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# **The Queensland Building Services Authority and Other Legislation Amendment Bill 2002: Maintaining Standards within the Building Industry**

*The Queensland Building Services Authority and Other Legislation Amendment Bill 2002 contains provisions aimed at maintaining consumer confidence in the home building sector of the Queensland building industry by ensuring that builders who transgress their statutory obligations are held accountable for their actions.*

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## **1 INTRODUCTION**

The Queensland Building Services Authority and Other Legislation Amendment Bill 2002 was introduced into the Legislative Assembly on 29 October 2002 by Hon RE Schwarten MP, Minister for Public Works and Minister for Housing. The objective of the amendment bill is to provide for mechanisms aimed at:

- Increasing the level of accountability within the building industry;
- Providing greater consumer protection; and
- Improving compliance with industry standards with respect to contractual and payment obligations.<sup>1</sup>

The Premier's Media Statement announcing that the Bill would be introduced into the Parliament is included as **Appendix A** of this Research Brief.

## **2 THE CONTRIBUTION OF THE BUILDING INDUSTRY TO QUEENSLAND'S ECONOMY**

The strength of the building industry in Queensland is regarded as a significant indicator of the health of the Queensland economy.<sup>2</sup>

In August 1998 it was estimated that 130,500 persons were employed in the construction industry in Queensland, representing 8.14% of the total number of 1.6 million people who were employed in Queensland at that time. By May 2000 the construction industry in Queensland was directly responsible for the employment of 144,000 persons. Of the 144,000, 123,200 were males which represented 13% of the total number of males employed in the workforce whilst 21,200 were females which represented 2.9% of the total number of females employed in the workforce.<sup>3</sup>

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<sup>1</sup> Queensland Building Services Authority and Other Legislation Amendment Bill 2002, *Explanatory Notes*, p 1.

<sup>2</sup> Australian Bureau of Statistics, *Queensland Year Book 2001*, p 283.

<sup>3</sup> Australian Bureau of Statistics, *Queensland Year Book 2001*, p 77.

## 2.1 A SNAPSHOT OF RESIDENTIAL BUILDING ACTIVITY IN QUEENSLAND

The level of ownership underscores the importance of home ownership to Queenslanders. However, over time there has been a downward trend in the level of home ownership/purchase from 67.7% in 1986 to 63.5% in 1996.

At a national level, the recent introduction of the first home buyers grant by the Commonwealth for the construction of new dwellings delivered increased demand to the residential building industry. In Queensland a peak of 53,085 new residential building commencements was recorded in 1993/1994. Since that time, the trend has been downward which is indicative of the downward trend in home ownership mentioned above. **Table 1** below indicates the number of new residential building commencements, their estimated total value and the average cost per construction.

**Table 1**

### **New Residential Building Commencements (New, Alterations and Additions) – Queensland 1992/1993 to 2001/2002<sup>4</sup>**

<b>Year</b>	<b>Number of Constructions</b>	<b>Total Value (\$ billion)</b>	<b>Average Value per Construction</b>
1992/1993	46 985	3.8	\$80 876
1993/1994	53 085	4.4	\$82 885
1994/1995	46 160	4.1	\$88 821
1995/1996	31 342	3.2	\$102 099
1996/1997	32 410	3.4	\$104 905
1997/1998	35 418	3.9	\$110 113
1998/1999	32 468	3.7	\$113 958
1999/2000	34 577	4.4	\$127 252
2000/2001	22 666	3.2	\$141 180
2001/2002	35 095	5.5	\$156 717

Whilst the average cost figure in **Table 1** does not specifically reflect the rising cost of new housing construction for consumers, it is indicative of the upward trend that is being

<sup>4</sup> Australian Bureau of Statistics, *Building Activity Australia*. Various Years.

experienced. For instance, between 1997 and 1999, the number of new dwelling commencements fell by 2.3%, whilst the level of finance required to fund the stock of new commencements rose by 7.4%.<sup>5</sup>

Housing affordability is measured by the relationship between house prices and average earnings. In the late 1980s the average house price was 6.5 times annual average earnings but, in 2002, house prices represent almost 8 times annual average earnings.<sup>6</sup> Despite this decline in affordability, figures from the Reserve Bank of Australia indicate that 60% of the wealth of Australian households is in housing.<sup>7</sup>

Nationally, over the last 5 years, the stock of loans outstanding for housing grew at an average annual rate of 14.5%. This has resulted in Australian banks being as equally exposed through loans to the housing sector as they are to the business sector.<sup>8</sup>

In 1999 the Queensland population grew by a further 55,780 whilst the level of growth in 2000 was 60,890. This growth figure for 2000 was composed of 15,500 overseas immigration, 20,500 interstate migration and 24,890 natural increase. (Population projections for Queensland Regions to 2021 are contained in **Appendix B** of this Research Brief.)

Stronger population growth combined with lower interest rates, the first home owners grant scheme and consumer confidence all combined to drive new housing starts higher. For 2001/2002, new starts were forecast to rise by 17% over the 1999/2000 level and, for 2002/2003, a further 9% to a total of 29,000. If this figure for 2002/2003 is reached, it will eclipse the former higher figure of 27,000 new starts in 1994/1995.<sup>9</sup>

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<sup>5</sup> Australian Bureau of Statistics, *Queensland Year Book 2001*, p 283.

<sup>6</sup> Michael Carman, 'An Unyielding Commitment ? Property investment in 1997 and 2002', *Australian Property Investor*, October/November 2002, pp 20-22, 24-26, at p 26.

<sup>7</sup> Cherelle Murphy, 'Deeper in debt, but households wealthier', *Australian Financial Review*, 12 November 2002, p 8.

<sup>8</sup> Reserve Bank of Australia, 'Recent Developments in Housing: Prices, Finance and Investor Attitudes'. Reprinted in *REIQ Journal*, October 2002, pp 7-11, p 9.

<sup>9</sup> 'Outlook Queensland quarterly building industry review', *Queensland Building News*, October 2001, p 16; Peter Osterhage, 'New dwelling approvals per half year', *Master Builder Magazine*, June/July 2002, p 16.

## 2.2 GROWTH FORECASTS FOR DWELLING CONSTRUCTION IN QUEENSLAND

The Housing Industry Association (HIA) sees the industry outlook as being 'robust' with there being many positive factors about the outlook for residential building in Queensland:

- Residential building approvals have been very steady at a high level for over 12 months, averaging around 3,200 per month.
- There is no over-building of residential property as, in the mid 1990s, there is a need to build around 32,000 homes a year to accommodate the State's expanding population.
- Alterations and additions to dwellings are worth \$3 billion a year to the Queensland economy and still growing.
- History suggests that periods of rapid property price growth in the southern States will be followed by further increases in migration into Queensland.
- The poor performance of the share market as an alternate avenue for investment has made residential investment an attractive alternative.
- The State's economy is performing well with falling unemployment, jobs growth, strength in business investment and inflation under control.

Overall, the HIA expects the demand for new housing to ease only modestly in 2002/2003 when compared with the roller-coaster ride the industry has experienced in recent years.<sup>10</sup>

The Association's chief economist said that the sector of the industry that is most at risk of a correction or downturn is the higher density inner-city apartment market which nationally accounts for approximately 10% of the housing stock. For the remaining 90% of the housing stock, a sharp downturn is a much lower risk.

HIA forecasts that new dwelling starts in Queensland for the 2002/2003 financial year (31,000) will be 12% lower than that recorded for the 2001/2002 financial year (35,100). The HIA's forecast for the 2003/2004 financial year (32,000) is an increase of 3% over 2002/2003.<sup>11</sup>

For the longer term, the Australian Procurement and Construction Council issued forecasts for construction industry activity for all Australian States and Territories based

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<sup>10</sup> 'Industry Outlook Robust', *Queensland and Northern Australia Building News*, September 2002, p 2.

<sup>11</sup> Housing Industry of Australia, 'Housing to Drive Growth into 2003/2004', *Press Release*, 28 October 2002. <http://www.buildingonline.com.au/index.jsp?region=null> Downloaded 8 November 2002.

on Australian Bureau of Statistics data. Between 1999 and 2009 the Council is forecasting a rise in the value of residential work completed in Victoria of 23.3%, for Queensland 21.8% and for New South Wales 15.5%. For Queensland 2001-2009, the Council is forecasting eight years of increasing annual activity, rising to a total value of \$7.1 billion for new residential building starts.<sup>12</sup>

## **2.3 DWELLING CONSTRUCTION IN REGIONAL QUEENSLAND<sup>13</sup>**

### **2.3.1 Gold Coast Region**

Construction of new dwellings peaked in the middle of 1988-1989 with about 5,500 approvals. From that point there was a decline until the middle of 1990 where there were 1,800 new dwellings approved. An upswing commenced in the middle of 1990 and reached another peak in the beginning of 1994 with about 5,100 new approvals. After 1994, activity declined to around the 3,500 approval level and this figure was maintained in 1998, 1999/2000 and 2001/2002 with the remaining years after 1994 recording below the 3,000 approval level.

