and nominee of the company since 6 June 2002 and is currently the sole director.

Since 2008, the company has been a prequalified contractor for government works.

The Queensland Building Services Authority (BSA) has received the following contract notifications for residential construction work in recent years:

Period	Number of Jobs	Total Value
2011/2012	33	\$6,525,424.00
2009/2010	22	\$4,246,067.00
2008/2009	52	\$5,768,949.00
2007/2008	29	\$4,120,695.00
2005/2006	2	\$1,622,300.00

Sch. 3(10)(1)(a)

### Key issues

- Walton Construction (Qld) Pty Ltd is part of the Walter Construction Group. Mr Walton is also the director of Walter Construction Pty Ltd.
- On 3 October 2013, *The Age* reported that after 20 years and more than \$2 billion worth of projects in four states, the Walton Construction company had been placed in administration.

- It was reported that the company director had said the Walton Group had been engulfed by the downturn in the construction industry since the global financial crisis and some poor results on projects in New South Wales.
- It was also reported that at its peak, Walton had 340 employees and turned over \$360 million a year. Key projects included the \$103 million David Jones refurbishment in Melbourne.
- Mr Walton was quoted as stating that during the past six months he had been able to complete several projects and transfer most of the group's other projects to competitor companies. This had secured employment for more than 80 staff as well as sub-contractors. However a number of other projects had been transferred to new financiers for completion.
- The BSA was not aware of the pending collapse of Walton Construction (Qld) Pty Ltd until informed on 3 October 2013 by several members of the Queensland Master Builders Association who had contacted the BSA on behalf of a member who is allegedly owed \$150 000 by Walton Construction.
- The BSA contacted Mr Walton who advised it was his intention to appoint Glenn Franklin of Lawlor Draper Dillon in Melbourne as external administrator. Mr Walton was extremely distressed and unable to give detailed responses to the BSA's enquiries.
- Mr Walton told the BSA that most of the company's current projects are sold or are in the process of being sold to Peloton Builders Pty Ltd.
- Projects which have not yet been completed include:
  - Apartments called Paddington in Townsville for Honeycombes Constructions Pty Ltd
  - Woolworths Annerley
  - Masters Brisbane
- Mr Walton told the BSA that he had had no involvement in Peloton, but had agreed to temporarily act as the company nominee to allow Peloton to become licensed as part of negotiations to facilitate a share sale agreement.
- Mr Walton said he would not continue as the nominee for Peloton as a person named Mr Tim Holse would be taking over as the company nominee.
- Mr Walton told the BSA that the company failure was due to losses in the New South Wales which impacted on the Queensland entity. He advised that a related entity loan owed by the New South Wales company to the Queensland company has been deemed uncollectible by the banks which then left the Queensland company in an untenable situation.

### Financial implications


- N/A.

### Consultation

- N/A.

**Future steps**

- If Peloton is to take over contracts for Walton Construction, it will need to provide further financial information to the BSA as Peloton's application limited its allowable annual turnover to \$300 000.
- Mr Walton was told he would be issued a formal notice informing him that he would be an excluded individual as a result of the company failure and that he would have 28 days in which to apply to be categorised as a permitted individual prior to the BSA taking action against him to cancel his licence.
- The BSA anticipates that a significant number of subcontractors and suppliers will suffer substantial loss due to the failure of Walton Construction. Unpaid creditors may lobby the Minister regarding the need increased security of payment.
- Further details regarding unpaid creditors will become available following the Administrator's first creditors report.



Neil Castles  
**Director-General**  
 8 / 10 / 13

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**Minister's comments**  
 Approved / Not approved / Noted

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 Tim Mander MP  
 Minister for Housing and Public Works  
 / /

Contact officer and endorsed by  
 Ian Jennings  
 General Manager  
 Queensland Building Services Authority  
 W: 3225 2930  
 M: 0407 607 064

Date: 4 October 2013

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<input checked="" type="checkbox"/> Unrequested	<input type="checkbox"/> For approval

## Department of Housing and Public Works

### General briefing note

**To:** Minister for Housing and Public Works

**Subject:** Walton Construction (Qld) Pty Ltd (In Administration)

**Decision/action required by:** N/A

**Reason:** To provide the Minister with updated information on the investigation of the failure of Walton Construction (Qld) Pty Ltd.

