




Speech By
Hon. Tim Mander

MEMBER FOR EVERTON

QUEENSLAND BUILDING SERVICES AUTHORITY AMENDMENT BILL

 **Hon. TL MANDER** (Everton—LNP) (Minister for Housing and Public Works) (5.11 pm), in reply:
I thank the honourable members for their contribution to the debate today. The main purpose of the Queensland Building Services Authority Amendment Bill 2013 is to revitalise the regulation of the building industry in Queensland. The first step in this process is the passage of this bill to replace the Queensland Building Service Authority with the new Queensland Building and Construction Commission.

Such is the significance of this legislation that I believe it is important we pause and reflect on the path that we have taken to get to this point. This bill is part of the biggest reform to the regulator of the building and construction industry in more than two decades. The government's aim with these reforms is to give consumers and contractors confidence in the industry—confidence to build a new home or to renovate an existing home and confidence to start or grow a business or get a job within the industry.

In August 2012 this parliament agreed to a motion that the Transport, Housing and Local Government Committee inquire and report on the operation and performance of the Queensland Building Services Authority and its regulation of the industry, including the maintenance of proper standards in the industry. On 30 November 2012 the parliamentary committee tabled in the Legislative Assembly its report, which recommended far-reaching changes to the Queensland Building Services Authority. My department then appointed a panel of experts to fully assess the recommendations of the parliamentary committee. I thank those panel members—Mr Phil Kesby, Mr Andrew Wallace, Mr David Hanna—and the director-general of my department Mr Neil Castles for their valuable assistance in developing the government's response.

That response was further informed by additional consultation conducted by KPMG. As part of this consultation, KPMG spoke with two consumer groups. They also conducted four consumer focus groups held across four regions throughout the state. In total there were 34 consumers who were consulted as part of these focus groups. These 34 were selected at random from a list of all consumers that have been through the dispute process, some of whom had gone through insurance claims. In addition, there were 10 one-on-one sessions held with individual consumers who had contacted my office and indicated interest in providing feedback.

Builders and licensees of all categories were also consulted. These businesses included large commercial builders, medium commercial builders, large project residential builders, small to medium residential builders and trade residential contractors. Seventeen industry associations including Master Builders, HIH, SPASA and the Australian Institute of Building Surveyors were also consulted, as was the BSA board, the general manager and the executive team. Importantly, staff that had an interest were also spoken to in order to get their ideas and thoughts on the organisation that they worked for—the BSA. Reinsurers who underwrite the insurance scheme were also consulted by KPMG, as was the Queensland Law Society.

Stakeholders provided a range of different views on the recommendations of the committee and key considerations for implementation. Some of the key issues discussed with stakeholders include: what things work and should be retained, and what things do not and should be improved; a need to improve the timeliness and performance of the current BSA processes, particularly through early intervention in the dispute resolution process with access to independent expert advice; the use of standard contracts and the introduction of standards and tolerance manuals to provide greater certainty to all parties, as well as the provision of relevant advice to consumers at the contracting stage; communication and information provided to consumers and a need for greater clarity so they know what information to access and where to find it; education for consumers and other participants in the industry; the continued provision of training for BSA staff in areas relevant to their roles and responsibilities; the broader focus on continuing professional development across the industry; the role of engagement and monitoring of certifiers; the performance of the home guarantee scheme and opportunities to broaden its coverage; and most importantly, governance changes to the BSA, including, significantly, support for the establishment of a governing board reporting directly to the minister.

The government's response to the committee's report—which was tabled on 29 May 2013—includes a 10-point action plan to reform building regulations in response to the parliamentary committee's inquiry. The action plan is about getting the balance right between the rights of consumers and the rights of contractors. It is about ensuring that there is confidence in the industry. This bill today sets in motion points 1 and 2 of the action plan only a week after it was released. Points 3 to 10 of the action plan will be implemented progressively and in consultation with industry and stakeholders. The action plan will provide a solid foundation for the industry to progress into the future.

This bill represents the first stage of these reforms, which is to establish the Queensland Building and Construction Commission in place of the Queensland Building Services Authority. The new commission will have a professional governing board and a commissioner, who will be appointed by, and report to, the governing board. This is a significant change in the governance arrangements currently in place at the BSA. The changes introduced as part of this bill will result in a governance structure more reflective of a public company and other government authorities.