The 2001 Census identified Gold Coast City as the fastest growing city in Australia with an annual population growth rate of 3.4% per annum for the 5 year period leading up to the 2001 Census. Both the 1996 and 2001 Census recorded that the rate of increase in the construction of new dwellings was matched by the increased population 'born and drawn' to Gold Coast City.<sup>14</sup>

In 1999/2000 the Gold Coast Region accounted for 8% of the total number of dispute notifications whilst for 2000/2001 the figure was 11%.<sup>15</sup>

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<sup>12</sup> Australian Procurement and Construction Council, *Construct Australia: Forecasts of Construction Industry Activity Australia and all States and Territories June 2001*. <http://www.apcc.gov.au/apcc/docs/ForecastoftheConstructionIndustryJune2001.pdf>  
Downloaded 14 November 2002, pp 10, 13, 16.

<sup>13</sup> Peter Osterhage, 'New dwelling approvals per half year', *Master Builder Magazine*, June/July 2002, pp 16-17. The Bar Graphs from this article are reproduced in **Appendix C** of this Research Brief.

<sup>14</sup> Alan Midwood, 'Gold Coast Wins the 2001 Census Seal of Approval', *Queensland Property and Lifestyle*, Spring 2002 (3), p 18.

<sup>15</sup> Queensland Building Services Authority, *Annual Report 1999/2000*, p 34. and *Annual Report 2000/2001*, p 15.

### 2.3.2 Brisbane Region

New approvals rose from about 3,500 in the beginning of 1987 to just over 9,000 by the middle of 1988. There was a downward trend from the high recorded in the middle of 1988 to 5,800 recorded in the middle of 1990. An upward trend followed with a further high of about 11,000 approvals being recorded in the middle of 1993. This mid-1993 figure has not since been exceeded or duplicated, with the figure of about 8,800 new starts for the first half of 2002 being the best.

Brisbane accounted for 49% of all dispute notifications in 1999/2000 and 52% in 2000/2001.<sup>16</sup>

### 2.3.3 Sunshine Coast Region

The highest level of new approvals was recorded in the middle of 1988 at about 2,600. A decline then occurred until the beginning of 1991 to about 1,350. This was followed by a further upswing to the beginning of 1994 when the mid-1988 level was duplicated. There has been a marked downturn since the middle of 1994 with most years since then recording less than 1,500 new approvals. The beginning of 2002 recorded about 1,600 approvals which may or may not turn out to be the start of another upward trend.

The value of new dwelling approvals for the Sunshine Coast for the financial year 2001/2002 was recorded \$221.8 million higher than for the previous year. The average building contract was for \$125,000.<sup>17</sup>

The south-east portion of the State is seen to be contributing to the strong growth in housing demand as a result of the region's increased population and continued economic growth. As many people are priced out of the market in southern States, some are turning their attention to Queensland as a place to live and purchase property. Property values in south-east Queensland have been undervalued compared with Sydney and Melbourne where prices have mushroomed and demand for property in Brisbane, the Gold and Sunshine Coasts is growing strongly on the back of local demand as well as demand from interstate property investors.<sup>18</sup>

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<sup>16</sup> Queensland. Building Services Authority, p 34. and p 15.

<sup>17</sup> 'New house approval increase', *Courier Mail*, 17 August 2002. <http://www.spec-net.com.au/bulletins/bulletin29.htm> Downloaded 14 November 2002.

<sup>18</sup> Fiona Gergin, 'Queensland Defies Property Bust Fears', *Queensland Property and Lifestyle*, Spring 2002 (3), pp 15-17, p 15.

Sunshine Coast accounted for 17% of all dispute notifications in 1999/2000 and 15% in 2000/2001.<sup>19</sup>

#### **2.3.4 Toowoomba Region**

The highest approval level for new dwellings between 1987 and 2002 was the middle of 1992 with almost 500 approvals. There has been a general decline since that time but it has not been consistent. For instance, between 1992 and 1996 the trend was downward but from the middle of 1996 to the middle of 1999 the trend was generally upward. From the middle of 2000 to the beginning of 2002 the trend has once again been upward to a level of about half that of the 1992 figure.

Toowoomba region accounted for 4% of all dispute notifications in 1999/2000 and 3% in 2000/2001.<sup>20</sup>

#### **2.3.5 Hervey Bay/Maryborough Region**

Approvals for new dwellings stood at about 150 for the first half of 1987. There was a general increase to about 800 by the middle of 1993; since then the trend has been downward to its lowest level of about 100 for the first half of 2000. All of 2001 and the first half of 2002 indicate a further rise to about 250 approvals.

#### **2.3.6 Fitzroy/Rockhampton/Gladstone Region**

New dwelling approvals show a consistent rise from about 250 approvals for the first half of 1987 to a high point of about 1,100 for the first half of 1992. From that point, the trend has been consistently downward with a low of about 200 approvals being reached for the first half of 2000. The trend since then is upward with the 500 approval mark being reached for the first half of 2002.

The City of Gladstone, which currently has a population of approximately 27,000, is expecting an influx of another 14,000 new residents into the city over the next three years as further industrial developments (a major component of which is an increase in aluminium smelting capacity) come on stream.

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<sup>19</sup> Queensland. Building Services Authority, p 34. and p 15.

<sup>20</sup> Queensland. Building Services Authority, p 34. and p 15.

The Rockhampton region accounted for 4% of all dispute notifications in 1999/2000 and 2000/2001.<sup>21</sup>

### **2.3.7 Mackay Region**

The Mackay region, of all the regions, shows the most consistency in the level of new building approvals over the period 1987 to 2002. The highest point was the first half of 1993 with nearly 500 approvals which was reached after a consistent trend upward from a low of about 100 new approvals for the first half of 1987. Since the first half of 1993, the trend has been downward but not as consistently so as the earlier upward trend between 1987/1993. The level of approvals for the first half of 2002 was about 250.

In 1999/2000 the Mackay region accounted for 6% of all dispute notifications whilst for 2000/2001 the figure was 5%.<sup>22</sup>

### **2.3.8 Whitsunday Region**

Over time, new dwelling approvals have been quite volatile. The lowest point of about 100 approvals was recorded in the first half of 1987. The years 1988, 1989, 1994 and 2000 recorded approvals at twice this level. For the first half of 2002 there were 80 new approvals which is in keeping with most years over the period 1987 – 2002 where less than 100 approvals have been recorded.

### **2.3.9 Townsville Region**

For the first half of 1987 the Townsville region recorded about 250 new building approvals, rising to a high of about 900 for the first half of 1993. This high has only been repeated once since then – during the first half of 1999. The number of approvals for the first half of 2002 was about 700. The Townsville region accounted for 6% of all dispute notifications in 1999/2000 and 5% in 2000/2001.<sup>23</sup>

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<sup>21</sup> Queensland. Building Services Authority, p 34. and p 15.

<sup>22</sup> Queensland. Building Services Authority, p 34. and p 15.

<sup>23</sup> Queensland. Building Services Authority, p 34. and p 15.

### **2.3.10 Cairns Region**

New dwelling approvals peaked at about 1,700 during the first half of 1994 and there has been a decline since then but not steadily as there have been periods of upturn. For the first half of 2002, the level of approvals was about 400.

The City of Cairns itself is currently experiencing a shortage of dwellings with demand outweighing supply. However, it is expected that new residential developments are excellently placed to house the growing number of new residents to the City. The establishment of Australian Airlines in Cairns as an international air carrier is expected to spearhead increased demand for housing from local buyers and overseas buyers with the increased exposure that the city will obtain from being an international tourist destination.<sup>24</sup>

The Cairns region respectively accounted for 6% and 5% of all dispute notifications in 1999/2000 and 2000/2001.<sup>25</sup>

## **2.4 THE FLOW-ON FROM THE FIRST HOME BUYERS GRANT**

The HIA reports that the uptake of the First Home Buyers Grant for new dwelling construction has resulted in an increase in the share of building starts by small builders across the nation with the result that the market share of the largest 100 building companies fell from 44% in 2000/2001 to 41% in 2001/2002. The change witnessed the return of regional builders who had previously left the industry in the wake of the post-GST downturn.<sup>26</sup>

For example, building approvals for the Emerald Shire in Central Queensland are indicative of this. The number of dwelling building permits approved by the Shire for the first three months of the 2002/2003 financial year exceeded that for the full 2001/2002 financial year. The upturn has resulted in a local building company having a workload in 2002 four times it had in 2001 whilst its waiting list for starts had increased as a result.<sup>27</sup>

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<sup>24</sup> Chris Gay, 'Population growth fuels property prices in Cairns', *Property and Lifestyle*, Spring 2002 (3), pp 50-51.

<sup>25</sup> Queensland. Building Services Authority, p 34. and p 15.

<sup>26</sup> Housing Industry of Australia, 'Regional Builders Lift Market Share', *Press Release*, 28 October 2002. <http://www.buildingonline.com.au/index.jsp?region=null> Downloaded 8 November 2002.

<sup>27</sup> Ruth Miles and Kelly-Lee Ferguson, 'Building boom', *Central Queensland News*, 6 November 2002, p 1.

