UTILITIES, SCIENCE AND INNOVATION COMMITTEE

Members present:

Mr SR King MP (Chair)
Mr DJ Brown MP
Mr JN Costigan MP
Mr DR Last MP
Mr R Molhoek MP
Mr CG Whiting MP

Staff present:

Ms K McGuckin (Research Director)
Ms R Stacey (Principal Research Officer)

PUBLIC HEARING—INQUIRY INTO THE PLUMBING AND DRAINAGE AND OTHER LEGISLATION AMENDMENT BILL 2015

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 17 FEBRUARY 2016

Brisbane

WEDNESDAY, 17 FEBRUARY 2016

_____

Committee met at 10.30 am

CHAIR: Good morning all. I call this public briefing and hearing of the Utilities, Science and Innovation Committee to order. Thank you for your interest and your attendance here today. I would like to acknowledge the traditional owners of the land upon which this parliament stands. My name is Shane King. I am the member for Kallangur and chair of this committee. Mr Rob Molhoek MP, the member for Southport, is the deputy chair of the committee. I would like to introduce my other committee members: Ms Joan Pease MP, the member for Lytton; Mr Jason Costigan MP, the member for Whitsunday; Mr Dale Last MP, the member for Burdekin; and Mr Chris Whiting MP, the member for Murrumba.

Today's public briefing and hearing is to assist the committee with our inquiry into the Plumbing and Drainage and Other Legislation Amendment Bill 2015. The committee has advised the public of the inquiry by publishing details on the parliamentary website and also by writing directly to a number of individuals, organisations and government departments. Witnesses at today's public briefing and hearing will appear in the order outlined on the public briefing and hearing program.

This public briefing and hearing is a formal proceeding of the parliament and is subject to the Legislative Assembly's standing rules and orders. The committee will not require evidence to be given under oath, but I remind witnesses that intentionally misleading the committee is a serious offence. You have previously been provided with a copy of instructions to witnesses, so we will take those as read. Hansard will record the proceedings and witnesses will be provided with a transcript. Today's proceedings are being broadcast live on the parliament's website. I therefore ask you to please identify yourself when you first speak and to speak clearly and at a reasonable pace.

I remind all of those attending the briefing and hearing today that these proceedings are similar to parliament to the extent that the public cannot participate in the proceedings. In this regard, I remind members of the public that, under the standing orders, the public may be admitted to or excluded from the briefing at the discretion of the committee. I remind committee members that officers from the department are here to provide factual or technical information. Any questions about government or opposition policy should be directed to the responsible minister or shadow minister or left for debate on the floor of the House.

I will also ask that, if witnesses take a question on notice today, they provide the information to the committee by 19 February 2016. Before we commence, I ask that mobile phones be turned off or switched to silent mode.

BREEN, Mr David, Executive Manager, Residential Tenancies Authority

KAWAMATA, Mr Hiro, Executive Director, Capital and Assets, Housing Services, Department of Housing and Public Works

LEITCH, Mr Jonathan, Executive Director, Strategy and Policy, Housing Services, Department of Housing and Public Works

LOWE, Ms Kellie, Acting Commissioner, Queensland Building and Construction Commission

TIMMS, Mr Logan, Executive Director, Building Industry and Policy, Department of Housing and Public Works

CHAIR: The committee will first receive a public briefing by the Department of Housing and Public Works. Would one of you like to commence your briefing?

Mr Timms: Thank you so much for the invitation to address the committee today. We appreciate it. In addition to the usual introductory comments, we were planning to address a number of matters that have been raised in the submissions. With your indulgence, we will proceed along those lines. It is about 12 pages, so please bear with us.

Together, the amendments to the plumbing and drainage and QBCC acts establish the Service Trades Council and deliver the government's commitment to re-establish a dedicated plumbing industry regulatory body within the QBCC. In some respects, the Service Trades Council replicates the Plumbing Industry Council, which was abolished in late 2014. The Plumbing Industry Council, which I will refer to as the PIC, was a stand-alone representative body that oversaw the licensing and conduct of plumbers and drainers in Queensland, so it had that occupational individual focus. Following its abolition, the functions of the PIC were undertaken by the QBCC. This arrangement allowed for service improvements and reduced costs for licensees by creating a one-stop shop for plumbing licensing.

Consistent with the government's commitment, this bill establishes the Service Trades Council as a dedicated plumbing industry body while retaining the efficiencies of the one-stop-shop model. The Service Trades Council will be responsible for matters including conferring on national policy for the trade, reporting to the minister on plumbing and drainage issues and making recommendations to the QBCC commissioner about the performance of the commissioner's functions under the Plumbing and Drainage Act. These functions will empower the STC to be a strong voice for plumbers and drainers in Queensland.

The STC will also assist the commissioner by establishing a panel of experts to consider and provide advice on complex licence applications, such as those from people from overseas. It will also have an important role in promoting the competence of plumbers and drainers by providing an industry led internal review mechanism for disciplinary decisions made by the commissioner. Finally, the bill outlines the minimum membership of the STC, which consists of a broad range of industry and government representatives, guaranteeing a strong industry voice that brings together the varied interests of the sector.

Extensive consultation was undertaken during the drafting of this bill, with a draft released to key stakeholders for five weeks in mid-2015. Nine submissions were received and all of these submissions supported in principle the importance of a dedicated plumbing industry regulatory body. Many of those submitters also made submissions to this committee, and I am pleased to note that the Air Conditioning and Mechanical Contractors Association, the Plumbers Union of Queensland, the Local Government Association of Queensland and the Master Plumbers' Association of Queensland each indicated support for the establishment of the STC.

We note that the LGAQ does not support the STC considering policy matters. The LGAQ pointed out that it would prefer the continuation of the Plumbing Industry Consultative Group and the Building Industry Consultative Group, which are a very broad based policy development consultation forums. However, the establishment of the STC will not affect the operation of either of these groups. Those groups will continue to meet quarterly and will continue to provide feedback on proposed policy measures. The STC will provide a dedicated avenue for plumbers and drainers to address matters of importance, particularly in relation to licensing and disciplinary issues. That is certainly the focus.

