

Inquest into the death of Jason Jon Garrels

Jason Jon Garrels died on 27 February 2012 at a construction worksite. Mr Garrels was a general labourer who was electrocuted when he physically held a construction sub-board which was being erected. The site's construction wiring to the sub-board was still active whilst Mr Garrels was handling it.

Coroner David O'Connell delivered his findings of inquest on 11 August 2015.

The Queensland Government responds to recommendations directed to government agencies at inquests by informing the community if a recommendation will be implemented or the reason why a recommendation is not supported.

The departments named in this response will provide implementation updates until the recommendation is delivered. Further information relating the implementation of recommendations can be obtained from the responsible minister named in the response.

Recommendation 1

The defects found by the Electrical Safety Office inspection before reconnection of the power do cause me great concern. It would be prudent for that department to conduct an audit of the 81 units, and the common property, to determine if any of the electrical work at the site at present fails to meet the appropriate standards and regulations. Accordingly I make this recommendation. This should occur within the next three months, and of course sooner in that period rather than later is preferable.

Response and action: the recommendation is implemented.

Responsible agency: Department of Education (Office of Industrial Relations).

On 10 March 2016 the Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs responded:

In May 2015 the Office of Industrial Relations Queensland (OIR) conducted an extensive audit of the 81 units at the Clermont Apartments site which revealed a number of compliance issues. On 3 September 2015, the Clermont Apartments Body Corporate wrote to the builder Daytona Trading Pty Ltd requiring Daytona Trading Pty Ltd to engage a suitably qualified and licenced electrical contractor to rectify the non-compliances at every lot.

On 15 September 2015, the Electrical Safety Office wrote to the Clermont Apartments body corporate requesting the body corporate assist the Electrical Safety Office regarding the monitoring of rectification work.

Establishing a timeframe for rectification of the defects has been complicated by the body corporate's engagement with the Queensland Building and Construction Commission (QBCC) and issues regarding the scope of the insurance scheme provided by QBCC.

The OIR's Electrical Safety Office will conduct a further inspection of the Clermont Apartments to identify what defects remain and require rectification. Additionally, a meeting is needed with the QBCC to clarify what options are now available to the body corporate or individual unit holders where defects exist.

OIR will conduct a further inspection of the Clermont Apartments as well as a meeting with the

QBCC to ascertain options for the body corporate and/or individual unit owners.

On 23 December 2016 the Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs responded:

In May 2015 OIR conducted an extensive audit of the 81 apartments at the Clermont Apartments site which revealed a number of compliance issues. The attending Electrical Safety Office (ESO) inspectors made the site electrically safe.

The ESO wrote separately to the builder, the body corporate and the electrical contractor urging them to engage a suitably qualified and licensed electrical contractor to rectify the non-compliances at every lot of the Clermont apartments.

The ESO completed a re-inspection of the Clermont apartments on Thursday, 25 February 2016 and noted only a portion of the apartments and common areas had rectification work done. The site continues to be electrically safe.

The ESO is considering whether to refer the electrical contractor to the Electrical Licensing Committee (ELC) for further disciplinary action. The ELC has legislative authority to require the electrical contractor to engage, at their own expense, a suitably licensed person to fix the defects.

The ELC must comply with the processes and timeframes outlined in the *Electrical Safety Act 2002*.

On 6 April 2017 the Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural affairs responded:

The ESO referred the electrical contractor to the ELC for disciplinary action.

The ELC resolved to order the electrical contractor to ensure the defects at the Clermont Apartments side are rectified, at the contractor's own expense. In August 2016 a disciplinary notice was issued to the contractor to this effect. The contractor has failed to attend the hearing with the ELC.

The ELC hearing has been deferred while legal advice with respect to action against the contractor is obtained.

On 23 January 2018 the Minister for Education and Minister for Industrial Relations responded:

In light of the original electrical contractor's failure to attend the hearing with ELC for disciplinary action and engage in the rectification process, the ESO resolved to implement the next phase of the OIR strategy which involves contacting owners and occupiers of the affected units requiring rectification.