The importance of the first home buyers grant in fuelling housing demand has been recognised by the Reserve Bank of Australia which forecasts housing construction until early 2003 giving way to weaker demand in the latter part of that year due to the winding back of the grant.<sup>28</sup>

### **3 THE IMPORTANCE OF CONSUMER CONFIDENCE IN THE BUILDING INDUSTRY**

A major goal of the Queensland Building Services Authority and Other Legislation Amendment Bill 2002 is the maintenance of public or consumer confidence in the building industry.

Contracting with a builder to have a home built is the largest financial outlay that the average Queenslanders will make in a lifetime and it is essential that those who do so have confidence in the quality of the workmanship for which they are paying. Consumers generally enter into building arrangements with builders carrying the expectation that their interests will be well protected if a dispute arises with the builder that cannot be reconciled between the parties.

The increasing cost of investment in housing to the consumer makes it essential that consumer confidence in the ability of the industry to deliver acceptable standards of workmanship is high. High consumer confidence will exert positive pressure on demand for the industry's product which, in turn, can only be positive for economic growth generally.

Consumer confidence is also fuelled by knowledge on the part of consumers. Consumer knowledge and understanding of the building process was the subject of a submission from the Queensland Building Services Authority to the Joint Standing Committee of the New South Wales Parliament on the Quality of Buildings, where it was stated that a major concern of the BSA is to redress the information imbalance between consumers and contractors.<sup>29</sup>

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<sup>28</sup> Craig James, 'Signs of oversupply in investor property', *Australian Financial Review*, 12 November 2002, p 6.

<sup>29</sup> New South Wales. Joint Select Committee on the Quality of Buildings, Report Upon the Quality of Buildings, July 2002, Recommendation 15, p 93  
<http://www.parliament.nsw.gov.au/prod/web/phweb.nsf/frames/committees?open&tab=committees>

#### **4 THE LEGISLATIVE REGIME**

The rights of consumers are protected by three pieces of legislation:

- Queensland Building Services Authority Act 1991
- Domestic Building Contracts Act 2000
- Queensland Building Tribunal Act 2000.

The objectives of the *Queensland Building Services Authority Act 1991* are to:

- ensure the maintenance of industry standards;
- balance the interests of contractors with those of consumers;
- provide remedies for defective building work;
- provide for the efficient resolution of building disputes, and
- provide support, education and advice to those who undertake building work and consumers.

The *Domestic Building Contracts Act 2000* provides a regulatory environment for the creation and interpretation of domestic building contracts made between building contractors and building owners.

The *Queensland Building Tribunal Act 2000* created the Tribunal for the purpose of resolving disputes in the building industry and to review decisions made by the Queensland Building Services Authority in its role as the industry regulator.

#### **5 THE VIEW OF THE INSTITUTE OF ARCHITECTS ON THE QUALITY OF BUILDING WORKMANSHIP**

A report published by the Royal Australian Institute of Architects in September 2002 created intense discussion within the home building industry.<sup>30</sup> The report released findings on all Australian mainland States.

For Queensland the report stated that 32% of Queensland homes are subject to roofing problems. The cities of Redcliffe and Gold Coast were identified as coastal areas where the corrosive effects on roofs, (especially those constructed with terracotta tiles) is being felt. Of the homes examined in Redcliffe, 48% were found to have roofing problems, whilst for the Gold Coast the figure was reported to be 43%. Also, 48% of the houses

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<sup>30</sup> Australia. Royal Australian Institute of Architects, *Archicentre Bulletin 2002: Housing Conditions in Australia*. <http://www.archicentre.com.au/media/2002AugustHousingReport.pdf> Downloaded 15 November 2002.

inspected in Redcliffe were found to have a problem with rising damp. In Logan City, 19% of dwellings inspected were found to be subject to foundation problems, 26% subject to rising damp and 32% subject to roofing problems.

Of the dwellings inspected in the Shire of Maroochy, 30% were found to be subject to rising damp whilst for Caboolture the figure was 24% and for Brisbane 22%.

The report apportions the blame for this situation between unqualified owners doing renovations and extensions to their own properties (mostly prior to the early 1970s) and project builders from Sydney and Melbourne who expanded their operations into Queensland during the 1970s using building practices that were suitable for environmental conditions in the southern States but not those experienced in Queensland. For instance, the report states that shallow guttering was widely used that was simply not designed to take the volume of water experienced in summer downpours that occur in Queensland.<sup>31</sup>

In response to the report's findings, a spokesperson for the Queensland Master Builder's Association replied that the quality of workmanship on building work had improved since the establishment of the BSA in 1992, arguing that the quality of housing construction was not deteriorating but, on the contrary, was improving.<sup>32</sup>

## **6 KEY PROVISIONS OF THE QUEENSLAND BUILDING SERVICES AUTHORITY AND OTHER LEGISLATION AMENDMENT BILL 2002**

### **6.1 AMENDMENTS TO THE QUEENSLAND BUILDING SERVICES AUTHORITY ACT**

#### **6.1.1 Board's Policies**

**Clause 6** replaces existing **s9A** of the Queensland Building Services Authority Act which relates to policies issued by the Board. The existing distinction between supervision policies and general policies is to be omitted with the result that all policies issued by the Board will be of one class. Any policies henceforth issued by the Board must be approved by regulation and published in the government gazette.

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<sup>31</sup> Royal Australian Institute of Architecture, pp 15-16.

<sup>32</sup> 'Flaws go through the roof', *The Gold Coast Bulletin*, 2 September 2002, p 4.

### **6.1.2 Entitlement To Contractors' Licences**

**Clause 10** provides for the consideration of defective work in relation to an entitlement to a contractor's licence when the defective work had been previously performed by the applicant. Such work may be taken into consideration whether or not a ban was imposed on the applicant as a result of the defective work being performed.

**Clause 11** focuses on the partnership relationship between an applicant for a contractor's licence and a partner or company with whom business under the licence is proposed to be conducted. New **s31A** provides that no entitlement to a contractor's licence will accrue:

- if the proposed partner to the business has previously been excluded, convicted, banned, or disqualified from holding a contractor's licence, or
- where the proposed partner is a company, if the company is an excluded company or a company within which a convicted, banned or disqualified company officer is working as an influential person.

The inclusion of this provision is designed to ensure that persons considered undesirable will not be in a position to exert influence over those who hold licences and is in keeping with the approach taken with respect to specific licensing in other areas that are subject to government regulation.

Regulatory authorities other than the BSA are authorised to issue occupational licences within their realm of responsibility. **Clause 13** amends **s35** by inserting a new **sub-section (2)** which authorises the BSA (as it deems fit) to consider the holding of occupational licences as prerequisites for the issuing and holding of a licence. This amendment results in the holding of occupational licences being specifically regarded (where appropriate) as a condition to the issue of the licence.

### **6.1.3 Expansion of Information to be Kept on Register of Licensees**

The amount of information that the BSA is authorised to keep on the register of licensees is to be expanded. **Clause 15** inserts sub-paragraphs (e) to (h) into **s39(3)**. Under the amendment, the BSA will be required to include the following information on the register of licensees against the relevant licence holder:

- Where the licence holder has had a licence cancelled as a result of Tier 1 defective work.
- Where the licence holder has previously had a licence cancelled because of a relevant event, the details of that event which led the licensee to be categorised as an excluded individual are to be entered. Relevant events are defined under s56AA of the Act as bankruptcy of the licensee, the appointment of a liquidator,

administrator or controller, winding up, or a court order for winding up of the business affairs of the licensee.

- Where the licence holder has previously been issued with demerit points, the matters to which the allocation of those points relates are to be entered on the register.
- Where the licence holder has previously had a licence cancelled for the accumulation of demerit points because of demerit matters (under **ss 67G, H, I or V** of the *Queensland Building Services Authority Act 1991*) such as:
  - Before commencing building work, failing to reduce a building contract to writing when the value of the work exceeds \$10,000 or, where the value is less than \$10,000, failing to reduce the building contract to writing before the work is finished.
  - Failure to ensure that a written contract entered into for building work complies with the formal requirements prescribed under **s67G(4)** of the Act.
  - Varying a contract price without reducing the variation to writing which contains the signatures of all concerned parties; or

Contravention of provisions of the *Domestic Building Contracts Act 2000* such as:

- Taking or demanding a deposit for the commencement of building work of an amount greater than 5% of the contract price when the contract price equals or exceeds \$20,000 or 10% where the full contract price is less than \$20,000.
- Where the contract is not a designated stages contract requiring progress payments, the taking or demanding of any amount other than the pre-commencement deposit.
- Where a designated stages contract has been entered into by the parties for work to the enclosed or lockup stage, the taking or demanding of a progress payment at the base or slab stage greater than 20% of the full contract price and a progress payment greater than 25% of the full contract price at the frame stage.
- Where a contract has been entered into for the completion of building work to a stage suitable for occupation, the taking or demanding of all, or part of the completion payment without the dwelling being reasonably suitable for habitation.

