

Building Boost Grant Amendment Bill 2012

Report No. 10

Finance and Administration Committee

February 2012

FINANCE AND ADMINISTRATION COMMITTEE

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1. Introduction

1.1 Role of the Committee

The Finance and Administration Committee (the Committee) is a portfolio committee established by the *Parliament of Queensland Act 2001* and the Standing Orders of the Legislative Assembly on 16 June 2011.¹ The Committee's primary areas of responsibility are:

- Premier and Cabinet;
- Reconstruction;
- Treasury;
- Finance;
- Arts; and
- Public Works and IT.

Section 93(1) of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for examining each Bill and item of subordinate legislation in its portfolio area to consider –

- a) the policy to be given effect by the legislation;
- b) the application of fundamental legislative principles to the legislation; and
- c) for subordinate legislation – its lawfulness.

Standing Order 132(1) provides that the Committee shall:

- a) determine whether to recommend that the Bill be passed;
- b) may recommend amendments to the Bill; and
- c) consider the application of fundamental legislative principles contained in Part 2 of the *Legislative Standards Act 1992* to the Bill and compliance with Part 4 of the *Legislative Standards Act 1992* regarding explanatory notes.

Standing Order 132(2) provides that a report by a portfolio committee on a Bill is to indicate the committee's determinations on the matters set out in Standing Order 132(1).

Standing Order 133 provides that a portfolio committee to which a Bill is referred may examine the Bill by any of the following methods:

- a) calling for and receiving submissions about a Bill;
- b) holding hearings and taking evidence from witnesses;
- c) engaging expert or technical assistance and advice; and
- d) seeking the opinion of other committees in accordance with Standing Order 135.

1.2 The Committee's examination of the Bill

The *Building Boost Amendment Bill 2012* was referred to the Committee on 14 February 2012. The Committee is required to report to the Legislative Assembly by 20 April 2012. In view of the proposed time frames of the bill the Committee has agreed to report urgently on this bill.

¹ *Parliament of Queensland Act 2001*, s.88 and Standing Order 194

The Committee considered expert advice on the Bill's conformance with fundamental legislative principles listed in Section 4 of the *Legislative Standards Act 1992*.

1.3 Policy objectives of the *Building Boost Amendment Bill 2012*

The objective of the Bill is to extend the closing date for applications for the Queensland Building Boost Grant scheme by three months from 1 February 2012 to 1 May 2012.

Pursuant to Standing Order 132(1)(a), the Committee recommends that the Bill be passed.

Recommendation

The Committee recommends that the *Building Boost Grant Amendment Bill 2012* be passed.

2. Examination of the *Building Boost Grant Amendment Bill 2012*

2.1 Background

The Building Boost Grant was initially available for eligible transactions undertaken on or after 1 August 2011 and before 1 February 2012. The grant was initially paid by the Commissioner of State Revenue under an administrative arrangement. The *Building Boost Grant Act 2011* received Royal Assent on 4 November 2011 and had retrospective effect to 1 August 2011.

The 2011-12 Mid-Year Fiscal and Economic Review (MYFER), which was released on 13 January 2012, announced that the eligibility period for the grant will be extended by three months.

The Committee considered the *Building Boost Grant Act 2011* prior to the passage of the Bill in October 2011. Refer Finance and Administration Committee Report No 4.

2.2 Commencement

Clause 2 amends the *Building Boost Grant Act 2011* so that the clauses of the bill are taken to have commenced on 1 February 2012. The other clauses of the bill amend the various dates contained within the Act to reflect this revised date.

The Commissioner will administer the extended grant from 1 February 2012 under an administrative arrangement, pending passage of this Bill, as occurred with the original Act.

It should be noted that the bill adds an additional section to the Act (proposed s120) that states:

To remove any doubt, it is declared that section 14(f)(i) as in force on and from 1 February 2012 applies, and is taken to always have applied, to a home purchase contract made on or after 1 August 2011 and before 1 May 2012.

The Explanatory Notes state that this clause clarifies that the new timeframes apply for a home purchase contract made on or after 1 August 2011 and before 1 May 2012.

2.3 Consultation

The explanatory notes state that an extension of the building boost grant was sought by relevant industry bodies prior to the 2011-12 MYFER. The bill gives effect to the policy announcement made in the 2011-12 MYFER.²

² Building Boost Grant Amendment Bill 2012, Explanatory Notes: 4

The Property Council of Australia welcomed the announcement of a three month extension to the *Queensland Building Boost* and states that building approvals in Queensland are starting to show signs of an upward trend, acknowledging that the continued stimulus will assist the depressed building and development sector in its recovery.³

Ms Kathy Mac Dermott, Executive Director of the Property Council of Australia said:

*The industry remains in a critical condition that necessitates government action, leading and private sector building approvals for dwellings rose in October and November respectively, however these early signs of improvement should not be mistaken for a sustained recovery. While the Queensland building Boost has played a part in generating this increased level of activity across the industry, private sector house sales and approvals remain well below their long-term historic averages. Additionally, the growing prevalence of contract cancellations, as a result of current bank valuations practices, is preventing the Queensland building Boost from achieving its full potential. In the medium term, the government must remove stamp duty for off-the-plan sales to restore Queensland's competitiveness, make housing more affordable and promote investment in out state.*⁴

