



Brookfield Multiplex Constructions Pty Ltd
ACN 107 007 527
Level 11, 324 Queen Street, Brisbane QLD 4000
GPO Box 5213, Brisbane QLD 4001

Tel: +61 7 3907 4000
Fax: +61 7 3220 1177
brookfieldmultiplex.com

0019.12

21 September 2012

The Transport, Housing and Local Government Committee of the Queensland Parliament
thlhc@parliament.qld.gov.au

To Whom it May Concern

Inquiry into the operation and performance of the QLD Building Services Authority

Context

On Friday 3rd August 2012, the Minister for Housing and Public Works, Dr Bruce Flegg announced that the Transport, Housing and Local Government Committee of the Legislative Assembly would undertake a review of the Queensland Building Services Authority (BSA). The inquiry set terms of reference of:

- Achieving balance between the competing interests of building contractors and consumers including remedies for defective work
- Regulatory reform and reduction that may lower the cost of building a home
- The governance arrangements of QBSA
- The Queensland Home Warranty Scheme and its Protections
- Current licensing requirements and
- Industry involvement in the setting of licensing standards and procedures.

Brookfield Multiplex is pleased to provide its submission to the inquiry.

Brookfield Multiplex

Brookfield Multiplex is a global contracting and development management company that designs, builds and maintains property and infrastructure assets. It operates across 4 continents in 9 countries and has completed over 750 projects worth over \$50 billion. Its current workbook is in excess of \$10 billion.

Brookfield Multiplex has been operating in Queensland for more than 20 years. It has completed almost 80 projects since its first venture into the State with the iconic Movie World in 1989 and more recently completed the award-winning \$700 million Hilton at Surfers Paradise and the \$100 million Wintergarden redevelopment in Queen Street Mall. Other high-profile projects include the \$1.3 billion Portside Wharf precinct, the Gold Coast Convention & Exhibition Centre and Suncorp Stadium in Milton.

Its largest current project is the \$300 million Indooroopilly Shopping Centre refurbishment which employs 350 people on site and will add 30,000 square metres of vibrant new retail space to the existing centre.

Brookfield Multiplex's interaction with the Queensland Building Services Authority (BSA) is largely limited to the licensing of the business and its staff to undertake operations in Queensland and to a lesser extent the dispute resolution services that it offers.

Brookfield Multiplex is of the view that the BSA plays an effective role as a building industry regulator in our sphere of operations within the industry. This is not to say that improvements cannot be made. Brookfield Multiplex is pleased to respond to the terms of reference as follows:

Achieving balance between the competing interests of building contractors and consumers including remedies for defective work

Brookfield Multiplex is a large and proficient commercial builder with mature systems and procedures appropriate to a competent and experienced tier one builder. As a large and robust commercial contractor, we are accountable to our shareholders and the community for the manner in which we undertake our business. The extent of management oversight supported by rigid systems and procedures may therefore lead to an improved interface with our client base compared to that which may be experienced in the domestic residential market where project sizes are significantly smaller and both clients and contractors may be less sophisticated in their contractual dealings.

Disputes are often caused by a breakdown in the flow of funds which may be originated at the client / owner / developer level. Where payments are delayed or stopped by clients, there is generally a rapid deterioration in relationships.

Our client base of developers and property owners are not licensed or regulated in their business dealings in the same manner that major contractors and sub-contractors are. There appears to be little to no regulation of any individual who calls themselves a developer, whereas there is significant regulation of contractors and builders.

Whilst Brookfield Multiplex recognises that there are some unscrupulous contractors who take advantage of sub-contractors which promotes their financial downfall, in most cases, sub-contractor insolvencies are directly linked with bad financial/cash flow management and building practices. Brookfield Multiplex has built strong relationships with its sub-contractors over time through partnering and timely payments.

We would be concerned by any greater regulation designed to capture less mature builders which penalises those like Brookfield Multiplex who consistently meet a high standard of delivery. We would also be concerned by any concept of a regulated defect retention fund given its administrative demands and ultimate cost to business.

As a result of the maturity of our systems, Brookfield Multiplex does not rely on the BSA to intervene in disputes with either our clients or our subcontractors. We do however recognise the rights of consumers to request the assistance of the BSA and welcome that intervention should the BSA deem it appropriate within the requirements of the Act.