The Queensland Building and Construction Board will set the strategic direction and the operational, financial and administrative policies of the commission. These responsibilities were previously exercised in conjunction with the general manager of the Queensland Building Services Authority. The board will have responsibility for the future direction and performance of the commission and will report to me directly on that performance and on issues affecting the building industry and consumers. The board will also ensure the commission performs its functions and exercises its powers in a proper, effective and efficient way, making reviewing policies governing the administration of the act, providing guidance and leadership to the commissioner and advising me about unfair or unconscionable trading practices affecting the security of payments to contractors and subcontractors.

There will be seven members of the board, including a chair and a deputy chair, who will be appointed by the Governor in Council for a term of not more than three years. The commissioner will not be a member of the board. The selection of the board members will be on the basis of their experience and skill as a member of a governing board. I would ask the member for Rockhampton to take note that they will also show the ability to contribute to the effective and efficient performance of the commission. It is expected that positions on the board will be advertised shortly after the bill is passed.

To ensure input from stakeholders, industry and consumer reference groups will be formed which will report to the board on issues which impact on them. The commissioner will be appointed by the board, subject to my approval, for a term of not more than three years. The role is akin to that of a chief executive. The commissioner will implement the strategic direction set by the board and have responsibility for the management of the business and for reporting on performance. General managers will be responsible for each of these three main business units: licensing, dispute resolution and home warranty scheme management. To ensure that there is little room for conflict of interest issues to arise, these units will be administratively firewalled from each other.

My role as the responsible minister will remain essentially unchanged. I will retain the power to give formal directions to the commission which are to be tabled in parliament. As is currently the case, any formal policies of the board governing the administration of the act will need to be endorsed by me as part of the approval process by the Governor in Council, as these policies are required to be approved by regulation. The new governing board will set the strategic direction of the commission

and report directly to me on matters of performance and on issues affecting the building industry and consumers. Consistent with this enhanced role, the board will appoint the commissioner, subject to my approval. The commissioner will retain responsibility for decision making on licensing, dispute resolution and the home warranty insurance scheme.

As previously outlined, my department is also chairing an implementation committee that will recommend improvements identified in the government's response to the committee's report on the QBSA. This will include recommendations for early intervention in disputes, improved accountability for certification of building work, possible changes to the scope of the Queensland Home Warranty Scheme, a review of licensing requirements, and improved consumer awareness and industry training.

I now want to address some of the issues that were raised during the debate. I thank the member for Rockhampton for taking us on a rather nostalgic stroll through the history of the BSA and I thank him for his support of the bill, albeit reluctantly granted. I must confess to feeling slightly sorry for the member. It cannot be easy being forced to stand up to try to criticise what is an eminently sensible suite of reforms, but if nothing else I think the member deserves full marks for effort. It is true that the BSA has had a comparatively good track record, but if the member believes that after 20 years everything is rosy and there is no room for improvement then he has not been paying attention. However, contrary to the member's comments, this is far more than a cosmetic change. The change from the QBSA to the QBCC will signal a significant change and improvements in the delivery of services provided by the building regulator. The commission will be overseen by a professional governing board which will be responsible for the strategic direction and oversight of the functions and performance of the commission to ensure efficient, effective and transparent services are provided.

As I did during estimates hearings when asked this question, I can reassure the member that we have no plans to privatise the Queensland Home Warranty Scheme. I cannot be more plain or black and white about that. The scheme in Queensland provides the best cover available nationally for residents who undertake building work. It provides consumers with peace of mind that if their home is not finished because a builder goes bust or there are defects in the building which are not fixed then insurance will kick in and finish or fix their home.

Finally, I note some of the colourful notions put forward by the member for Rockhampton about ulterior motives for these reforms. I simply say that the member can choose to amuse himself with these sorts of conspiracy theories if he wishes. However, he knows that the Newman government is the most open and transparent government this state has ever had and that all appointments will be made in an open and transparent way on merit. The board will have seven members. Unlike the Labor Party, which appointed board members on the basis of their union or party affiliation—and I use the example of the current board with Wally Trohear from the CFMEU and John Battams from the Queensland Council of Unions on the RTA board—members of the QBCC board will be chosen by their ability to make a contribution to the effective and efficient performance of the commission's functions through their expertise and experience. Board members will be appointed by the Governor in Council for a period no longer than three years. We anticipate that advertisements for board members will go out in September.