I am also pleased to report that the functions listed in the bill represent the general consensus of stakeholders, particularly with the inclusion of new section 6(d), which allows the STC to make recommendations to the QBCC commissioner about the performance of the commissioner's functions under the Plumbing and Drainage Act.

Finally, I note that the MAQ—the master plumbers—advocated to expand the functions of the STC to incorporate gasfitting and other trades. While this proposal is obviously dependent on the government's review of the QBCC licensing, the bill will allow any of these recommendations to be adopted without further legislative amendments. That concludes the remarks that I would like to make regarding the Service Trades Council.

I would like to turn to the deeming provisions that are contained within the bill. The bill proposes to amend the Housing Act to ensure that public housing properties are taken to have complied with all applicable development laws in place at the time of construction. Under the Sustainable Planning Act, the construction of public housing is exempt from obtaining development approval and all building work is self-assessable against applicable codes. As a result, public housing properties do not have the development and building approvals that are normally obtained by the private sector. The provisions in this bill provide that all development and building work carried out on public housing properties has been done lawfully and in accordance with the relevant development laws. As such, if a public housing property is sold or transferred to another entity, the property will not be commercially disadvantaged. It can maximise its value and attract commercial interest.

We note that the Brisbane City Council raised a number of issues in relation to the deeming provisions, and I would like to take this opportunity to address a couple of those concerns. Brisbane

City Council suggested that new section 94G is unclear as to whether public housing developments must apply with applicable laws, plans and codes and that the bill should be amended to ensure that all public housing properties meet these requirements. It is important to note that the Department of Housing and Public Works employs a rigorous internal assessment procedure to all public housing projects. Each project is assessed against relevant planning instruments and local governments are invited to provide comment on proposed developments.

Additionally, the Sustainable Planning Act requires the department to publicly notify a public housing development that is considered inconsistent with a relevant planning scheme. All building work is also self-assessable, meaning that, while a development approval is not necessary, the work must still comply with all applicable building laws, regulations and codes. This requirement ensures that all public housing properties meet the same building standards as private sector housing stock. The deeming group provision also does not exempt a new owner from complying with laws for subsequent development. The council also outlined its objection to any large-scale sale of public housing stock. The department is not proposing such an undertaking. The deeming provisions will assist the department in selectively disposing of properties that are no longer suitable or selling properties to long-term tenants who are ready to transition to home ownership.

Turning to tenancy guarantees, the bill amends the Residential Tenancies and Rooming Accommodation Act to allow approved housing providers to give tenancy guarantees to private lessors. Tenancy guarantees assist people to access or sustain private rental accommodation by indemnifying lessors against a loss or expense caused by a tenant breaching their rental agreement. The guarantee covers situations where the tenant's rental bond is not sufficient to cover the amount owing as capped at four weeks rent, or $1,000. Currently, the Residential Tenancies Act allows the Department of Housing and Public Works to provide tenancy guarantees to private landlords. The amendments contained in this bill will allow approved housing providers to provide those tenancy guarantees. We note that there were no submissions made to the committee on this matter.

I turn now to tenancy databases. The bill amends the Residential Tenancies Act to adopt nationally consistent provisions in relation to tenancy databases. These databases are used to vet potential tenants, as any incorrect or unjust listings can significantly impact a tenant's access to housing. In December 2010, the Ministerial Council on Consumer Affairs endorsed uniform national provisions to ensure the information contained in tenancy databases was dealt with fairly. These national laws, implemented in all other Australian jurisdictions except for the Northern Territory, were heavily based on existing Queensland legislation but included some additional obligations. When enacted—subject to its passage—this bill will legislate the outstanding national provisions to bring Queensland into line with other Australian states by, firstly, requiring lessors and agents to inform applicants about the databases used by agencies during the application process; secondly, limiting database listings to three years; and, thirdly, ensuring databases contain only current and accurate information.

Five submissions were received by the committee in relation to this matter. In general, the submissions supported the provisions. However, the Property Owners' Association suggested that the requirement to inform tenants about listings and how to remove them is redundant. Although the listing of a person is currently required to make reasonable attempts to inform tenants, this does not always happen. Additionally, given the notification requirements form part of the national minimum standards, it is important that these provisions are incorporated into the bill. The Property Owners' Association and a real estate agent did not support limiting listings to three years, citing potential risks to the lessors. However, the three-year limitation was established nationally as a fair period and the Residential Tenancies Authority does not support a Queensland-specific time period.

Both the organisations that I just mentioned also advocated to allow listings to be made before the end of the tenancy. However, this impinges on the tenant's right to address any breaches during the contractual period and would undermine the existing processes established to remedy breaches. That is not in line with national standards and is not supported by the RTA either.

A submission from Enhance Care Inc. suggests amendments to prohibit listings where the amount owed is less than $300 above the bond amount. However, under the Residential Tenancies and Rooming Accommodation Regulation, a person cannot be listed for an amount that is less than the amount of a rental bond in any tenancy guarantee. To extend this limit to include the rental bond amount in any tenancy guarantee plus another $300 would be an unacceptable risk for lessors. Additionally, for smaller amounts the tenant has the option to pay the debt and ensure that tenancy is unaffected. As such, the position is that no further amendments are necessary. Making those amendments would also create unnecessary discrepancies between Queensland and the national approach.

Enhance Care Inc. also questions how fees for providing a copy of listed personal information will be deemed excessive and suggests that any fee be capped at $20. The wording of this provision is in line with the Commonwealth Privacy Act on costs of access to information, and specifying an amount may result in a fee being charged where it otherwise may not have been. Enhance Care also suggested that personal information should be removed from a database when a tenant becomes bankrupt. The RTA does not consider this to be fair to lessors, as it is an indicator of a tenant's ongoing ability to pay rent, and does not support the proposed amendment.