### ***Advantages of written agreements***

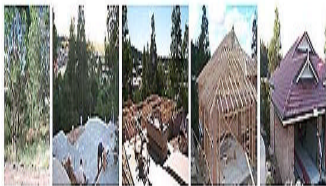
Reducing agreements/arrangements and dealings to writing is something that the HIA advises its members to do as a standard business practice and the Association also offers training in contract administration as a service to its members:

*In these increasingly litigious times, it is vital to protect your interests by ensuring not only compliance with the various legislative requirements that cover the building industry, but also that you have written evidence to support any claim you make regarding a dispute.*<sup>33</sup>

### ***Progress payments under the Domestic Building Contracts Act 2000***

Under the *Domestic Building Contracts Act 2000*, designated stages contracts allow for the payment of monies to the builder upon the completion of the specified stages but such payments must not exceed the respective levels as stipulated in the Act:

#### **Base or slab stage**



- 20% of full contract price for contracts signed for building to enclosed stage.
- 12% of full contract price for contracts signed for building to fixing stage.
- 10% of full contract price for contracts signed for building to all stages.

Source: [http://www.evertonhomes.com.au/home2\\_s1\\_land.html](http://www.evertonhomes.com.au/home2_s1_land.html)

#### **Frame stage**



- 25% of full contract price for contracts signed for building to enclosed stage.
- 18% of full contract price for contracts signed for building to fixing stage.
- 15% of full contract price for contracts signed for building to all stages.

Source: [http://www.evertonhomes.com.au/home2\\_s1\\_land.html](http://www.evertonhomes.com.au/home2_s1_land.html)

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<sup>33</sup> Scott Lambert, 'Put it in Writing', *Queensland and Northern Australia Building News*, February/March 2001, p 21.

### Lock-up stage



- 40% of full contract price for contracts signed for building to fixing stage.
- 35% of full contract price for contracts signed for building to all stages.

Source: [http://www.evertonhomes.com.au/home2\\_s1\\_land.html](http://www.evertonhomes.com.au/home2_s1_land.html)

### Fixture stage



- 20% of full contract price for contracts signed for building to all stages.

Source: [http://www.waratahhomes.com.au/stage\\_101.htm](http://www.waratahhomes.com.au/stage_101.htm)

For an example of how home buyers can be disadvantaged when they pay progress payments to a builder in advance or pay a deposit or other monies before they have entered into a contract, see the case of Avonwood Homes in Section 7.2 of this Research Brief.

#### 6.1.4 Period For Which Information Is to Be Kept On The Register

**Clause 15** amends **s39(7)** of the Act by providing for the information that is to be kept on the register to be kept for between 3 and 10 years from the date of entry. New **s39(7A)** provides for the keeping of information on unsatisfied judgment debts on the register until such debts have been satisfied.

### **6.1.5 Unlawful Carrying Out Of Building Work - Exemption**

Currently **s42(5)** of the Act provides that an unlicensed person who carries out building work and whose employee is the holder of a licence of an appropriate class covering the work performed does not unlawfully carry out building work. In keeping with this approach (of making the contractor responsible for the quality of work), **clause 16(1)** inserts **s42(5A)** into the Act to extend this exemption to unlicensed sub-contractors carrying out building work, provided that the work is appropriately covered by the licence held by the contractor.

### **6.1.6 The Importance of Building Site Supervision**

Currently, the Act does not specifically place any obligations on nominated supervisors of licensed companies. Nominated supervisors may, in some cases, have nothing to do with building supervision or the running of the company once the licence has been awarded. This can result in a situation where there is a lack of supervision of work being performed. The Bill will place an onus on the nominated supervisor to ensure adequate supervision of all building work.

Much of the home building industry is characterised by principal contractor/sub-contractor. In this type of environment where the principal contractor is responsible to the consumer for the fulfilment of the building contract within the allocated time and to an acceptable standard, supervision on the part of the principal contractor of the building work becomes essential.

To this end **clause 17(2)** amends existing **s43(2)** of the Act by including reference to the systems adopted by the principal contractor for supervision of the building work. Consequently, **s43(2)** will not only be concerned with the number of supervisors that are engaged or employed but also the systems or methods that are used to allocate supervision of the work on hand, having regard to the nature and the amount of work being undertaken at any point in time.

Generally, building supervisors are tradespeople who have proven ability and skill working to deadlines, liaising with and organising sub-contractors as well as problem-solving and decision-making skills. Supervisors are the principal contractors 'representative' on site, looking after the contractor's interest in ensuring that the work proceeds in line with the obligations accruing to the contractor under the contract.

To this end **clause 17(3)** omits existing **s43(3)** of the Act which simply states that the principles determining the adequacy of building supervision are to be laid down in policies issued by the Authority. New **s43(3)** will now provide that adequate supervision is to be determined by reference to whether or not the work is in accordance with the plans and

specifications set out in the contract between the principal contractor and the consumer and whether the standard is of a level that would be expected of a competent holder of a contractor's licence covering the work.

The wording of new **s43(3)** is the same as currently exists in **clause 2** of the Queensland Building Services Authority Supervision Policy 1995. By being written directly into the Act, it is being directly linked through **s43** to the offence provision in **s43(5)** with there being no doubt as to its effect.

Further, **clause 17(4)** amends **s43(5)** of the Act by providing that company nominees of companies that are licensed contractors will have an individual responsibility to ensure adequate building supervision and failure to do so will also be treated as an offence on the part of the individual company nominee. This amendment will ensure that company nominees will not be able to hide behind a company structure by bringing the individual obligation of a company nominee into line with that which currently exists for individual contractors.

The Queensland Master Builders Association has acknowledged that a lack of building supervision is a major contributing factor to defective building work and the Association supports the provision in the Bill aimed at ensuring that a company's nominated building supervisor be required to ensure that adequate supervision is provided.<sup>34</sup>

This issue of adequate building supervision was also addressed by a Joint Standing Committee of the New South Wales Parliament earlier this year. The Committee Report quoted from a submission received from a builder:

*The Department, when it issues a licence to a partnership or corporation requires that only one person be nominated and approved as its qualified supervisor, irrespective of the size of the contract, some of who have over 100 homes under construction at one time. Whilst a medium to large company would employ more than one person in the role overseeing construction, there is no regulatory control over this.*<sup>35</sup>

The Committee, in its report, then stated:

*There have also been amendments to legislation to enable the Director-General to take disciplinary action where it is found that a building*

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<sup>34</sup> Peter Osterhage, 'Proposed Industry reforms to be legislated', *Master Builder Magazine*, October/November 2002, pp 22-23 at p 22.

<sup>35</sup> New South Wales. Joint Select Committee on the Quality of Buildings, Report Upon the Quality of Buildings, July 2002, p 43. <http://www.parliament.nsw.gov.au/prod/web/phweb.nsf/frames/committees?open&tab=committees> Downloaded 13 November 2002.

*contractor does not have “a sufficient number” of nominated supervisors working to ensure that the statutory warranties for residential building work are complied with. However, there is no indication of what “a sufficient number” may be in terms of a ratio of supervisors to homes built by a building firm.*<sup>36</sup>

### **6.1.7 Owner-builders**

**Section 44** of the Act currently provides that applicants for an owner-builder permit may be required by regulation to complete a specified course of instruction before such a permit will be issued. Where there is a joint application from two or more persons, this requirement will reside with at least one of the applicants.

**Clause 18 (1)** inserts new **s44(3A)** into the Act which authorises regulations to be made to ensure that owner-builder permits will not be issued to applicant companies until a director of the company has completed a specified course of instruction.

### **6.1.8 Grounds for the Cancellation or Suspension of a Licence**

**Clause 19(2)** amends **s48(j)** of the Act with reference to **s31(2)(a)**. **Section 31(2)(a)** provides that a person who has a position of control or is in a position to substantially influence a company’s conduct is prima facie entitled to a contractor’s licence provided that person is a fit and proper person to exercise control over a company that holds such a licence.

The amendment means that **s48(j)** of the Act will require that regard be had to the suitability of a person being a fit and proper person to exercise control over a company as grounds for the suspension or cancellation of an existing licence.

### **6.1.9 Audits of the Business Activities of Licensees**

Currently under **s50A(1)** of the *Queensland Building Services Authority Act 1991* the BSA may conduct an audit of licence holders to ensure that they are satisfying financial requirements stated in the adopted policies. **Clause 21(1)** of the Bill amends **s50A(1)** of the Act by additionally stating that an audit may be conducted to ensure that licensees remain in compliance with requirements of building contracts other than domestic building

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<sup>36</sup> Joint Select Committee on the Quality of Buildings, p 43.

contracts under Part 4A of the Act and in compliance with the requirements of contracts under the *Domestic Building Contracts Act 2000*.

This amendment will remove any doubt that may exist as to the power of the BSA to enquire (by way of an audit) into the business dealings of licensees for building work related to non-residential premises. The amendment also makes it specifically clear that a power will exist for the BSA to audit licensees with respect to their business dealings relating to the construction of dwellings.

#### **6.1.10 Failure to Comply with a Notice of Audit**

There is currently in the Act a defence of ‘reasonable excuse’ (under **s50C(4)**) for failure to comply with a written audit notice from the BSA within a 21 day period. **Clause 22(4)** inserts **s50C(4A)** into the Act which stipulates that a tendency to self-incrimination will not be reasonable excuse for not complying with a written audit notice within the 21day period.