On 14 June 2017, the ESO issued 78 statutory notices under section 74 of the *Electrical Safety Regulation 2013* to the individual owners and body corporate of the Clermont apartments. These notices place a requirement on the person in control of the electrical equipment to have the defects rectified. The deadline for compliance by the owners and body corporate was 10 September 2017 and a small number of owners have managed to comply and have matters rectified. Understandably, a number of owners have experienced difficulty in securing the services of tradesman to attend the site. The ESO has facilitated a tender process that will see rectifications outstanding completed by the electrical contractor successful in the tender process who will invoice individual unit owners direct.

On 15 August 2018 the Minister for Education and Minister for Industrial Relations responded:

The rectification process through the electrical contractor engaged by the body corporate was completed in May 2018. The defects addressed through this process did not pose an electrical safety risk. The site was made electrically safe by the ESO at the time of its audit in May 2015. This brings to a close the extensive work undertaken by the ESO since it implemented this recommendation with the audit of the site in May 2015.

Recommendation 2

Clearly the government should examine, and review, the qualifications required to be obtained to allow persons to be the holder of an electrical contractor's licence. Any such review should also examine whether demonstrated proficiencies in certain disciplines of electrical work requires specialist training units to be undertaken, and successfully completed. Perhaps electrical qualifications come with a 'tiered' approach reflecting competency in certain disciplines? Perhaps that is appropriate, perhaps not. That is an area that the government, in consultation with industry, needs to consider. Accordingly I recommend that the government review the licencing qualifications (including demonstrated competency) required for obtaining an electrical contractor's license. After review it shall be up to the government to decide what appropriate action, if any, should be taken. Clearly the situation can be improved, and no action being taken may be disappointing to some.

Response and action: the recommendation is implemented.

Responsible agency: Department of Education (Office of Industrial Relations).

On 10 March 2016 the Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs responded:

The Office of Industrial Relations Queensland (OIR) considered the information provided by the coroner and is establishing terms of reference for a review of electrical contractor licensing requirements.

As at 1 December 2015, the terms of reference have been established.

OIR will put out to tender for a review to be conducted of the electrical contractor licensing requirements.

On 23 December 2016 the Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs responded:

The OIR engaged KPMG to undertake the review of the qualifications of electrical contractors' licences. The contract is yet to be finalised however and a project plan will be established.

The OIR will finalise the contract with KPMG and develop a project plan.

On 6 April 2017 the Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural affairs responded:

The review of the qualifications for electrical contractors is complete and was presented to the Electrical Safety Board.

The board is reviewing and considering the content of the report. The progress is to be reported to the OIR's Organisational Response Governance Group.

The OIR is awaiting the board's review of the report and outcomes/recommendations.

On 23 January 2018 the Minister for Education and Minister for Industrial Relations responded:

Following the board's review, the Electrical Safety Office (ESO) established a Technical Reference Group (TRG) and is progressing a review of the requirements for electrical contractor and work licences.

The TRG consulted a range of stakeholders. The TRG will report on and make specific recommendations about training and qualification pathways for consideration by the Electrical Licensing Committee and the Electrical Safety Board.

Changes effective 31 August 2017 to the *Electrical Safety Act 2002* increased enforcement and disciplinary powers of the ESO.

The ESO will report to the OIR on the progress of the technical reference group to enable the OIR to determine any requirements with respect to contractor and work licences.

On 15 August 2018 the Minister for Education and Minister for Industrial Relations responded:

The recommendations made in the Technical Reference Group (TRG) final report *Electrical licence transformation project – findings*, were provided to the Electrical Licensing Committee (ELC) for consideration. The committee's final recommendations were approved by the Electrical Safety Board on 21 September 2017 and have been implemented. On 1 July 2018, changes to 'eligibility requirements' commence for qualified technical persons (QTP) and qualified business persons (QBP) for Queensland electrical contractor licences. Further changes will occur by 1 January 2019 following regulatory amendments to section 7 - Meaning of a qualified business person and qualified technical person, of the *Electrical Safety Regulation 2013*.

The changes

Higher competency requirements

The changes directly address KPMG recommendations by imposing higher business and technical competencies on qualified persons for Queensland electrical contractor licences. New QTPs and QBPs will be required to complete units of training from the Certificate IV in Electrotechnology - Electrical contracting. New QTPs will also need to demonstrate currency in verification and testing skills by completing 'refresher training' in those skills.