### Recommendation

It is recommended that the Minister note the contents of this brief.

### Background

Walton Construction (Qld) Pty Ltd and Walton Construction Pty Ltd were placed in voluntary administration on 3 October 2013.

Three days prior to the appointment of Administrators, Walton (Qld) entered into an asset sale agreement with Peloton Builders Pty Ltd. Peloton Builders was to take over some of Walton Qld's incomplete construction projects and agreed to accept liabilities for debts owed to subcontractors on certain projects.

Peloton Builders Pty Ltd obtained a BSA licence naming Craig Walton as nominee on 27 August 2013. BSA has been advised that Mr Walton currently has no involvement in Peloton but had agreed to temporarily act as the company's nominee to facilitate the asset sale agreement. Mr Walton removed himself as nominee for Peloton Builders on 11 October 2013.

On 4 October 2013 exclusion notices were sent to Mr Walton as a consequence of the insolvency event on 3 October 2013. Mr Walton has 28 days to submit an application to be categorised as a permitted individual prior to the BSA taking action against him to cancel his licence.

Mr Walton remains nominee Peloton Maintenance Pty Ltd (which changed its name to Lewton Maintenance Services (Qld) Pty Ltd on 5 September 2013). The BSA has recently been informed by Mr Phillip Spry, Associate Director of the Mawson Group that maintenance works on the projects subject of the asset sale agreement will be carried out by Peloton Builders and therefore Lewton Maintenance Services (Qld) will not be required going forward. BSA is seeking confirmation from the company regarding its intention to continue to hold a licence.

### Key issues

- On 28 October 2013, the Minister was provided with advice regarding the progress of the BSA's enquiries with Pelton Builders (refer to **Attachment 1**).
- On 29 October 2013, the BSA issued a request to Peloton Builders for further information about the asset sale agreements with Walton (Qld).



- On 30 October 2013 the Administrator issued the second report to creditors of Walton (Qld), (refer to **Attachment 2**).
- The second meeting of creditors is scheduled for 10:30am on 8 November 2013 in Brisbane. As a Deed of Company Arrangement has not been proposed, it is expected that creditors will vote to have the company placed into liquidation.

Sch. 3(10)(1)(a)

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- On 31 October 2013, a teleconference was held between BSA and ASIC in relation to the matter. BSA's specific concerns surrounding the asset sale agreement were outlined and ASIC confirmed the following:
  - The ASIC Insolvency Team has been alerted to the case by the BSA and complaints from subcontractors and is liaising with the Administrators and reviewing their reports.
  - Any direct ASIC involvement will occur only after the liquidators have filed their report.
  - ASIC have issued a brief to the Honourable Bruce Billson MP, Federal Member for Dunkley and Minister for Small Business who is the accountable person for ASIC, and will also brief the Honourable Mal Brough MP, Federal Member for Fisher in response to his enquiries.

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- Sch. 3(10)(1)(a)

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- On 1 November 2013, the BSA sent ASIC a copy of the asset sale agreement, contract novations and an outline of concerns regarding the agreement. A copy of that correspondence is attached (refer to **Attachment 3**).

Sch. 3(10)(1)(a)

**Financial implications**

- N/A

**Consultation**

- N/A

**Future steps**

Sch. 3(10)(1)(a)

Neil Castles  
**Director-General**  
/ /

**Divisional approval**

**Approved by:**

**Title:**

**Signature:**

**Date:** / /

**Minister's comments**

Approved / Not approved / Noted

Tim Mander MP  
**Minister for Housing and Public Works**  
/ /

**Contact officer and Endorsed by**

Ian Jennings  
General Manager  
Building Services Authority  
W: 3225 2930  
M: 0407 607 064.

Date: 4 November 2013.