#### **6.1.11 Prohibition on Contracting with Unlicensed Person**

**Clause 23** inserts new **s51B** into the Act providing for penalties for contractors who contract with other parties who are unlicensed persons for the carrying out of building work for which it is necessary that a licence be held. Under new **s51B(2)** a first offence will carry a maximum monetary penalty of \$6,000, a second offence \$9,000 and any subsequent offence \$12,000.

New **s51B(3)** provides that a contractor will not be liable for this offence if it can shown that reasonable action was taken to ensure that the other contracted party was appropriately licensed.

#### **6.1.12 Permanent Exclusion from being a Licence Holder**

**Clause 31** inserts new **Part 3B (ss57-61)** into the Act pertaining to the meaning of ‘permanently excluded individual’ which is defined in new **s58** and the consequences of that designation under new **ss59&60**. A permanently excluded individual is one who has twice been declared to be an excluded individual for relevant events and was notified on both occasions in the prescribed manner as set out in new **s58**.

New **s59** provides that a licence must not be granted to a permanently excluded individual or any company with which such a person is a director, secretary, influential person or nominee. Further, new **s60** provides that the general entitlement to a

contractor's licence under **Part 3 Division 2 (ss31-32)** does not accrue to a permanently excluded individual who is, by that designation, not regarded as a fit and proper person to hold a licence.

#### **6.1.13 Convicted Company Officers**

**Clause 32** inserts new **Part 3C** pertaining to convicted company officers who are directors, secretaries, influential persons or company nominees. A company officer who has been convicted of fraud under the *Corporations Act 2001 (Cth)* (**s596(b) or (c)**) is a convicted company officer for the purposes of new **Part 3C**. After giving the company officer an opportunity to make a submission, the BSA may inform the company officer that the convicted company officer status is to remain (pending a right of appeal to the Building Tribunal) and that consequently he or she is not a fit and proper person to hold a licence and that the licence has been cancelled.

New **s67AA** obliges the BSA to inform a licensee company that has a convicted company officer as a director, secretary, influential person or nominee that the convicted company officer's connection with the company must cease and that, if this does not occur within 28 days, the licensed company's licence will be cancelled.

#### **6.1.14 Banned Individuals**

The imposition of life bans is an extension of the Better Building Industry reforms designed to remove those persons deemed to be unsuitable for entry to or continuance in the building industry. The Bill contains provisions providing for life bans to be placed on persons who are found to:

- have carried out grossly defective building work (known as Tier 1 defective work); or
- be directors, secretaries, company nominees or influential persons found to have carried out grossly defective building work; or
- have been associated with two separate financial failures; or
- have fraudulently stripped assets from companies.

**Clause 33** inserts new **Part 3D** into the Act relating to banned individuals. Under this new part a licence holder may be declared a banned individual for having performed Tier 1 defective work. New **s67AB** defines Tier 1 defective work as grossly defective building work that falls below the standard reasonably expected of a licensed contractor for the type of building work involved to such an extent that the structural performance of the building is adversely affected to a point that it:

- cannot be used for the intended purpose, or

- is likely to cause death or grievous bodily harm to someone.

New **Part 3D, Division 2** authorises the BSA to provide written notice informing anyone whom it considers has carried out Tier 1 defective work, without exercising reasonable diligence to ensure that the work was not defective, that it intends to categorise that person as a banned individual for further building work (**s67AF(2)**).

The written notice must also inform the person that he or she may exercise a right to apply to the building tribunal for a review of the BSA's decision (**s67AH(3)(c)(ii)**).

The consequences of such a ban will be that licensed persons will have their licence cancelled (**s67AH(3)(b)**) whilst unlicensed persons will be taken not to be fit and proper to hold licences (**s67AI(3)(b)**).

Similarly to the provisions relating to convicted company officers, directors, secretaries, influential persons or company nominees who are licensees who have their licence cancelled (**s67AL(3)(b)**), company officers who do not hold a licence will be taken not to be fit and proper persons to hold licences (**s67AM(3)(b)**). Licensed companies having banned individuals who are directors, secretaries, influential persons or company nominees may have their licences cancelled if the connection between the banned company officer and the company is not severed (**s67AN(3)**).

### ***Terms of bans***

For licensed and non-licensed persons who have received a notice for Tier 1 defective work, the term of the ban will, in the first instance, last for a period of 3 years (**s67AO(3)**) whilst a second and subsequent notice that is issued within 10 years of the first notice will attract a lifetime ban (**s67AO(7)**).

### **6.1.15 Disqualified Individuals**

**Clause 34** inserts **Part 3E** into the Act which contains provisions concerning disqualified individuals. A person may be classed as a disqualified individual when demerit points have been accumulated as a result of demerit offences or an unsatisfied judgment debt (**s67AZD**).

Demerit points will accrue as a result of the following demerit offences:

- Failure to reduce a building contract to writing;
- Failure to reduce agreed building contract variations to writing;
- Failure to reduce a direction under a building contract to writing;
- Failure to advise that a contract is a construction management trade contract as opposed to a subcontract;

- Demanding or receiving a deposit under a building contract greater than the maximum allowed in accordance with the value of the contract;
- Demanding or receiving progress payments when the building contract does not allow for such payments;
- Demanding or receiving progress payments when the building contract does allow for such payments but the payments are not in accordance with the prescribed progress payments table in **s66 Domestic Building Contracts Act 2000**; and
- Demanding or receiving completion payments to a stage where the dwelling is suitable for occupation when that stage has not been reached (**s67AR**).

### ***Calculation of demerit points***

A conviction for a demerit offence will attract 2 demerit points whilst an unsatisfied judgement debt will attract 10 demerit points (**s67AW(2)**). Generally, there will be a limit of 6 demerit points that will accrue as a result of convictions from a single audit or investigation (**s67AZB(2)**).

A licence holder or non licence holder who accumulates 30 demerit points over a three year period will be classed as a disqualified individual (**s67AZD(2)(b)**). For licence holders, this will generally mean a term of disqualification from holding a licence for a period of 3 years on the first occasion of accumulating 30 demerit points (**s67AZM(3)**) whilst a second or subsequent occasion will attract a lifetime disqualification (**s67AZM(4)**).

As with convicted company officers, a licensed company which has a disqualified individual as a director or secretary or an influential person or company nominee must be given a written notice by the BSA directing it to cease its relationship with the disqualified individual and, if this is not done within the specified time, the BSA is required to cancel the company's licence (**s67AZL(2)(b)&(c)**).

#### **6.1.16 Powers of Inspectors**

**Clause 38** inserts new **s106A** which provides the additional power of an inspector to require a person who has obligations under the *Queensland Building Services Authority Act 2000* or the *Domestic Building Contracts Act 2000* to make available or produce documents for inspection and copy. A failure to comply with this requirement without reasonable excuse will attract a maximum monetary penalty of \$15,000 under **s106B**.

## 6.2 AMENDMENTS TO THE QUEENSLAND BUILDING TRIBUNAL ACT 2000

**Clause 48** amends **s104(1)** of the Queensland Building Tribunal Act by inserting new **paragraphs (l) to (q)** which provide that decisions made by the BSA (under its additional powers inserted by the Queensland Building Services Authority and Other Legislation Amendment Bill 2002) are reviewable decisions by the Queensland Building Tribunal. These decisions are:

- A decision that a person is a convicted company officer.
- A decision that a licensed company retains a convicted company officer as a director or secretary, company nominee or influential person.
- A decision that results in the banning of an individual for a stated term.
- A decision that a licensed company maintains a relationship with a banned individual as a director, secretary, company nominee or influential person.
- A decision that results in the disqualification of a person for a stated term.
- A decision that a licensed company maintains a relationship with a disqualified individual as a director, secretary, company nominee or influential person.

Importantly, **clause 48**, by inserting new **s104(3)**, also provides that the Building Tribunal cannot vary the term imposed upon a banned individual (for constructing Tier 1 defective work) by the BSA when that term has been correctly calculated under **s67AO** of the *Queensland Building Services Authority Act 1991* where the term for a first offence is 3 years and a life ban for a second and subsequent offence. New **s104(4)** is inserted to similarly provide that a decision to impose a term of disqualification on an individual cannot be varied when that term has been correctly calculated under **s67AZM** of the *Queensland Building Services Authority Act 1991*.

The Building Tribunal will only have a power to vary the term in both these situations when it is found that the relevant term has been incorrectly calculated. Alternatively, the Building Tribunal may still find that the decision was erroneous on the evidence that was available to the BSA and strike that decision out or return it to the BSA for another decision.

**Clause 49** amends **s111** of the *Queensland Building Tribunal Act 2000* by doubling the level of monetary penalties that the Tribunal may impose on individuals and corporations when taking disciplinary action against such entities. The maximum monetary penalty that the Building Tribunal may impose upon an individual will rise from \$15,000 to \$30,000 whilst for a corporation the maximum penalty will rise from \$75,000 to \$150,000.