Finally, Enhance Care raised concerns about workloads for the tribunal due to increased applications resulting from the bill. It is important to note that applications of our database listings have been allowed since 2003 and there was no evidence of a marked increase in tribunal matters when it was first introduced. As such, no consequent increase in tribunal applications is anticipated.

The Queensland Public Interest Law Clearing House Inc. raised concerns about the impacts of the transitional provisions on tenants with listings of two or more years whose old listings may not be able to be removed until one year after commencement. This obligation requires tenancy database operators to remove old listings and addresses a potential breach of fundamental legislative principles by allowing a 12-month period to remove listings which are two or more years old. It will not prevent the removal of listings during the transitional period.

Finally, the South Australian government recently introduced amendments to prohibit personal information of victims of domestic and family violence being listed on a residential tenancy database. The RTA supports Queensland introducing similar provisions which will require an amendment in committee. I appreciate your time. I am happy to answer any questions.

Mr MOLHOEK: With regard to concerns raised by the Brisbane City Council and the proposed changes around approvals, I am assuming that councils would still be a referral agent or invited to comment on any public housing developments? There is no proposal to change that?

Mr Kawamata: As you mentioned, public housing developments are exempt developments under the Sustainable Planning Act. Under that act, we provide information to all councils of all of the projects that we are undertaking, and then we take on any comments that are provided by the council.

Mr MOLHOEK: So that would still clearly be the intent—

Mr Kawamata: Absolutely—

Mr MOLHOEK:—if this legislation goes through?

Mr Kawamata: Yes.

Mr MOLHOEK: You mentioned that any public housing development has to comply with all the relevant codes. Is it fair to assume that it also has to comply with the intent of the current planning scheme in terms of height, density—

Mr Kawamata: Under the exempt provision in the Sustainable Planning Act, the department's process looks at every planning scheme that is relevant to a particular project and meets the intent and performance outcome outlined in the relevant planning scheme and takes on any of the comments. If there are any elements that are considered to be inconsistent with the planning scheme, under the act we are required to publicly notify the project and seek comments from the public and take that on before making decisions.

Mr MOLHOEK: Who signs off on that? Once the public comments come in, who determines whether the development will go ahead as proposed or decides to modify it to meet the expectations of the community if it is outside of the planning scheme?

Mr Kawamata: The department considers all of those comments through submissions and council comments and makes a recommendation to the director-general. The director-general makes a determination of whether or not to proceed with the project.

Mr MOLHOEK: What would happen if the director-general decided to proceed with something that was outside of the intent of the planning scheme and ignored some of the community concerns? Normally the process is that the council would refuse an application or it might approve it with certain conditions, but there would be some sort of appeal process through the courts. What course of action is available to a council or community if the director-general makes a determination and the community is still not happy with the outcome?

Mr Kawamata: Because it is exempt development, it does not have appeal rights. However, the sort of inconsistency that we are talking about is usually slightly larger footprints, for example, or height restrictions. The department's intention usually is to meet the performance criteria. That may not necessarily be under the acceptable solutions that are provided in the planning scheme, but the

intention always is to meet the performance criteria. If submissions come in that argue that the department is not meeting performance criteria, the department will consider that and submit it to the director-general.

Mr MOLHOEK: I understand the need to have a process where the government is exempt, to some extent. It is certainly reasonable where it complies with the planning scheme, the intent of the scheme, there is no significant material change of use et cetera, but it seems to me that there needs to be some further level of accountability so it is a level playing field. If a developer came in and wanted to do that, they would be completely at the mercy of the community, the council and the legal system in terms of appeals. It does not seem appropriate that the government can effectively just say, 'Thanks for all of those comments, but we are just going to do what we want to do anyway.'

Mr Kawamata: The intent of the proposed provision in this bill is not to change anything that is in the Sustainable Planning Act. The provision in the Sustainable Planning Act with regard to public housing continues. The proposed provision is to provide certainty and clarity to any future purchases or properties from public housing. I am not sure if I can answer that question in terms of the appropriateness of the current provision in the Sustainable Planning Act.

Mr MOLHOEK: Mr Chair, perhaps we can get some further comment from the department on that.

Mr Kawamata: Sure.

Mr MOLHOEK: I think it is important to be very clear about that matter. I think the rules need to be consistent for all. I understand your point. You are saying that if you buy the land now with a plan to do XYZ into the future and then council changes the planning scheme you need to protect your rights into the future, but I do not know that it is appropriate for the state to be able to ride roughshod over a local authority on an approved planning scheme when the same government that is now wanting to bend the rules approved that plan through another department. I think there needs to be consistency in the approach.

Mr Timms: Mr Chair, are you happy for us to take that on notice?

CHAIR: Yes.

Mr MOLHOEK: Thank you.

Mr WHITING: The department responded in its written brief on the issue raised by the POAQ regarding the proposed requirement for lessors or agents who discover an applicant for a tenancy is listed on the database. They have to advise the tenant of the listing within seven days. The department has responded by stating that informing tenants of the use of a database is a requirement of the national minimum standards—that is, informing tenants of the use of a database. We would appreciate advice as to whether the proposed requirement to advise the tenant of the listing within seven days is also a requirement of the national minimum standards. That is the difference between advising of the use of the database and advising a tenant of the listing within seven days.

Mr Breen: The answer is, yes, that is part of the national standards. The obligation is, firstly, to tell a prospective tenant what databases are to be checked and if you find that the tenant is listed on the database then you are obliged to tell them that they are listed on the database and how they can go about dealing with that listing.

Mr WHITING: Is it part of the national minimum standards to advise them when that lessor or agent lists them on that database, or just to discover cover if they are listed?

Mr Breen: Just that they are listed. They do not have to give them a copy of the listing, but they need to tell them how to get a copy of the listing.

Mr WHITING: I think that is one of the discrepancies we are looking at. We want to ensure that if the tenant is listed by a lessor or an agent they are advised within seven days when that listing is made. If a lessor or an agent discovers that they are on the database they need to be informed, but if an agent or a lessor puts them on that database they have to inform that person.