Finally with regard to the cost of these reforms, I am not going to be lectured on fiscal probity by the party that left this state with a \$65 billion debt. The commission will continue to be self-funding, just as the current BSA is now. However, during the implementation phase of the reforms a thorough analysis of the potential costs and benefits of each reform will be undertaken and in some instances a regulatory impact statement will be carried out to evaluate the likely costs and benefits to business, community and government that would result from the adoption of the proposals. I will be seeking to limit the costs associated with implementation through the use of existing government resources.

I do thank the member for Warrego for his stewardship of the committee and for presiding over the public hearings and production of this very thorough report. Thank you for correcting the member for Rockhampton's comments about this being a purely cosmetic change. As the member for Warrego rightly points out, under the QBSA the current board operates largely in an advisory capacity. The new QBCC will have a professional governing board which will provide strategic direction and oversee the performance of the commission.

KPMG was engaged to undertake consultation with stakeholder groups, including consumers, during development of the government's response to ensure that all viewpoints were considered. This included meetings with two consumer groups and 34 individual consumers in focus group sessions in Brisbane, Townsville, Rockhampton and the Gold Coast and 10 one-on-one interviews with individual consumers who had previously been in contact with my office. The Queensland Consumers

Association also met with the independent review panel advising me on the parliamentary committee's recommendations.

Consumers are also represented in the work currently being undertaken by the subcommittees established under the implementation committee in the Department of Housing and Public Works to further investigate a rapid dispute adjudication model, building certification and insurance and licensing. The Queensland Consumers Association is a member of the rapid dispute adjudication subcommittee and is consulted by the other subcommittees on the direction of their reviews. When the new commission is established, consumers will have an opportunity to have their views heard through the establishment of a consumer reference group which will have input into the governing board.

I thank the member for Chatsworth for recognising the importance of creating confidence in the industry. By striking the right balance between consumers and contractors, the QBCC will help build confidence in the industry, whether that is the confidence to build a new home or the confidence to start or grow a business or pursue a career in the industry. I also thank the member for drawing the distinction between the open and transparent way the Newman government conducts itself and the 'jobs for the boys' mentality that was allowed to flourish under those opposite. I also thank the Minister for Tourism and member for Currumbin for her interest in this bill and acknowledge the hard work she did in this space while in opposition. I particularly endorse her comments about the high standards of this government and I know that she, along with my other colleagues in cabinet, also sets high standards for herself and her department.

The member for Algeester is absolutely correct that there was a real need for change and renewal. No statutory body can stay the same for more than 20 years, much as the member for Rockhampton might wish it to be otherwise. The member for Algeester touched on the frustration experienced by homeowners when their greatest investment is under threat. While there are always going to be disputes in the building industry, it is vital that we make sure that when things do go wrong there is a suitable dispute resolution process in place that minimises the stress and anxiety. Addressing that issue is something that the board of the QBCC will be tasked with sorting out. I thank the member for his interest and his hard work on the committee. The people of Algeester are fortunate to have such a devoted member working on their behalf.

I thank the member for Nudgee for his contribution to the debate and note in particular his emphasis on the structure of the new commission. As the member noted, while the functions of the QBCC will remain similar to those of the BSA, there will be a significant change in governance arrangements to more closely reflect the public company or similar government authorities. I thank the members for Springwood and Kallangur for noting the extent to which the current regulator is precluded from intervening in disputes until it is too late. The BSA has maintained a policy of not intervening in domestic building disputes while a contract remains on foot. Also, the BSA does not intervene in disputes about contractual matters as opposed to issues about defects or incomplete work. Neither of these policies has any direct legislative standing. However, the BSA argues that it would be unfair to issue a direction to rectify to a contractor while the work remains incomplete, as the builder could claim intent to complete the job at a later stage. This potentially leaves owners in the position of deciding whether to allow the contractor to complete the works even though the work appears to be defective or to terminate the contract and make a claim under the home warranty scheme. A further issue for owners is that builders may dispute any termination of a contract and, until a decision is made by a court or QCAT that the determination was lawful, this may delay a decision being made under the home warranty scheme.