QTP work licence requirements

By 1 January 2019 a QTP nominee will need to have held their electrical mechanic work licence for at least two years (currently 12 months).

QBP business experience

By 1 January 2019 QBP nominees will no longer be eligible solely on the current basis of five years business experience. Once implemented, the higher competency requirements will apply to all QBP nominees. Business experience will only count as supplementary evidence of business competence.

Until 31 December 2018 a range of transitional provisions will apply to assist both industry and registered training organisations (RTOs) to adapt to the new requirements. The transitional provisions only apply to persons who can demonstrate that they would have been eligible under a number of the current eligibility pathways.

The ESO met with a range of industry stakeholders to explain the new requirements and transitional provisions. The ESO also published [eSafe articles](#) and [factsheets](#) to support the transition to the new requirements.

Recommendation 3

A further issue is whether, if it can be proven, that the individual licensed electrician responsible for a workplace incident, resulting in death or grievous bodily harm to an individual, should have their licence immediately suspended. Of course any suspension has very serious employment and financial implications for the individual, but that must be balanced with the fact that a person has suffered very serious injury or death. I can certainly see reasons for the immediate suspension of the individual's electricians' licence such as in the circumstances that occurred in Mr Garrels' case in the light of the serious defects and faults found later on the site. It really does perplex me as to how Mr Day could continue working on that site without the direct supervision of a senior, competent electrician, on the site, and he then repeats precisely the same error that led to Mr Garrels' death. There are important issues to be considered, and be balanced, before implementation of any such reform. That would be best considered by the government with appropriate input from all interested industry parties. Accordingly I recommend that the government consider and undertake such a review.

Response and action: the recommendation is implemented.

Responsible agency: Department of Education (Office of Industrial Relations).

On 10 March 2016 the Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs responded:

The Office of Industrial Relations Queensland (OIR) prepared a paper for further consideration. The paper identifies practices in other jurisdictions, with NSW and the ACT identified as jurisdictions that have legislative powers to suspend licences.

Whilst it is acknowledged there is scope for improving the timeliness of investigations of electrical safety incidents, the OIR considers there are fundamental issues of procedural fairness that could not be ignored with regard to arbitrarily suspending and individual's licence.

In 2016, the OIR's Organisational Response Governance Group will be presented with a draft response to consider an appropriate agency response to the coroner's recommendation.

On 23 December 2016 the Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs responded:

OIR has prepared an additional discussion paper for further consideration. In Queensland, the Electrical Licencing Committee (the committee) is the only body authorised under the *Electrical Safety Act 2002* (ES Act) to suspend, cancel or amend an electrical licence. OIR is preparing a brief seeking the minister's approval to consult with the commissioner, the Electrical Safety Board and the committee on a proposal to amend the ES Act to provide the committee with powers to immediately suspend or impose conditions on electrical work licences and electrical contractor licences in certain circumstances.

On 6 April 2017 the Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural affairs responded:

The OIR is preparing an additional discussion paper to be present further information to the Electrical Safety Board for consideration at the board's next meeting.

On 23 January 2018 the Minister for Education and Minister for Industrial Relations responded:

Changes effective 31 August 2017 to the *Electrical Safety Act 2002* increased enforcement and disciplinary powers of the Electrical Safety Office including '*Immediate suspension of work licences*' inserted as Part 9, Division 4 of the *Electrical Safety Act 2002*.

Recommendation 4

The electrical safety protection notice, in my view, needs to be changed. Clearly if the inspector 'reasonably believes circumstances causing an immediate electrical risk to persons or property have arisen' then they need to immediately arrange to have power to the site disconnected until the safety concerns are addressed. Whilst this may seem elementary to a competent inspector there is no harm in the form containing a prompt, immediately next to that box 'ticked' that power must be immediately disconnected and will only be reconnected when the safety issues are addressed. Cutting power to the site has the effect that the electrical safety concern will receive immediate attention. I recommend that the department review their form for this within two months.

Response and action: the recommendation is implemented.

Responsible agency: Department of Education (Office of Industrial Relations).

On 10 March 2016 the Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs responded:

The Office of Industrial Relations (OIR) Queensland reviewed the content/detail of the electrical safety protection notice as well the way the form was applied.