Mr Breen: They do, yes. The reasoning behind the additional obligation that subsequently, if you are checking tenancy obligations, you find somebody is listed on the database to tell them that they are is that people do not 100 per cent advise tenants of a prospective listing at the end of the tenancy. It is common that people will not know they are listed on a tenancy database. That is the reason that, if it is found, in the national uniform standards it was a requirement that people tell the applicant that they are listed.

Mr WHITING: It has certainly been my experience that there can be cases where at the end of a lease a lessor or agent may not see that person again and they may not inform them they have

been placed on that. I understand that under the national minimum standards they should be notified that they have been listed; is that correct?

Mr Breen: Yes, they should be. It is a requirement under current Queensland law that you advise them that you intend to list them. You make reasonable attempts to do that, but there is a variety of reasons you have made reasonable attempts and the person has not received that information or whatever.

Ms PEASE: Could you provide some more information with regard to the minimum national standards on tenancy databases with regard to Enhance Care's mention of the $300 minimum? I know that you talked about it in your opening statement, but I wonder whether you could provide more information.

Mr Breen: In the submission there was reference to $20 and $300. The requirement in the uniform standards is that you cannot be listed for an amount unless it is greater than the bond. What we are saying in response is that it is not appropriate to set another threshold on top of the bond. There is already a threshold. Enhance Care may well be saying, having had some further conversations with them, that in some cases a bond is not taken or a very low bond is taken, and their point is that there should be a minimum threshold. The national standards do not contemplate that. They basically say that you can be listed for any amount over the bond. Our position is that it is a lot rarer that bonds are not taken, and if there is a debt owing then it is reasonable to be listed.

The other thing is that there is a safety net under Queensland law currently, which would continue, which is that a person could apply to the tribunal either on the grounds it is inaccurate or trivial or, alternatively, on the grounds it is unjust having regard to the circumstances. If the amount proposed to be listed is $20, you can apply to the tribunal to make a determination that that is unfair in those circumstances having regard to your personal circumstances. We would think, even if there is no bond, that there is still a safety net for people in particular need.

Ms PEASE: Further to that, if I may, with regard to people getting off the database, are there any restrictions with regard to pricing? I know that you mentioned the department does not support the suggestion to minimise the fee for getting the detail. How do tenants know how to get off the database and what does it cost them?

Mr Breen: The database companies have on their websites how to contact them to get a copy of their listing. One of the requirements is that if you are checking applications and you advise them they are listed you also have to tell them how you can contact the tenancy database to get a listing and take further action. The reason that we are not supporting the notion of setting a particular fee—it says that the fee must not be excessive—is that our advice during drafting, and this applied nationally, was that we would have to be consistent with Commonwealth law because that trumps state law. The Commonwealth Privacy Act makes a provision in terms of access to information, not just from tenancy databases but from other things, that you can charge a fee as long as it is not excessive. That gives far more flexibility because it allows people to consider the circumstances of what might be excessive rather than necessarily setting a fee.

Ms PEASE: Who determines what is excessive?

Mr Breen: Ultimately, basically you would go through some sort of tribunal process if you felt you were charged an excessive fee. My understanding is that the major databases do publish on their website different fee levels depending on how quickly you want your information. From our understanding, it is not a significant problem.

Mr LAST: The MPAQ has submitted that the Service Trades Council should be empowered to provide feedback on all state and national policy matters that relate to plumbing, drainage, gasfitting, fire, roofing, stormwater and mechanical services. Section 6(b) of clause 7 states that the council can report to the minister on any issues relating to the plumbing and drainage trade. Can you advise the committee whether there is a definition of what is included in this trade and whether it also includes fire, roofing, stormwater and mechanical services?

Mr Timms: At the moment the STC is restricted to plumbing and drainage, and that has been made clear. With regard to mechanical, gasfitting and fire, these are matters that are currently under review with part of the QBCC licensing review. There is deliberately no definition so that the act is futureproof, should other licensing functions appropriately transfer over, so that is not even to restrict it to those four you have just itemised.

Mr LAST: When will that review be finalised?

Mr Timms: I will take that on notice to give you firm time frames. I would say by the end of this year we should be able to get some notification out—early next year.

Mr LAST: What are the funding arrangements for setting up a Service Trades Council? How will that be funded, both initially and into the future?

Ms Lowe: When it comes to funding or the costs for the establishment of the Service Trades Council, I can answer that by breaking the cost down into a number of different groups, I suppose. There will be a cost to the commission to establish the Service Trades Council and other aspects of the bill, in particular the appointment of an assistant commissioner to the commissioner. So there will be those establishment costs, and then there will be costs directly attributed to the ongoing administration of the council. There is a third category of cost, too, and that is costs which I can foresee but I cannot actually quantify right now.

In terms of the direct costs of establishing the Service Trades Council and to give effect to the bill, it is a requirement that I as commissioner appoint an assistant commissioner. There could be recruitment costs associated with that, and that person would probably require some administrative support which would also require a recruitment process. We would need to ensure they have office equipment. So in terms of the direct establishment costs, we estimate that to be $59,310, with recruitment costs, office equipment and those kinds of costs.

In terms of the ongoing costs going forward, there will be the salary of the assistant commissioner and their support person. There will be costs associated with the meetings, particularly if non-government members are remunerated for meeting attendance and those kinds of expenses, and stationery, travel and those kinds of costs. In terms of the ongoing cost to the commission for the Service Trades Council and the assistant commissioner within the commission, we estimate each financial year going forward it will be approximately $405,473.

In terms of the other costs which I mentioned could arise and I cannot yet assess in any real detail, the bill proposes that the Service Trades Council could establish subcommittees and other committees to inform it. If committees are established there could be costs associated with that, but I cannot quantify them in any meaningful way today without knowing what committees might be established under the Service Trades Council.

Mr LAST: Where would the Service Trades Council be housed?

Ms Lowe: In terms of the framework of the QBCC?