The Urban Development Institute of Australia Queensland (UDIA) welcomes the announcement to extend the Queensland Building Boost by three months to 30 April 2012. Chief Executive Mr Brian Stewart said the industry welcomed the boost when it was announced in the 2011-12 Budget as there was a clear need for something to be done to assist what was, and still is, a depressed sector.⁵

Mr Stewart stated:

*Whilst we are certain the Building Boost has played an important part in generating increased levels of activity across the industry, this improvement in activity has only started to occur in the last couple of months of 2011 and activity levels remain well below long-term averages. An extension to the boost was a sensible decision that will ensure the delicate industry recovery process continues.*⁶

News of the extension to the building boost has been welcomed on the Gold Coast, with Mirvac agreeing to match the incentive on some properties for the extra time. Mirvac Chief Executive Officer, Mr Matthew Wallace said buyers would be able to pick up a discount of up to \$27,000 on homes built at Gainsborough Greens and Ephraim Island apartments sold for less than \$600,000 until the boost ran out. We've decided to match the Government's extension of the boost grant by continuing to the additional \$10,000 Mirvac grant for purchases'.⁷

The Master Builders Association (MBA) has welcomed the decision to extend the deadline for the grant. MBA spokesperson, Mr Graham Cuthbert, said while building approvals have risen, the industry is still operating at 50 percent capacity. He said that it is clear that the building boost was starting to get traction and this three-month extension is very welcome.⁸

³ Industry welcomes extension to the Building Boost, at www.propertyoz.com.au/qld/Article/NewsDetail.aspx?p=16&id=5215 accessed 14/02/2012

⁴ Industry welcomes extension to the Building Boost, at www.propertyoz.com.au/qld/Article/NewsDetail.aspx?p=16&id=5215 accessed 14/02/2012

⁵ UDIA (QLD) Welcomes Boost Extension, at www.udiaqld.com.au/?pageid=756 accessed 14/02/2012

⁶ UDIA (QLD) Welcomes Boost Extension, at www.udiaqld.com.au/?pageid=756 accessed 14/02/2012

⁷ Building boost extension welcomed, www.goldcoast.com.au/article/2012/01/14/382115 accessed 14/02/2012

⁸ Building boost grant gets 3-month extension, www.abc.net.au/news/2012-01-13/building-boost-grant-gets-3-month-extions accessed 14/02/2012

North Queensland MBA manager, Ms Jo Lynch, said that building activity is down by about 24 percent since November 2010, but acknowledges that a number of consumers are likely to take advantage of the program.⁹

The Treasurer advised that the Housing Institute of Australia (HIA), the Property Council of Australia, the UDIA and the MBA all called for an extension to the boost. A jointly signed letter from HIA, the Property Council of Australia, the MBA and UDIA, received by government, stated that the Queensland Building Boost has played an important part in generating this increased level of activity across the industry.¹⁰

2.4 Grant time frames

As part of its consideration of the *Building Boost Grant Act 2011*, the Committee investigated the issue of the grant time frames.

The Committee noted at the time that the initial six month period was selected to provide a boost during the current calendar year on the basis that Queensland Treasury was anticipating that into 2012 there would be a broader recovery of the industry. The Committee was advised that forecasts were for growth in the housing sector towards the middle onwards of 2012 and the boost was targeted to bring forward activity.¹¹

The State Budget 2011-12 MYFER provided that dwelling investment outlook softened since the Budget, when investment was forecast to partly recover by 5 ¼ percent in 2011-12. Civilian population growth slowed to 11,200 persons in the September quarter 2011, dampening owner occupier demand. Lower demand has seen the ABS measure of Brisbane house prices fall 5.2 percent over the past year. While this benefits housing affordability, weaker prospects for capital gains and greater uncertainty since the escalation in the Euro debt crisis have weighed on investor demand since Budget, as has ongoing tight credit conditions.¹²

These negative effects are expected to be partly offset by the positive impact from recent cuts in official interest rates and the Queensland Government's *Queensland Building Boost* grant, which is to be extended until 30 April 2012. With the surge in business investment expected to generate higher migration levels and stronger employment growth next year, the expected recovery in dwelling investment is forecast to strengthen in 2012-13.¹³

The original stimulus package is still well under its \$140 million budget but the Government says it is gaining traction. The Treasurer noted that the three-month extension will not cost more than the \$140 million originally allocated for the grant in the budget and said that the grant has been extended in response to industry's request.¹⁴

The Treasurer said Treasury considered that the initial budget allocation of \$140 million would cater for the time extension. The Treasurer commented that *'so far we've seen over 3,600 applications for the Building Boost. There is obviously room within the budget allocation to accommodate the uptake in interest we expect over the next three months. Every housing stimulus package always has a large increase in interest at the back end of the time period, with many applications coming in after the end date'*.¹⁵

⁹ *Building boost grant gets 3-month extension*, www.abc.net.au/news/2012-01-13/building-boost-grant-gets-3-month-extensions accessed 14/02/2012