## 7 OTHER AUSTRALIAN STATES

### 7.1 NEW SOUTH WALES

In October 2002 the New South Wales Minister for Fair Trading announced that legislation would be introduced into the Parliament which would provide for new licensing requirements for builders aimed at excluding repeat offenders from the industry. This announcement followed the handing down of a report by the Joint Select Parliamentary Committee inquiring into building standards which had been established in March 2002. Broadly, the Committee was asked to determine:

*... whether there are enough checks and balances existing to ensure consumers are guaranteed that their new homes are safe, properly certified, and built to satisfactory standards.*<sup>37</sup>

The Committee recommended the establishment of a Home Building Compliance Commission which would be administratively separate from the Department of Fair Trading but responsible to the Minister for Fair Trading. Major functions of the proposed Commission, as envisaged by the Select Committee, are:

- the licensing, disciplining and auditing of practitioners;
- the establishment and maintenance of industry wide registries; and
- the maintenance of high levels of practitioner skills and qualifications.<sup>38</sup>

The Committee also recommended that the Commission assess the effectiveness of recent licensing reforms with particular reference to concerns about:

- Community perceptions that there had been a relaxation of entry requirements for licensed builders.
- The appropriate ratio of supervisors to the volume of work undertaken by a building contractor who then subcontracts to others.
- Industry participants undertaking continuing professional development as a requirement of licence renewal including knowledge of the Building Code of Australia and business skills training.

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<sup>37</sup> New South Wales. Parliament. Joint Select Committee on the Quality of Buildings, *Report Upon the Quality of Buildings*, July 2002, p i ('Terms of Reference'). <http://www.parliament.nsw.gov.au/prod/web/phweb.nsf/frames/committees?open&tab=committees> Downloaded 13 November 2002.

<sup>38</sup> Joint Select Committee on the Quality of Buildings, p viii.

- The financial soundness of licensees being a requirement as to the holding of a builder's licence.
- The appropriateness of the existing system of licence offences and penalties particularly in relation to:
  - The use of warnings being limited to minor licence breaches and inadvertent errors
  - The introduction of 'on the spot penalties';
  - The increased use of licence suspensions/cancellations for repeated serious breaches.<sup>39</sup>

## 7.2 VICTORIA

The equivalent to the Queensland Building Services Authority in Victoria is the Building Control Commission (the BCC). The BCC is the regulator for the building industry and, along with four statutory bodies (Building Advisory Council, Building Practitioners Board, Building Appeals Board and Building Regulations Advisory Committee), oversees the administration of building legislation.

The Building Control Commission, in association with Consumer Affairs Victoria, established a conciliation mechanism for the resolving of residential building disputes between home buyers and building contractors. The service is provided by Building Advice and Conciliation Victoria (BACV) and began operation on 1 July, 2002. During the period 1 July 2002 to the end of September 2002 the service had received more than 1,600 complaints about building work from consumers. The most common complaints related to builders who failed to provide written quotes or receipts for small projects.<sup>40</sup> Matters that cannot be resolved to the satisfaction of all parties through conciliation are referred to the Building Control Commission for a site inspection or the Victorian Civil Administrative Tribunal which has the authority to resolve building disputes.

### 7.2.1 The Collapse Of Avonwood Homes

In April 2000 Avonwood Homes, the fifth largest home builder in Victoria, went into provisional liquidation. At that time, it had over 562 homes under construction with a

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<sup>39</sup> Joint Select Committee on the Quality of Buildings, p ix.

<sup>40</sup> 'Complaints about shonky builders', *Building and Construction Digest*, 2 September 2002. <http://www.spec-net.com.au/bulletins/bulletin30.htm> Downloaded 14 November 2002.

further 280 under contract; of the latter, 241 customers had paid deposits. It was estimated that individual home buyers could lose between \$1,000 and \$40,000 as a result of the collapse.

The statutory builders' warranty scheme provided a general cover to consumers in such circumstances but there were a number of Avonwood Homes clients who had made progress payments well in advance and others who had paid sizeable deposits without a building contract having been entered into with Avonwood Homes; these were expected to be the biggest losers out of the situation as the warranty scheme did not cover monies paid out in advance.

The collapse of Avonwood Homes also adversely affected 26 home buyers in Queensland who were clients of the collapsed firm. Suppliers and sub-contractors also lost money over the collapse as the company had 'gone under' under the weight of \$13 million in debts.<sup>41</sup>

## **8 CONCLUSION**

The construction of new dwellings is heavily dependent on consumer confidence. When building companies collapse, the result is a loss in consumer confidence in entering into new building contracts. The Queensland Building Services Authority and Other Legislation Amendment Bill 2002 is aimed at ensuring that consumer confidence in the industry is maintained by ensuring that building contractors who transgress their statutory obligations are rightly held accountable for their actions.

For building contractors, the Queensland Master Builders Association and the Housing Industry Association, as peak industry representative bodies, provide for assistance for their members as to their rights when consumers transgress their contractual obligations.

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<sup>41</sup> Australian Broadcasting Commission, 'Avonwood home buyers left in the lurch', *7.30 Report*, 8 May 2000, <http://www.abc.net.au/7.30/stories/s124529.htm> Downloaded 15 November 2002.



## APPENDIX A – MINISTERIAL MEDIA STATEMENTS

### **Hon Peter Beattie MP, Premier and Minister for Trade**

**16 September 2002**

#### **Government introduces life bans for Rogue Builders**

The Queensland Government will dramatically strengthen its crack down on rogue builders by introducing life bans for builders who flout the law or who perform grossly defective work, Premier Peter Beattie announced today.

Mr Beattie and Minister for Public Works and Housing Robert Schwarten said builders who twice failed financially would face the prospect of being banned for life.

Cabinet today approved the tougher consumer protection measures in the Building Services Authority and other Legislation Amendment Bill 2002.

"Building and construction is an \$11 billion industry in this State, employing 135,000 people and driving economic growth," Mr Beattie said.

"Consumer and investor confidence is essential, so we must do everything we can to ensure the industry is free of disreputable characters who can cruel the industry for the vast majority of honest operators.

"The Queensland industry has no place for builders who repeatedly fail financially, leaving creditors, including sub-contractors, in the lurch.

"It has no place for builders who are fraudulent, and no place for those who endanger lives by performing grossly defective work," the Premier said.

Under the new changes the Building Services Authority (BSA) will have the power to impose life bans on builders and building companies for:

- a second instance of financial failure; or
- a conviction under the Corporations Act 2001 (Cwlth) for asset stripping; or
- defective work that adversely affects the structural performance of a building or is likely to cause death or grievous bodily harm.

Mr Schwarten, who will introduce the amendments into Parliament this week, said the new legislation would build on the Better Building Industry reforms already introduced to improve Queensland's construction industry.

"Since the reforms came into effect in October 1999, 130 individuals and 72 companies have been excluded from the industry for five years because companies went into liquidation or administration," Mr Schwarten said.

"The proposed legislation adds to the existing five-year ban on persons of influence from holding positions of influence in building companies.

"The new laws will help rid the industry of dangerous building work and provide greater protection for Queenslanders from rip-off merchants and phoenix companies (failed companies that resurrect with changed identities)," Mr Schwarten said.

"Honest contractors, subcontractors and suppliers will benefit from the tough new compliance measures.

"The proposed legislation includes expanded rights for the Building Service Authority to better regulate the industry.

"BSA inspectors will be allowed to enter building sites while work is in progress to investigate complaints of defective work.

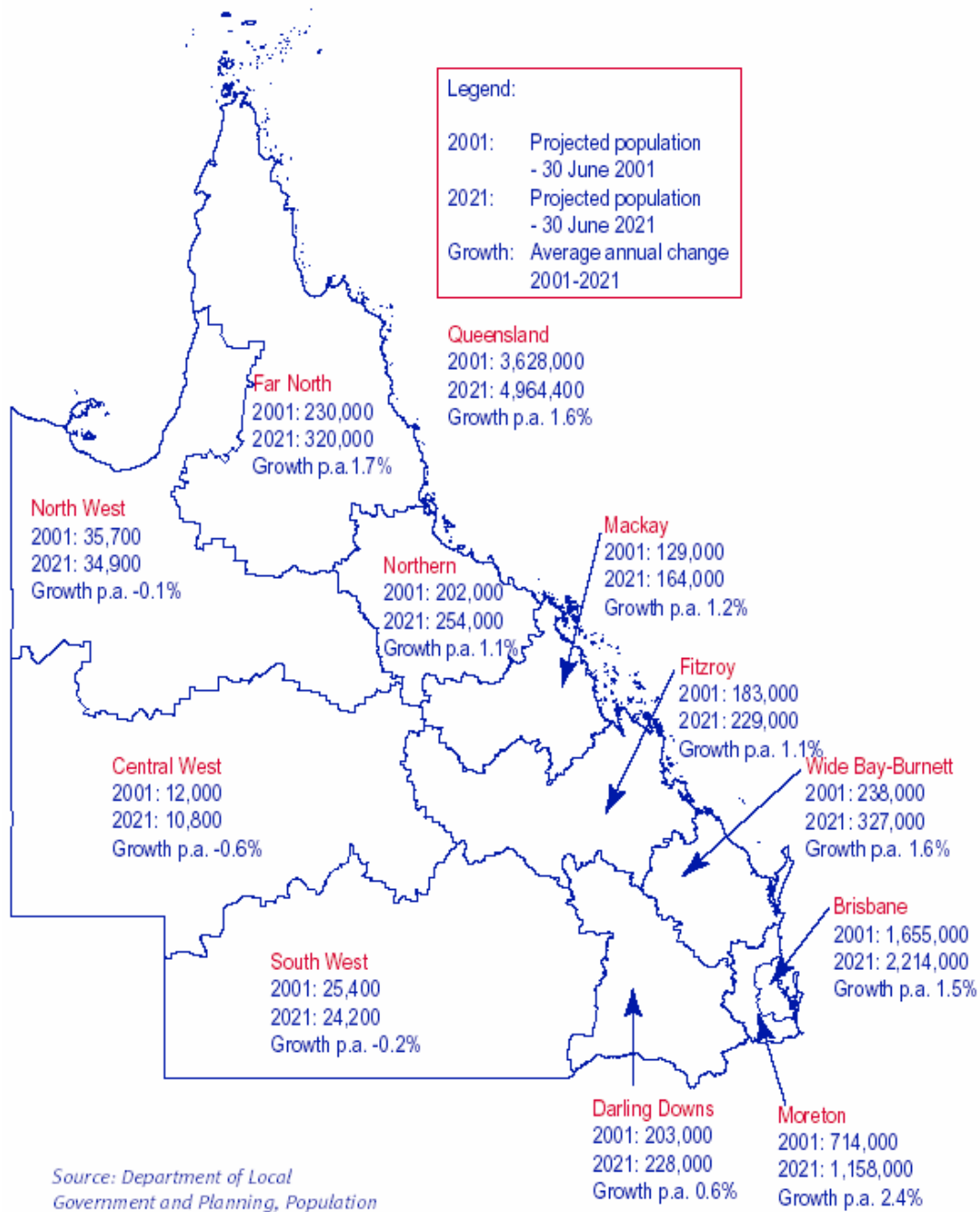
"Contractors will also be obliged to comply with reasonable requests by the BSA for documents regarding auditing and contractual matters.