Mr LAST: Where will they be working from?

Ms Lowe: They will be from the QBCC. In addition to the funding for those costs, we will provide the support for them. They could meet in our offices. We will support them in that regard.

Mr MOLHOEK: The staff would be at the QBCC?

Ms Lowe: The assistant commissioner and their support team, yes.

Mr COSTIGAN: So the STC would be accommodated at your headquarters here in Brisbane?

Ms Lowe: Yes.

Mr COSTIGAN: Would there be an expectation that they are required to visit regional communities as part of their duties?

Ms Lowe: They could. In terms of the overall framework of the QBCC, there are a number of different existing committees that provide advice not only to me as commissioner but also to the Queensland Building and Construction Board and also directly to the minister. They perform different functions. Those other committees and reference groups do sometimes meet in regional centres and there could be costs associated with that. If the Service Trades Council were of a mind to convene a meeting in a regional service centre, QBCC would fund those costs.

CHAIR: Regarding the term throughout clause 6 where it says 'the trade' and that you can report to the minister on any issues relating to plumbing and drainage trade, I want to flesh out what you consider as 'the trade'. We have plumbing, drainage, gasfitting, fire, roofing, stormwater, mechanical services. Are the other functions going to encapsulate that?

Mr Timms: Currently when we refer to 'the trade' we are talking about plumbing and drainage. That is it. Those others are subject to further government consideration, consultation and stakeholder feedback.

May I clarify one issue that might help. The STC is not a separate entity. It is part of the QBCC and it was deliberately done to ensure those economies of scale were maintained. For example, a complaint under the previous model was 40 days on average; the QBCC is dealing with those complaints in four days. So this is making sure that all of those gains are retained while implementing that dedicated plumbing regulatory body.

Mr MOLHOEK: How will that extra cost be recovered? Does that mean that licence fees are likely to go up for the 15,000-odd plumbers across Queensland, or does it just come out of some surplus bucket within the QBCC? Where will this money come from?

Ms Lowe: The QBCC is a self-funded authority. We are a not-for-profit, self-funded authority. We derive our revenue primarily from licence fees. Plumbers and drainers are required to hold licences with the QBCC, so it will be through those existing funding arrangements that these costs would be covered.

Mr MOLHOEK: So there would be no need to increase licence fees extraordinarily to cover this?

Ms Lowe: It is certainly not proposed by the Building and Construction Board, remembering there is a governing board that sits in the governance framework for the commission. I am not here to speak for the board, but I understand there is no appetite or proposal, from the board's perspective, to recommend to the minister that there be any fee increase as a result of this bill.

Mr MOLHOEK: That is heartening to hear.

CHAIR: With that, I thank you very much. Could you please provide the answer to the question on notice by 19 February 2016?

Mr MOLHOEK: Mr Chair, can I ask one other question?

CHAIR: Sorry, yes.

Mr MOLHOEK: To the executive manager, is it possible also for the committee to have a table that demonstrates what the fundamental differences are between the national standards and what is being proposed in the new legislation?

Mr Breen: The new legislation actually is consistent with the national standards. It introduces the provisions that are not already in Queensland law.

Mr MOLHOEK: So it is a harmonisation change, in a sense.

Mr Breen: Yes, we are implementing all of the national minimum standards.

Mr MOLHOEK: That aside, is it possible to have some further response from the department on some of the submissions we have received? The Residential Tenancies Authority and others have actually asked for differing standards to that.

Mr Breen: Yes, I think—

Mr MOLHOEK: Sorry, I will hold that question and wait until they do their presentation today. We can perhaps raise those questions with you then. I am probably being pre-emptive.

CHAIR: Once again, thank you.

CHATTERTON, Mr Glen, Officer, Services Trades Queensland

KRETSCHMER, Mr Ernie, Technical Services Manager, Master Plumbers' Association of Queensland

CHAIR: The committee will now open its public hearing into its inquiry into the Plumbing and Drainage and Other Legislation Amendment Bill. I welcome the witnesses who are appearing today. The committee has had the opportunity to read your submissions and familiarise ourselves with the issues you have raised. We thank you for the detailed submissions we have received. The purpose of today's hearing is to further explore aspects of the issues you have raised in your submissions. I would now like to invite each organisation to make a brief opening statement. We will start with Ernie Kretschmer from the Master Plumbers' Association.

Mr Kretschmer: Good morning. The previous government abolished a dedicated industry regulatory body in the form of the PIC and, gratefully, this government has made a commitment to attempt to bring that back. The new committee encompasses not just plumbing but also mechanical services and fire, hence the name the Service Trades Council. It has been a successful model since the 1950s, with the creation of the Plumbers and Drainers Examination Licensing Board. We believe that licensing is the foundation upon which the entire health and safety of the community, our drinking and wastewater systems, are based. The Service Trades Council—or STC—will help to protect that.

Apart from the council providing advice to the commissioner in regard to policy matters, one of the functions of the STC will be the creation of a licensing committee, or expert panel, to review complex licensing matters such as overseas licensee applications. The mapping of a plumbing qualification from anywhere from around the world for people wishing to perform licensed work here in Queensland is complex, and the knowledge and experience involved in this process will sit with the industry and professionals making up the STC. We fully support the functions contained within the bill.

CHAIR: I will now ask Mr Glen Chatterton to give an opening statement.

Mr Chatterton: We just wanted to clarify straight off the bat that I am not directly employed by the Plumbers Union. I work for an organisation called Services Trades Queensland. The Plumbers Union is on my board as well as the Master Plumbers' Association, the fire association and the Mechanical Services Association. So I work for all four associations that comprise the peak industry groups for the services trades.

Thanks for the opportunity to be here today. We strongly support the bill. I was just sitting and listening to the departmental discussion and I noted the conversations about costs. I would just like to note that on page 6 of the explanatory notes for the bill it states—

The cost of the remuneration and allowances of members of the council and the panels will be met from the QBCC's budget.