¹⁰ Hansard, Introduction and Referral to Finance and Administration Committee, 14 February 2012: 44

¹¹ Finance and Administration Committee, *Report No 4 – Building Boost Grant Bill 2011*, October 2011: 7

¹² State Budget Mid Year Fiscal and Economic Review 2011-12: 7

¹³ State Budget Mid Year Fiscal and Economic Review 2011-12: 7

¹⁴ *Building boost grant gets 3-month extension*, www.abc.net.au/news/2012-01-13/building-boost-grant-gets-3-month-extensions accessed 14/02/2012

¹⁵ Ministerial Media Statements Friday, January 13, 2012, *Bligh's Building Boost extended for three months: 2*

The Building Boost began on 1 August 2011. The following table represents the number of applications as at January 2012:

Building Boost applications¹⁶	
Date	Applications received (cumulative total)
26 August 2011	100
30 September 2011	569
28 October 2011	1,174
25 November 2011	2,038
30 December 2011	3,221
11 January 2012	3,728
10 February 2012	5,481

Queensland Treasury has advised the Committee that as at 10 February 2012, 3,511 applications have been approved.

3. Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* states that ‘fundamental legislative principles’ (FLP) are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of Parliament.

The Committee examined the Bill’s consistency with FLPs. This section of the report discusses potential breaches of FLPs identified during the Committee’s examination of the Bill and includes any reasons or justifications contained in the explanatory notes and provided by the department.

3.1 Rights and liberties – retrospectivity

Per clause 2 of the bill, these provisions are (retrospectively) taken to have commenced on 1 February 2012: clauses (sections) 4(1) to (3) and clauses (sections) 5 to 7 of the *Building Boost Grant Amendment Act 2012*.

Clauses 4(1) to (3) amend section 14 (What is an *eligible home purchase contract*); clause 5 amends section 16 (What is an *eligible home building contract*); clause 6 amends section 17 (What is an *eligible owner-builder arrangement*); and clause 7 amends section 29 (Prospective applicant must give notice of intention to apply for grant), variously extending the dates set in those sections by a further three month period.

Clause 4 amends the timeframes in section 14 for determining what is an *eligible home purchase contract*. The contract must, among other things, have a transaction commencement day (being the day the contract is made) on or after 1 August 2011 and before 1 May 2012. For a contract for the purchase of a new home on a proposed lot on an unregistered plan of subdivision, the building work must be started before 1 May 2013 and be completed before 1 May 2015.

¹⁶ Ministerial Media Statements Friday, January 13, 2012, *Bligh’s Building Boost extended for three months: 2*

Clause 5 amends the timeframe in section 16 that determines what is an *eligible home building contract*. The contract must, among other things, have a transaction commencement day (the day the contract is made) on or after 1 August 2011 and before 1 May 2012.

Clause 6 amends the timeframe in section 17 for determining what is an *eligible owner-builder arrangement*. The arrangement must, among other things, have a transaction commencement day (being the day the laying of the foundations starts) on or after 1 August 2011 and before 1 May 2012.

Clause 7 amends the timeframe in section 29 to require an applicant for the building boost grant to lodge a notice of intention to apply for the grant by 1 September 2012, or a later day allowed by the Commissioner.

This bill does not appear to adversely affect rights and liberties, or impose obligations, retrospectively in breach of fundamental legislative principles, because although it will operate retrospectively in relation to a number of fundamental clauses, its retrospective operation confers a benefit to eligible recipients (extending the eligibility periods for receiving the building boost) and does not retrospectively create offences.

In respect of the Bill's retrospective operation, the Explanatory Notes state:

There was insufficient time to progress the Bill before the eligibility period under the extended grant commenced. Therefore, similar to the arrangements that applied on commencement of the building boost grant scheme on 1 August 2011, implementation of an administrative arrangement was necessary to ensure the extended grant could be administered from 1 February 2012. The Bill will therefore have retrospective effect to 1 February 2012 to cover the period of the administrative arrangement.

The effect of the retrospectivity is beneficial to the community in that the Bill provides the legislative authority for the payment of the \$10,000 building boost grant after 31 January 2012 for eligible transactions with a commencement day on or after 1 February 2012 and specifies the new timeframes that are relevant for the extended grant. All other conditions and requirements for the grant remain unchanged.

It should also be noted that the extended operation of this scheme will, of necessity, mean that many of the fundamental legislative principles issues (excluding those related to the initial commencement of the grant) previously identified in respect of the *Building Boost Grant Act 2011* will continue to apply to the scheme for the duration of its extension, including those issues identified in respect of offences etc.

3.2 Explanatory Notes

Part 4 of the *Legislative Standards Act 1992* relates to explanatory notes. Subsection 22(1) states that when introducing a Bill in the Legislative Assembly, a member must circulate to members an explanatory note for the Bill. Section 23 requires an explanatory note for a Bill to be in clear and precise language and to include the Bill's short title and a brief statement providing certain information.

Explanatory notes were tabled with the introduction of the Bill. The notes are fairly detailed and contain the information required by section 23 and a reasonable level of background information and commentary to facilitate understanding of the Bill's aims and genesis.