"The reforms will make it an offence for a licensed contractor to contract with an unlicensed contractor."

Mr Schwarten said the legislation would provide greater protection for Queenslanders and raise industry standards.

## APPENDIX B – POPULATION PROJECTIONS BY STATISTICAL DIVISION, QLD

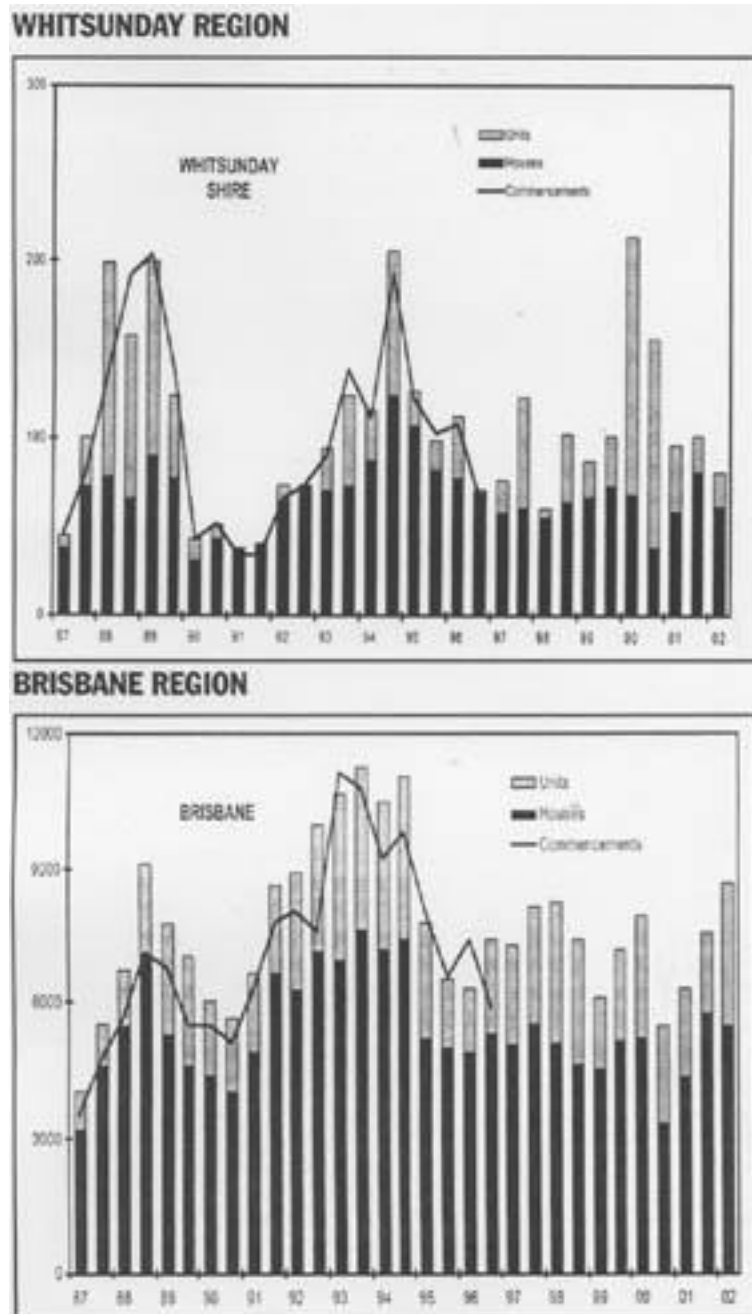
**Figure 7: Population Projections by Statistical Division, Queensland**



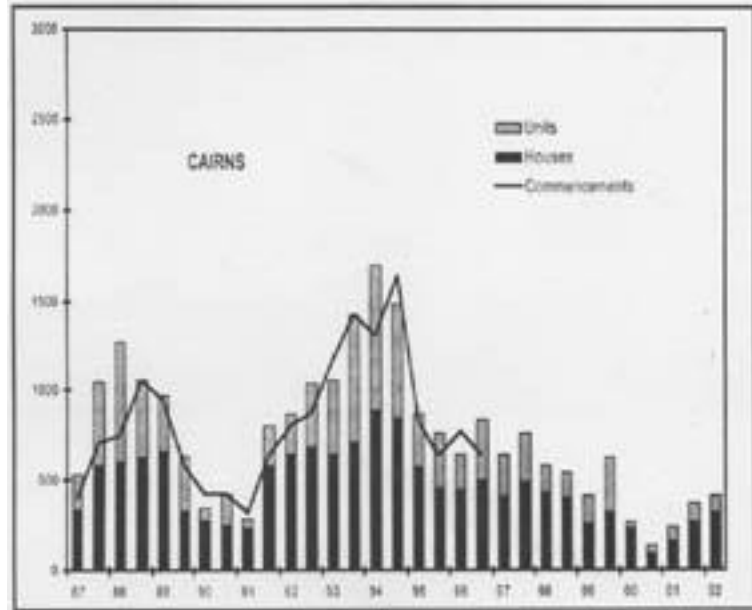
Source: [http://www.oesr.qld.gov.au/views/economy/publications/ger/ger\\_fs.htm](http://www.oesr.qld.gov.au/views/economy/publications/ger/ger_fs.htm)  
 Issue 3 of 2001, page 21.

### APPENDIX C – NEW DWELLING APPROVALS, QLD REGIONS

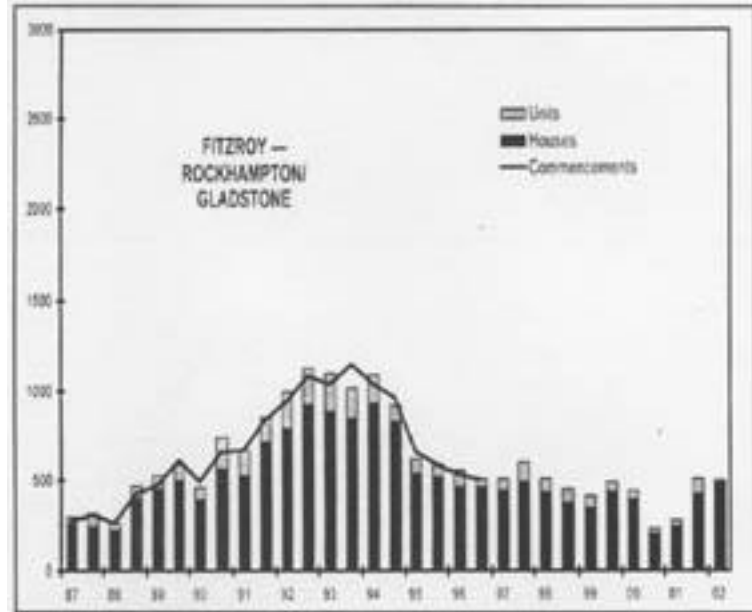
**Source:** reproduced from Peter Osterhage, 'New dwelling approvals per half year', *Master Builder Magazine*, June/July 2002, pp 16-17 (Source ABS data).