Any costs that may be incurred by the QBCC in implementing these legislative amendments will be met through the existing resources of the QBCC.

That is something that we definitely support. We would like to thank the government, the current minister, Minister de Brenni, and the previous minister, Minister Enoch, the Premier as well as the government as a whole on the extensive consultation they did. It was a really fantastic experience and we definitely found that our input from all associations is reflected in the current bill. As such, we are all extremely supportive of it, including the union.

I note that there were some discussions around what comprises the plumbing trade. Under the Plumbing and Drainage Act at the moment there are some restricted licences for fire protection, such as you would be aware—the sprinklers that are in here—as well as air conditioning, heating and cooling. At the moment, there are some licences across government—within the department of mines, for example—for gasfitters, which means that some plumbers have to get a QBCC licence and then go to the department of mines and get another licence. We probably support the consolidation of these trades within a one-stop shop for tradespeople but also for the contracting companies so that they know where they need to go within government to clarify anything. We support the bill in its form because we consider that that would allow that consolidation of services as well as efficiencies to government and just make the life of everybody in the trade easier.

As Ernie mentioned, there is a proud history of a representative board dating back to 1950. Unfortunately, for a couple of years that has not been in place and this bill re-establishes that. We strongly support that re-establishment. We strongly support the function as outlined in section 6 of the bill, particularly the ability to report to the minister as well as make recommendations to the QBCC commissioner. What we see as a practical implication of this is that, through the assistant

commissioner role that has been proposed, the STC would get advice and reports on work being done by QBCC investigators right across the state. They would look at that work, those decisions made, and an expert body of government and non-government people would then say, 'Well, that's a really good job. We think that's best practice investigation. Let's do more like that,' or they would say, 'Hang on a second. We're not too sure about what happened there. Can we get a little bit more information?' Then that would add to the investigative process and get a more optimal outcome. So we think that is really great.

We also think the membership composition of the council is very well balanced. I note that the LGAQ raised some issues to do with policy. I would like to point out that, as somebody who attends the Plumbing Industry Consultative Group, I think that is a very good forum that is the run within government. It has been run under both political parties and definitely I strongly support that staying in place, in conjunction with the STC. I also think it is important to note that the LGAQ, or local governments across Queensland, effectively have two representatives on the Service Trades Council as opposed to other areas that just have one—through the Local Government Association of Queensland and the Institute of Plumbing Inspectors. So they have a very strong and effective voice to say on the council, 'Look, this is a policy matter that needs to be considered within the Plumbing Industry Consultative Group.' I think that would be a really good process.

We support the other administrative functions outlined in the bill and we also strongly support the position of assistant commissioner. The building and construction industry is worth billions and billions of dollars every quarter, as everyone knows. It is easy for the services trades to get swallowed up in that. We do not want our licences to be distributed across government. We would like an effective voice within government. We would like an effective voice to continue the tradition of what we consider to be best practice in the plumbing industry worldwide. We have a lot of people from different countries that are developing their plumbing laws. They come to Queensland, they visit our training centres, they visit us, they look at our laws and they consider it a model that can be exported to their countries. That is something that we are very proud of and that was built on this representative board model, so we are very excited to see that it has been reintroduced.

CHAIR: Any questions?

Mr MOLHOEK: I covered my questions with the department, really.

CHAIR: So we have no questions.

Mr WHITING: Thank you for that. It was comprehensive.

CHAIR: Yes, it was. We very much appreciate your time.

GRACE, Mr Stephen, Homeless Persons' Legal Clinic Lawyer, Queensland Public Interest Law Clearing House Inc.

GREEN, Mr Scott, Tenant Advice Worker, Enhance Care Inc.

LAVERY, Mr Cameron, Homeless Persons' Legal Clinic Coordinator, Queensland Public Interest Law Clearing House Inc.

McBRYDE, Mr Bruce, President, Property Owners Association of Queensland

SEYMOUR, Ms Lorraine, Tenant Advice Worker, Enhance Care Inc.

CHAIR: We might start with any opening statements. Mr McBryde, do you have an opening statement?

Mr McBryde: All right. We find tenant databases an important part of our process of selecting tenants. It is a very important thing to have appropriate tenants in our properties, and databases are certainly one of the avenues for getting tenants and vetting them and making sure that they have a rental history that is appropriate, that they are able to pay the rent and that we can identify who they are. They are the three criteria that we use.

One of the problems we have in getting a tenant history is that—and it is only a few tenants—tenants with a bad history often do not provide accurate information. In other words, they tell lies at the point of tenancy. They fill out false applications and so on. So a database becomes one of the many avenues that we have of trying to establish the person's identity and what their rental history is.

Some of the other submissions talked about amounts being small and trivial and people being entered on databases for amounts of under $100—very small amounts and so on. Our experience is that, in worst case scenarios, sometimes tenants leave with defaults of damage and arrears in rent in the tens of thousands of dollars. We are not talking about small, trivial matters here. We certainly have some tenants who simply cannot manage to live appropriately in a residential property. Certainly, as landlords, we want to try to avoid those sorts of tenants, because they cause untold damage.

One of the other issues that comes up very strongly from the other people is domestic violence and the problems with domestic violence. We acknowledge that domestic violence is an enormous problem in our community, but if people who are living in situations where that happens end up causing lots of damage and having defaults, we do not believe that it is the landlord's responsibility to shoulder the financial burden of dealing with these people. We think it is a society problem, and it should not fall on the shoulders of landlords to have to clean up the mess from domestic violence and damage and arrears in rent and all of those sorts of things. While we accept that something needs to be done, certainly landlords should not be responsible for it.

Some of the legislation is making sure that tenants who are listed get notified. One of the problems we have is that in almost all cases where a tenant is going to be listed they have defaulted, they have left without leaving a forwarding address and so the landlord has no idea of how to contact them. Although we are obliged by law to let them know that they are being listed, we have no way of letting them know because we simply cannot find them. The majority of good tenants let us know their forwarding address. We are not putting this on all tenants, but there is that small percentage that cause trouble that we simply cannot trace, cannot identify. It simply becomes a bureaucratic nightmare to have to go through the legal processes. How do you try to contact somebody when they have not left a forwarding address or they have left fake addresses and fake next-of-kin contacts and all of those sorts of things? So listing people is extremely hard after the event.

