




Speech By
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MEMBER FOR EVERTON

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BUILDING AND OTHER LEGISLATION AMENDMENT BILL

 **Mr MANDER** (Everton—LNP) (4.59 pm): I rise to give my contribution to the Building and Other Legislation Amendment Bill 2022. At the very outset, I state that the opposition will not be opposing the bill. It is a fairly technical piece of legislation in lots of different ways and, for the most part, is uncontroversial. I note the government's explanation of its objectives for the bill are as follows: to support contemporary consumer expectations about efficiency of buildings through amendments to legislate provisions regarding the expanded use of greywater and issues about holding tanks for sewage, which is a good change and something that we support very much; to enhance the efficacy and transparency of the regulatory framework through amendments to the legislative provisions regarding issues such as the sharing of information on investigation outcomes, which the minister has already explained; and to improve the operation of building related legislation through minor technical amendments.

All of that is well and good and, like I said, for the most part the bill is not controversial; however, there are a few issues in this bill which the opposition will not let slide. Those issues go to the very heart of the competency of this government. Behind what is in the bill are issues where the government over a long period of time has not got it right. The very basics have been bungled. That is what is behind some of the amendments included in the bill before the House. The people of Queensland ought to know about them. In other words, this bill corrects some of the government's stuff-ups.

There are three issues that I want the House to take note of and I will highlight during my contribution. The first one is the 'ban the banners' provisions. The second one will be issues around flammable cladding. The final one will be about head contractor licensing exemptions.

Let us start with 'ban the banners'. It is really important to know the backstory here. A lady at North Lakes, Pauline Tyler, was doing the right thing by putting solar panels on the roof of her house. She did that thinking that she was doing the right thing environmentally, which she is doing, and had no consideration whatsoever that that would ever be challenged. But the developer in that area took offence to the aesthetics of the solar panels on the roof and ordered her to remove them. Obviously, she could not understand and was very reluctant to do so. It cost her a lot of money, and it would cost her a lot of money to remove those solar panels as well. The developer continued to push by saying that as part of the covenant this was not acceptable. The developer wanted them on another side of the roof, which would not be efficient. She kept pushing back. Anyhow, this ended up in the courts.

The courts referred to the legislation to which the minister referred earlier, legislation introduced during the Bligh government. I suspect Robert Schwarten was the minister at the time—a recently retired member of the QBCC member of the board.

Mr Hinchliffe: It was actually me.

Mr MANDER: Oh, it was you. Sorry, I take that back. Sorry, Robert Schwarten.

Madam DEPUTY SPEAKER (Ms Lui): All comments through the chair.

Mr MANDER: Okay, it was Minister Hinchliffe. That legislation was introduced so that this exact thing could not happen—so that anybody wanting an energy-saving device could not be stopped by some development covenant. This matter went before the courts. Pauline Tyler won that first court case and felt that that was the end of the matter. The developer then looked further at the legislation and realised that there was a loophole. Through another costly court appearance, Pauline Tyler lost the case because the original legislation was not tight enough. There were different interpretations of words used which left her high and dry. This has cost her many tens of thousands of dollars to defend, not to mention the mental anguish of wondering what was going to happen next. It also led to an ex gratia payment from the government. This loophole has cost taxpayers money because of, basically, the Labor Party's inability to get this right from the very beginning.

Pauline Tyler has been put through the legal wringer. Until today, the developer continued to push that she remove not the panels but the tracks on the roof, because this legislation was not tightened until today. It is something that should have never happened. The legislation should have been tight in the first place. It did not meet the Court of Appeal's requirements. We have a Queenslander who has gone through the legal wringer. I hope now that this will finally give her some peace.

The second issue I want to address is combustible cladding. There are components of the bill which relate to the removal of such cladding on private buildings. Clause 21 will enable the QBCC to commence prosecution of those who have committed an offence in relation to the combustible cladding checklist process. Without this amendment the QBCC is powerless to commence prosecutions on this issue. That means that, since the Building and Other Legislation Cladding Amendment Regulation 2018 came into effect, there has been no state government agency that has had the authority to prosecute noncompliant building owners.