Brookfield Multiplex has some limited experience with the BSA undertaking defect inspections following application from consumers in high rise residential buildings. Our experience has seen a balanced, fair and effective response from the BSA representing the interests of both the consumer and the builder and resulting in a timely resolution of the matter. Brookfield Multiplex is however concerned that a Direction to Rectify a defect is generally issued by the BSA directly on the Principal Contractor and not on the licensed subcontractor who actually undertook the works and who is most likely to be responsible for the defect. We advocate for greater subcontractor accountability in this regard and suggest a Direction to Rectify should also be extended to the subcontractor responsible.

The Queensland Home Warranty Scheme and its Protections

Brookfield Multiplex does not operate in the domestic residential building space (other than large multi-story apartment buildings over three stories in height). It therefore does not fall within the scope of the residential construction insurance scheme and we are therefore unable to provide advice on the adequacy or operations of the existing scheme.

We do however caution the inquiry regarding reform that may mirror the NSW experience as we understand that the NSW scheme is subject to its own inquiry. To this extent Brookfield Multiplex has provided significant information to the NSW inquiry. If interested Brookfield Multiplex would be more than happy to forward a copy of this submission.

Current licensing requirements

Brookfield Multiplex has two entities licensed for operations in Queensland, driven primarily by the differing financial audit requirements of the BSA compared to that of the Queensland Governments prequalification requirements. This irregularity is of some concern to us.

Brookfield Multiplex Constructions Pty Ltd is licensed under the standard BSA licensing regulations and undertakes construction activities for our private clients. Due to the Queensland Governments prequalification requirements to be able to undertake work for the State, this entity is not eligible to be pre-qualified as a result of our corporate structure of intercompany loans.

To be prequalified to undertake government work within the state, the Queensland Government has required Brookfield Multiplex to deposit and maintain \$25,000,000.00 in a bank account under a separate entity, Brookfield Multiplex Constructions Qld Pty Ltd. This is a significant impost on our business operations and one which does not exist in any other state in which we undertake activities in Australia. This is a direct example of business being more difficult to undertake in Queensland. In addition, given that the legislation is so prescriptive, it makes a multi disciplinary organisation such as ours non compliant with the technical requirements. We also understand that a number of our competitors who are foreign owned, or multi disciplinary also find the regulations difficult to meet without creating separate entities.

Of concern is that the Queensland Government prequalification requirements specify a higher standard of financial audit than the BSA's licensing requirements. For ease and efficiency of operations and the provision of adequate consumer protection, we suggest that the financial standards the subject of licensing and prequalification should be the same across the industry. The common denominator authority over all builders is the BSA.

Industry involvement in the setting of licensing standards and procedures

The Queensland licensing system is a broad based system spread over a number of entities representing various professional bodies. We have witnessed a more streamlined approach in other states that have moved to a single licensing regulator overseen by a board of industry participants. In our opinion, this single licensing regulator model has merit.

In Victoria for example, the building control system is overseen by a single Building Commission, supported by four statutory bodies to provide industry leadership and regulate building quality. The four associated bodies supporting the Building Commission are the Building Advisory Council, Building Appeals Board, Building Practitioners Board and the Building Regulations Advisory Committee.

The Building Practitioners Board (BPB) meets on a monthly basis to make decisions on registration of building practitioners and matters relating to the conduct of practitioners. The BPB also makes recommendations to the Minister about qualifications for registrations, and issues with owner-builder certificates of consent.

We refer this model to the inquiry as one worthy of further consideration in the Queensland context.

BSA Organisational Review Project

Brookfield Multiplex has considered the KPMG review into the BSA of June 2011. We support many of the recommendations contained therein. There can be little doubt that in the evolution of the regulatory framework associated with the BSA further efficiency gains can be identified and improvements made as the authority strives for continual improvement.

The recommendation to create a centralised authority to oversee the building control system has merit and is strongly endorsed by our business.

Brookfield Multiplex is pleased to provide this written response to the Parliamentary Inquiry into the BSA.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Rod McDonald', with a small dot at the end.

Rod McDonald
Regional Managing Director