The OIR will consider a progress report on the review in 2016 with a view to implementing any changes prior to 30 June 2016.

On 23 December 2016 the Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs responded:

OIR is continuing with its review of the content/detail of the Electrical Safety Protection Notice (ESPN). The review is to be provided to OIR Policy for feedback on recommendations prior to implementing any updates.

On 6 April 2017 the Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural affairs responded:

The OIR reviewed the ESPN and determined the provided for immediate disconnection of power in certain circumstances should be made more explicit in the notice.

A draft final wording of the ESPN was reviewed and minor amendments to the wording will be made.

In conjunction with the alteration of the ESPN, inspectors will undergo competency training relevant to using their powers to issue an ESPN.

On 23 January 2018 the Minister for Education and Minister for Industrial Relations responded:

The updated ESPN was drafted and prompts inspectors to immediately disconnect power in appropriate circumstances. The improved ESPN books will be printed and the electronic versions uploaded to the database for use by inspectors.

On 15 August 2018 the Minister for Education and Minister for Industrial Relations responded:

The new ESPN books were printed and distributed in August 2017 to all regional offices and an electronic version uploaded to the electronic database for use by inspectors in February 2018.

Recommendation 5

If the law does not already provide that the principal contractor and building contractor are obliged to notify the Queensland Building and Construction Commission of any death or serious injury on site, then the law needs to be amended to impose this obligation on them.

Response and action: the recommendation is implemented.

Responsible agency: Department of Housing and Public Works (lead) supported by the Department of Education.

On 23 December 2016 the Minister for Housing and Public Works and the Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs responded:

In consultation with the Department of Housing and Public Works (DHPW), the Office of Industrial Relations (OIR) is reviewing its current memorandum of understanding (MOU) with the Queensland Building and Construction Commission (QBCC) under which OIR notifies the QBCC of any incident that results in a fatality at a workplace or as a result of a work activity, or any prosecution action where the injured person or relevant duty holder is reasonably believed to be a licence holder under legislation administered by the QBCC. The MOU is being updated with a view to strengthening the notification procedures.

Additionally, the QBCC now receives the OIR significant incident notification which is used to distribute basic information on a serious incident or fatality within 12-24 hours of the incident occurring. This allows the QBCC to undertake some preliminary research on the location prior to further information being available. The QBCC had not previously received these notifications.

The issue of whether or not amendments to the *Queensland Building and Construction Commission Act 1991* are required to address the coroner's recommendation is still under consideration.

On 16 November 2017 the Minister for Housing and Public Works and the Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs responded:

On 25 May 2017, the Minister for Housing and Public Works and Minister for Sport introduced the *Building and Construction Legislation (Non-conforming Building Products – Chain of Responsibility and Other Matters) Amendment Bill 2017* (the Bill) into the Queensland Legislative Assembly. The Bill contained several measures to help improve work health and safety on building and construction sites, relevant to recommendation 5.

On 24 August 2017 the Bill was passed in Parliament and received Royal Assent on 31 August 2017. It commenced on 1 November 2017.

Amendments to the QBCC Act which are relevant to recommendation 5 are:

- requiring QBCC licensees to notify the QBCC in the fastest way possible about prescribed safety matters that occur on a building site
- establishing a system of mandatory reporting by the QBCC to prescribed health and safety regulators about work health and safety issues
- allowing the QBCC to enter into information sharing arrangements with relevant agencies where the shared information helps the QBCC or the relevant agency perform its functions, or disclosure is reasonably necessary for protecting the health or safety of a person or property
- expanding the grounds for taking disciplinary action (including suspension and cancellation of a licence) by allowing the QBCC to consider whether a licensee has contravened (or been convicted of an offence under) a relevant Act in relation to building work carried out under the licence, or whether building work or other work on a building site under the licensee's control may have caused the death of, or grievous bodily harm to, a person or involved a serious risk to the health or safety of a person.

On 24 August 2017, the previously reported update to the MOU between the QBCC and OIR, which will strengthen notification procedures, was finalised.

HPW is working with OIR and QBCC to review the updated MOU to ensure it meets the revised reporting requirements contained within the Bill.

It is considered that the amendments to the QBCC Act, in addition to the updated MOU, will address the issues raised in the coroner's recommendation.