The members also raised the issues of conflict of interest, either real or perceived, and I recognise the sheer number of complaints the committee dealt with on this particular topic. By way of example, I refer to the comments of Mr John Andrew, a builder, who noted in relation to the home warranty scheme that it is likely that officers who handle claims are also aware of the budgetary considerations of the organisation which may influence their decisions. I also note the observation of Deborah Brown that it is probably impossible for the BSA to balance the interests of both parties so both are happy since to some extent their interests are opposed. Interestingly, the evidence in this area shows that both builders and consumers are equally convinced that the BSA is biased towards the other side. Perceived conflicts of interest are an inevitable consequence of an organisation with such a broad remit in which the competing functions are not adequately firewalled from each other.

I thank the member for Moggill for his contribution. I note the excellent work that he did on this issue while in charge of this portfolio. I note the member's comments that in his experience the board played a very limited role. It is an astonishing thought that the board could not even form an opinion on whether the general manager should be reappointed. That is something that will change under the

new commission, where the governing board, as well as having actual power, will have actual responsibilities and will be accountable to the minister.

The member spoke about a number of challenges in this area and I would like to touch on a few of them. It is extremely important that consumers are made fully aware of their contractual rights and obligations to improve consumer awareness training. The QBCC will also look at the introduction of continuous professional development in the building industry to enable consumers to choose a builder who is up to date with industry standards. This is standard practice in other fields such as law or project management and I believe that it would be a real asset to the building industry. The QBCC will also investigate the introduction of a rapid dispute adjudication system, which will mean that disputes can be addressed during construction, reducing the number of disputes being referred to QCAT, which can take up considerable time and money. The member also touched on the challenge around the Building and Construction Industry Payments Act—BCIPA—which, as he correctly identified, was originally meant to deal with small projects but ended up being involved in multimillion-dollar contracts. The member will be aware that that act is undergoing its own review, which I look forward to advising the House of at a later date.

I thank the member for Brisbane Central for his support. The member speaks from a position of considerable experience, having spent 15 years with his family's construction company. So he is well positioned to make comment. I thank the member for Burnett for his support. I note that the member has had over 35 years of experience in the industry and is a registered builder as well as a member of the HIA.

Construction is one of this government's four economic pillars. In 2011-12 it contributed over \$15 billion to the economy. So we want to make sure that both contractors and consumers are equipped and confident in undertaking a building project in Queensland. In 2011-12, there were over 4,700 complaints received about defective building works. With a solid foundation based on this suite of proposed changes, which includes improved certification processes, the development of a standards and tolerance manual and a form of rapid dispute resolution, we believe that we can improve this position. The implementation of this plan will give both consumers and builders confidence in a system and the industry with less time spent resolving these issues. In the past four years, there have been over 22,000 complaints. This year, 323 builders have had their licences suspended or taken from them. Anything that we can do to improve the ongoing professional development for builders will reduce this number and give more confidence to consumers to build a house or renovate.

I thank the member for Burdekin for her contribution and in particular her focus on consumer representation. As I outlined in my opening remarks, KPMG was engaged to undertake consultation with stakeholder groups, including consumers, during the development of the government's response to ensure that all viewpoints were considered. This included meetings with two consumer groups and 34 individual consumers in focus group sessions in Brisbane, Townsville, Rockhampton and the Gold Coast and 10 one-on-one interviews with individual consumers who had previously been in contact with my office.

The Queensland Consumers Association also met with the independent review panel advising me on the parliamentary committee's recommendations. Consumers are also represented on the work currently being undertaken by the subcommittee established under the implementation committee to the Department of Housing and Public Works to further investigate a rapid dispute adjudication model, building certification, insurance and licensing. The Queensland Consumers Association is a member of the rapid dispute adjudication subcommittee and is consulted by the other subcommittees on the direction of their reviews. When the new commission is established, consumers will have an opportunity to have their views heard through the establishment of a consumer reference group, which will have input to the governing board.

I thank the member for Burleigh for his impassioned contribution. The people of the Burleigh electorate are fortunate to have such a hardworking and dedicated local member. The member for Ipswich made some salient points about the BSA operating under a 1990 model of corporate governance. I thank him for his contribution and recognition of the importance of implementing an updated governance model with clear lines of responsibility. I also thank the members for Morayfield, Sunnybank, Logan and Gaven for their contributions.

This is an extremely significant piece of legislation. I thank the members for their interest and for their contributions to the debate today. I also thank the committee and in particular the chairman, the member for Warrego, for the hard work that they have put in to get us to this point.