

# **BUILDING CONTRACTS & REGULATION QUEENSLAND**

## **SUPPLEMENT FIVE – MAY 2017**

### **CHAPTER TWELVE – Paragraph [12.28]**

[12.28.1] Recently the Queensland Court of Appeal<sup>1</sup> reaffirmed its long standing approach to the rights of the Queensland Building and Construction Commission to recover payments made by it under the statutory insurance scheme. The Court emphasised that while, in some circumstances, leading evidence that the amounts paid by the Commission were so unreasonably excessive can lead to the defence that the payments made cannot be classified as having been made properly under the scheme, maybe at least sufficient to resist an application for summary judgment, more than mere assertion of this is required. Where the evidence before the Court was that the Commission had called for the cost of rectification to be the subject of competitive tender, and these were consistent (if not identical) with the amounts eventually paid and sought to be recovered subsequently, that was sufficient to satisfy the Commission's onus for summary recovery. This was so even where the defendant led evidence from a quantity surveyor giving a different opinion as to what should be those costs.

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<sup>1</sup> *Queensland Building and Construction Commission v Turcinovic* [2017] QCA 77.