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**From:** Ian Jennings [<mailto:Ian.Jennings@bsa.qld.gov.au>]  
**Sent:** Monday, 28 October 2013 1:23 PM  
**To:** Matthew Tapsall  
**Subject:** RE: Waltons

Good afternoon Matt

**Background:**

Walton Construction (Qld) Pty Ltd and Walton Construction Pty Ltd were placed in voluntary administration on 3 October 2013.

Three days prior to the appointment of Administrators Walton Qld entered into an asset sale agreement with Peloton Builders Pty Ltd. Peloton Builders Pty Ltd obtained a BSA licence naming Craig Walton as nominee on 27 August 2013. It is understood that Peloton Builders Pty Ltd intended to take over some of Walton Qld's incomplete construction projects. BSA has been advised that Mr Walton currently has no involvement in Peloton but had agreed to temporarily act as the company's nominee to allow Peloton to become licenced as part of the negotiations to facilitate a shared sale agreement. Mr Walton removed himself as nominee for Peloton Builders on 11 October 2013. Mr Walton remains nominee of another entity which was created at the same time that Peloton Builders was granted its licence, this being Peloton Maintenance Pty Ltd (which changed its name to Lewton Maintenance Services (Qld) Pty Ltd on 5 September 2013).

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**Security of payment suggested reforms as previously provided:**

Mr Andrew Wallace's BCIPA recommendations in relation to retention reform should be seriously considered. In particular the recommendation to ensure all retentions are held under a *Construction Retention Bond Scheme*. This is most significant because it will ensure moneys held will not be lost when an insolvency event occurs. This decision has already been made in NSW to create such a scheme, and I am informed that next week the attached "IN CONFIDENCE" consultation paper will be released for comment in NSW. **Please note the attached discussion paper is confidential and has not yet been released.**

Serious consideration be given to implementing the following issues:

- Removing the requirement that a payment claim made under the BCIPA Act has to be endorsed with the words 'this is a payment claim under the BCIPA Act' to facilitate the adjudication process
- Requirement for a payment claim under the Act to be accompanied by a "supporting statement", which is essential to strengthen the statutory declarations process that all subcontractors have been paid all amounts due and owing to them,
- Create a strong enforcement regime around the statutory declaration "supporting statement" requirement.

Implement the recommended change to the FRL's as contained in Des Knight's report, namely review the ability of companies subject to meeting audit requirements, to be able to adopt "special purpose" accounting requirements. They should be required to submit to "general purpose accounting" requirements. Consideration be given to overtime moving away from companies being able to use related entity loans and deeds of covenant and insurance.

Deliver an education campaign to contractors about the tools available to recover under or non-payment of moneys.

**Meeting 29 October 2013:**

I understand that you made contact with my office this morning requesting that a BSA officer other than myself attend the the sub contractors meeting set up by your office tomorrow. Please be advised that Michael Chesterman, Adjudication Registrar and Executive Manager Contractual Development and Lewis Hayes, Exective Manager Compliance will attend. Please advise as soon as possible the time and venue for this meeting. If you are aware of the attendees it would be appreciated if you could forward the list in order for BSA officers to prepare for the meeting.

Regards

**Ian Jennings**

*General Manager*

Queensland Building Services Authority



phone: +61 7 3225 2930

mobile: 0417 607 064

web: [www.bsa.qld.gov.au](http://www.bsa.qld.gov.au)

fax: +61 7 3225 2939

**From:** Matthew Tapsall [<mailto:Matthew.Tapsall@ministerial.qld.gov.au>]

**Sent:** Friday, 25 October 2013 4:53 PM



**To:** Ian Jennings  
**Subject:** Waltons  
**Importance:** High

Hi Ian,

A meeting has just been set up with the Minister and subcontractors for Tuesday

Can you please email me an update on Monday on what the latest is so I can provide a brief for the Minister for Tuesday's meeting?

Cheers

Matt



**Matt Tapsall**

Senior Advisor

Office of the Hon. Tim Mander MP | Minister for Housing and  
Public Works

Phone: 07 3719 7278 | Fax: 07 3012 9017

80 George Street | Brisbane | QLD 4000

GPO Box 2457 | Brisbane | QLD 4001

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