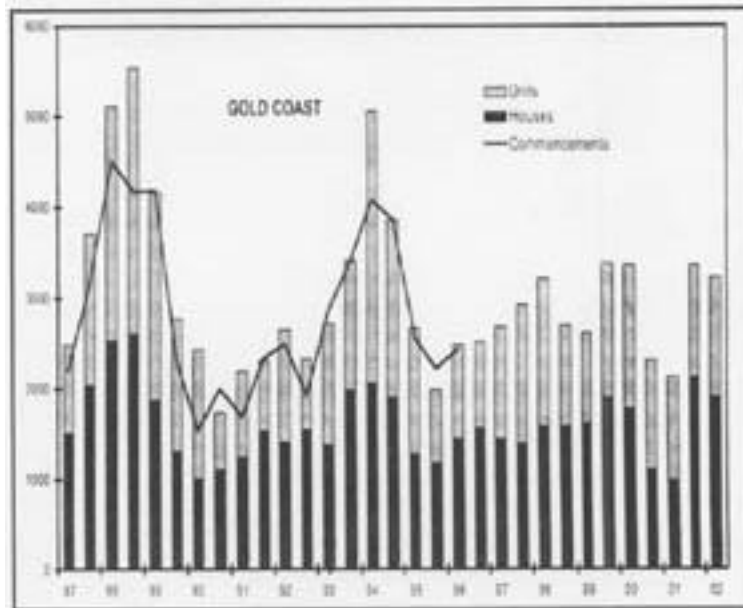
**CAIRNS REGION**



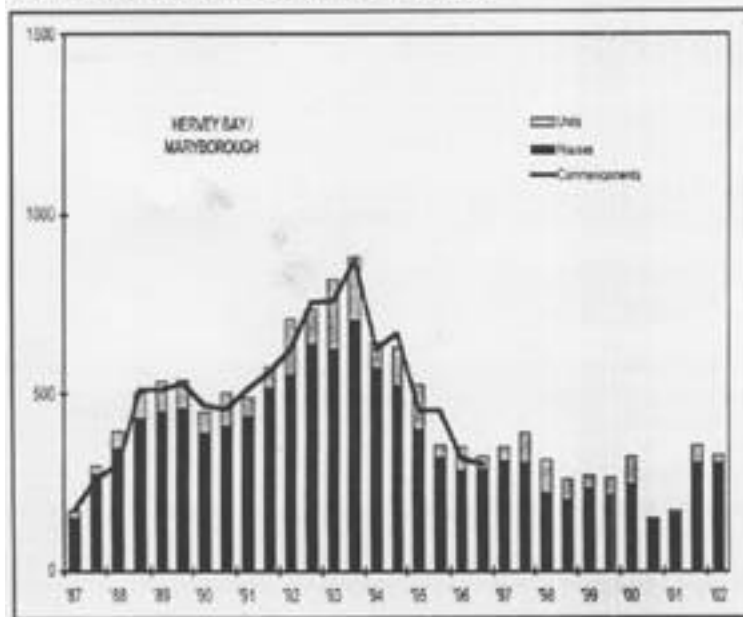
**FITZROY/ROCKHAMPTON/GLADSTONE REGION**



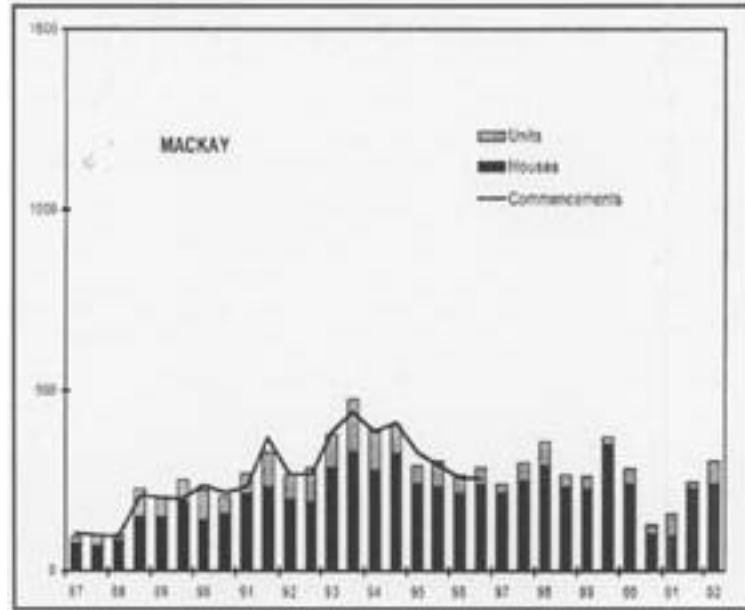
### GOLD COAST REGION



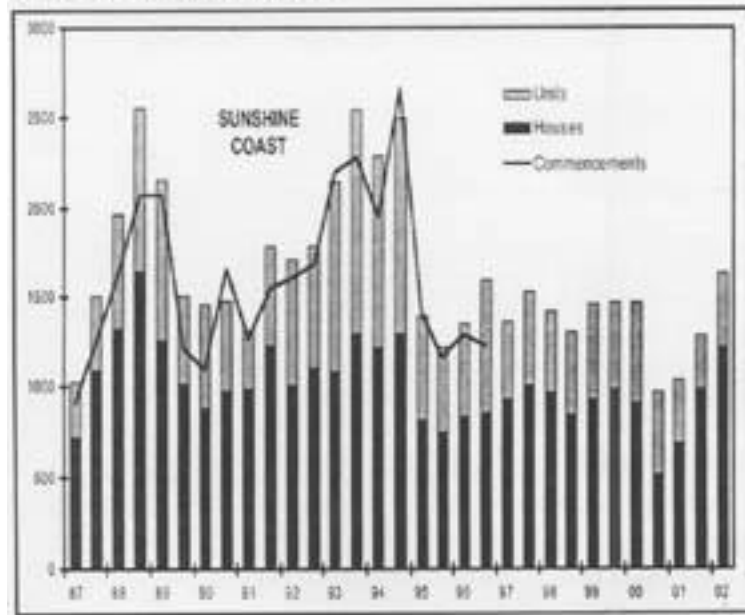
### HERVEY BAY/MARYBOROUGH REGION

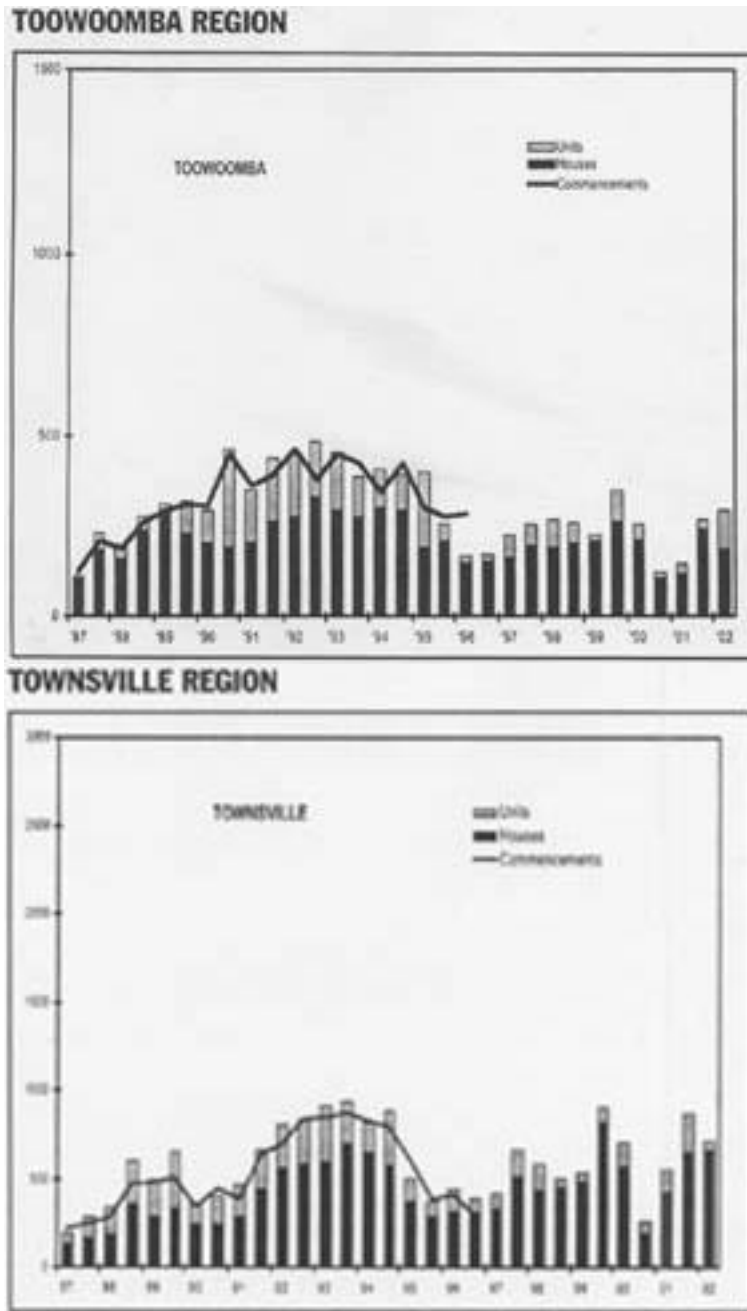


### MACKAY REGION



### SUNSHINE COAST REGION





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