With the limit of three years, it is our experience that very few tenants who get listed on databases ever pay off their debt. We get a lot of cases where it is alleged that tenants pay off their bills and sort themselves out. That does not happen. I have never heard a member say that he had listed a tenant for default in rent arrears and then subsequently the debt has been paid and that he should remove the person. So we believe that, if a debt is owing, a landlord should be able to follow it up for more than three years. Certainly, prospective landlords should know about debts that are more than three years old, although I understand that we have lost that argument.

The other argument that we have is that quite often before a tenancy ends we know that the tenant is going to default. We know that they are two months in arrears in rent, so it has well and truly exceeded the bond. There is a lot of damage there. We think that, at that point where we are trying to get rid of them through an application to QCAT and so on, where there is going to clearly be a

defaulting tenant, we should be able to list them so that when they go to the next situation or to another landlord seeking rental accommodation they are on the database so that the next person can be protected.

CHAIR: Thank you, Mr McBryde. We will now move to Mr Lavery and Mr Grace from the Queensland Public Interest Law Clearing House.

Mr Lavery: Thank you. We are pleased to be here to contribute in relation to the bill and the Residential Tenancies and Rooming Accommodation Act. QPILCH is a not-for-profit community legal organisation. It delivers free legal services to vulnerable Queenslanders across the state. The Homeless Persons' Legal Clinic is a free legal service that gives pro bono legal representation and advice to people who are homeless or who are at risk of homelessness.

We are here today because, in our experience, listings on residential tenancy databases have a serious impact on marginalising disadvantaged people. Listings effectively exclude people from obtaining housing in the private rental market. Depending on a person's circumstances, as we have already heard today, we have seen that this often forces women and children to remain in violent homes and entrenches disadvantage by limiting access to stable housing, which is a key requirement for a recovery and the transition from homelessness.

Based on a sample of our casework through the Homeless Persons' Legal Clinic, we know that 24 per cent of our clients asked us to find out if they had a listing or not and 71 per cent of those clients were found to have a listing on the TICA database, which is one of the prominent tenancy databases in Queensland. Successive governments in Queensland and in Australia have recognised the links between residential tenancy databases and homelessness and the need for stronger regulation to support tenants.

As indicated in the departmental briefing this morning, the amendments in part 5 of the bill reflect model provisions endorsed by the Ministerial Council on Consumer Affairs in 2010, and most other states and territories have already implemented the key aspects of these recommended changes, which were developed through industry and sector consultation. We suggest that it is timely that the model provisions have been introduced again in parliament here in Queensland and we strongly support their adoption. Our comments on the bill are set out in our submission and we are happy to answer any questions from the committee about our experiences.

CHAIR: Much appreciated. We now move to Mr Green and Ms Seymour.

Mr Green: Our role at Enhance is to provide an advice and advocacy service to tenants. We provide advice in respect of the residential tenancy laws and we also advocate for tenants. For example, where there is a disadvantaged tenant we will make court appearances and we will seek leave to appear on their behalf. We do a lot of the groundwork in terms of either helping tenants get off a tenancy database or assisting them with their rights in respect of other areas under the residential tenancy law.

We have made a number of proposals in relation to the bill. We are in support of it, but the changes that we have recommended are an absolute prohibition on listing. Mr Green from the RTA had indicated that the regulation will state that a person cannot be listed unless the amount is over their bond. In respect of that, we have found that a lot of people do not actually pay a bond or they pay very little in relation to that. In that sense, people can be listed for $20. When we do go to the tribunal in relation to an unjust listing under section 461 of the act, we find that the common theme amongst the adjudicators is that a person cannot just be removed because it is unjust or trivial; they can still be listed and they have to pay the amount before they can be removed. Yes, the amount is small and, yes, it can be considered trivial; however, in that respect we do feel that there needs to be some sort of prohibition so that people cannot be listed for trivial things and that the adjudicators will be able to take them off or do something about it in respect of it being unjust.

In relation to bankruptcy, I would like to pass that matter to my colleague Lorraine. She has had experience in this area.

Ms Seymour: It has been my experience as a tenant advice worker that a number of tenants have declared themselves bankrupt. As part of the listing of the creditors, they have listed their real estate agency. They really have no funds to pay anybody at all and then they are subsequently listed on TICA. They cannot get their name removed from TICA until they pay the debt owing to the real estate agency. You can see there is a catch 22 there because under the bankruptcy laws they are not required to pay that debt, but they cannot get their name off TICA unless they pay that debt. They cannot get housing because their name is listed on TICA. So they are in a quandary as to what to do and they end up homeless.

CHAIR: Thank you all very much for that.

Mr WHITING: I will just continue that with Mr Green. Obviously, there are cases—and I do know of people being listed for those amounts. Is it understood about the databases by the lessors or agents that, in relation to the regulation, the amount must—

Mr Green: Yes, they are aware of it, but in those circumstances usually they do not pay a bond so the adjudicators look at it in a different light. From our experience, they seem to indicate that, because there is no bond, they can be listed for an amount over nothing. That is the common theme that we have found in the tribunals in relation to those sorts of matters.

Mr WHITING: In what circumstances would a tenant not be required to pay a bond? Boarding houses?

Mr Green: Yes. It is normally in the private sector where the lessor is looking after their premises themselves; they do not have an agent. It is usually in those situations.

CHAIR: There is no law stating that there has to be a bond?

Mr Green: No, there is not—not from my understanding.

Mr WHITING: Mr Lavery, you said that 71 per cent of the homeless people you have dealt with are on that database. The question begs itself: what role do you think being listed on that database has played in their becoming homeless?