The government has had to go cap in hand to local councils seeking their approval. The government is very fortunate in that, through the goodwill of the councils the minister has mentioned, it has sought and won their cooperation. Even with the ability to prosecute a building owner for an action, there may be difficulty compelling the building owner to remove the cladding. This is a really serious issue. Having known about this issue since 2017, the state government has had no clear solution to remedy the problem of combustible cladding on private structures. This has dragged on for far too long.

At the end of April, at nearly 30 government sites flammable cladding is still present. They include schools, hospitals, courts and libraries. It is all listed on the government's website. What is the hold-up? Does the government have a legitimate excuse for why this is taking so long? When it comes to privately owned buildings, there still is no answer to how the problem will be fixed. When it comes to rectification, what is the government's plan? Does it have one? Does the government think it is now suitably armed with this legislation to prosecute and compel the removal of this cladding? Some in the industry believe that is not the case. The government has known about this problem since 2017, but it is now 2022.

Members of the government still seem to be making things up as they go along when it comes to removing combustible cladding. There are people living and working in these buildings every day. This cannot be something that is put in the too-hard basket; it is a real problem that needs a prompt solution. It is the role of the government to get on with fixing this. Every day this problem lingers is another day that people are at risk in these buildings.

I refer to the head contractor licence exemptions. Clause 67 of the bill amends schedule 1A of the QBCC Act to clarify that a head contractor licensing exemption clarifies that the head contractor licensing exemption prescribed in schedule 1A, sections 8(1) and (2), does not apply in circumstances prescribed in regulation. This amendment will omit a section of the Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2022 which repealed head contractor licensing exemptions.

Let us again understand what has happened here. If somebody involved in a project where building work is not the prime reason for that project—for example, civil contractors building roads or kerbs and developing some sort of estate where they have to build a couple of bus shelters which require a carpenter or somebody in the building trade—what has always happened is that there have been exemptions to the need for the head contractor to have the appropriate building licence. It makes no sense. That is not the primary aim of this.

What happened two years ago is that this government took away that exemption. That was passed by this House and the Governor signed it off but it is yet to come into effect. We have legislation before us now that is repealing something that went through the parliament two years ago but has not taken effect. This is happening because they stuffed it up in the first place. They obviously did not consult properly and did not understand the implications of that provision, and we are now reverting to what should have always been the case.

If we look at what stakeholders like Master Electricians, the Property Council and the Queensland Law Society have said, we find that they have grave concerns that exemptions will be granted by regulation and not by parliamentary process. This is typical of a government that continues to circumvent the democratic processes of parliament.

The minister talks about targeted consultation. They have targeted consultation with organisations that support the government. He mentioned NFIA—please—

Madam DEPUTY SPEAKER (Ms Lui): Excuse me, member for Everton. You used an unparliamentary word so I ask you to withdraw.

Mr MANDER: I withdraw. I am not sure what it was, but I withdraw. The minister talks about targeted consultation. I have heard about targeted consultation before and I have seen the outcomes of that as well. I have zero confidence that this government can be trusted when it comes to how these regulations are enacted and so do others who submitted on this bill. This is just another classic example of this government trying to avoid parliamentary scrutiny. It is of grave concern.

As I have said, the LNP will not oppose this bill. However, this House must recognise the mess caused by the Bligh era legislation which left a home owner with excessive legal costs simply for installing her solar panels. We also need to recognise that, despite it being five years since the Grenfell Tower fire, which this minister loves to continue to reference, this state government still has no solution in terms of how to address the presence of combustible cladding that remains on private buildings. The head contractor licence exemption amendment represents another example of the state government relegating very important matters to regulation in an effort to avoid parliamentary scrutiny and reversing something that should never have happened in the first place.