Mr Lavery: Absolutely. We see it as a huge correlation between the different factors that impact on people falling into homelessness. The inability to access the private rental market is a large factor in that picture. There are often other issues and concerns going on—things like caring for your children and escaping situations of violence. We see it as a real barrier to getting back into housing, both in a practical sense and in a legal sense. Often our clients—my colleague Mr Grace might expand on it—are not aware that they have a listing, and that is probably the starting point for us in terms of that 71 per cent; they were not even aware of that prior to coming to see us. I think that is a major area of concern.

Mr Grace: I might expand on the comment that Mr Lavery made and address a comment, Mr Whiting, that you made earlier as well. Our experience is that at the time the tenancy ends our clients are often going through a number of circumstances of disadvantage. There may be a connection with domestic violence, mental health issues or other instances that do mean that they are transitioning directly from the tenancy that is the basis of the listing into some form of emergency accommodation, transitional housing or that more traditional understanding of homelessness. I would accept Mr McBryde's comments about his practical experience that the existing provisions to notify a person of the proposed listing that the current act has in place in practice still mean that it is unlikely that a client of ours might be notified at the time they leave the tenancy that the listing has been put in place. That is one of the reasons we strongly support the proposed legislation around section 458A and B, that there is that notice at the time they are applying for a further tenancy that they have been listed.

Mr MOLHOEK: Mr Grace, I note that there has been some discussion around changing the provisions so that property owners can actually notify or list on the database prior to the tenant actually exiting where there is a significant amount of rent in arrears. Would that overcome that issue to some extent? Maybe that requires a response from Bruce. From what I understand, it can be incredibly difficult to move difficult tenants on. If you end up months in arrears with rent, which is sometimes the case, there is this transitional thing where they are not in the database, they go off and find another property and nobody was aware of their rental history and then they disappear. How do we deal with that as an issue?

Mr Grace: That is something that we have not specifically dealt with in our written submissions; however, there are a few things I would be happy to say about that. I certainly agree that there is a balance between a tenant's rights and the rights that are already in existence about the obligations that a landlord or property owner has to try to recover rental arrears or to have a tenant evicted from the property. I would encourage—if I can speak a little bit freely—property owners, landlords and real estate agents to have an open dialogue with tenants about the possibility of being listed on a tenancy database prior to being formally evicted from the property or for the purpose of the listing crystallising. I would agree with the RTA's submissions from earlier today that there are important protections that would go against the idea of listing someone on a tenancy database prior to the actual debt crystallising at the end of a tenancy and that contractual obligation coming to an end.

Mr MOLHOEK: Does the debt not crystallise at the point that you breach the conditions of the agreement, which is that you are meant to pay a week in advance or two weeks in advance or one

week in arrears or whatever? At the point that you have not paid your rent for three months or something, surely there should be a right for a property owner to list you so that the next lessor does not end up in a situation where they are unaware.

Mr Grace: It is something that I would take a slightly different view on. I would say that the obligation under the tenancy contract certainly arises at any stage where there is a breach, whether it is a day or a month of failing to pay rent or any other obligations created by that particular contract. There are provisions that set out the processes that a real estate agent can go through to try to remedy those breaches. It is important that those protections and those processes remain in place. There is also a distinction to say that, while the obligation to pay that amount does arise at the point that it is not paid under the contract, the debt in itself will arise at the point where there is a tribunal decision that says that there is a debt and makes a ruling on that contract or that there is some other agreement that is reached to say that is what is owed under that particular agreement. We think it is important that you maintain the provisions within that contract and the existing provisions that outline the options that you can take.

As I said, I highly support the idea that real estate agents should engage in an open conversation with a tenant about the possibility of listing them on a tenancy database, but I think it is important that that be formalised but the actual step of placing somebody on that tenancy database is not taken until after the tenancy has come to an end.

Mr Lavery: I will just add one minor comment on that—and I think Enhance Care have said it in their submission. The significant consequences and the impact that happens for tenants when they do get listed and the longevity of that consequence are a factor that we see, whereas, as much as a rental arrears breach is still a cost to the landlord and agent, there is a separate, distinct process completely away from blacklisting that can be followed and a lot of notices can be issued.

Mr MOLHOEK: I think it is the extent of that, though, is it not? They may be a couple of weeks in arrears and they have an agreement with the lessor to try to catch it up or things have been a bit difficult—and perhaps Bruce would like to comment—but there are tenants out there who have been known to game the system, so to speak. Bruce, I would appreciate hearing from you. I think there has to be reasonableness in there, but it seems it is stacked a bit one way.

Mr McBryde: There certainly are. Unfortunately, not all landlords are good managers and some of them do let rent go in arrears for many months before they do anything about it. At that point, clearly the tenant is not going to make it up.

In relation to the other point about conversations between the landlord and tenant, we actually encourage our landlords very strongly to have conversations with their tenants when they start to get into arrears, before anything gets too drastic and before things get out of hand. If they are having problems—and that includes problems with domestic violence, relationship problems and drug problems, which is the other one that comes up—clearly, they are problems that cause what were good tenants in the first place to become not-so-good tenants later on. We encourage all those conversations.

Some of the situations that we come across—and some of them are actually nonmembers who come to our association seeking help—involve residents who sometimes do not even have a contract with people. People have gotten into their house, they do enormous damage to it, they are not paying any rent or they are way in arrears and so on. They are the ones for whom we want to make sure something can happen and happen fast. The database is only one of the many mechanisms that we can use to try to achieve this.

In relation to one of the points about people becoming homeless and so on, we encourage our members to check the person's history, to check their identity, because a lot of people use false names—not a lot, but enough to worry us—to check their ability to pay rent and things like that. So there are other mechanisms that we are trying to use to keep the people who are homeless—if the reason they are homeless is that they have destroyed property or have shown that they cannot look after a property, then it is likely that our members still would not accept them even if they are not on a database, so a database is only part of the problem. Does that answer some of your question?

I am sympathetic to the cause of people who are homeless, but if they are homeless because they have destroyed property in the past or they have defaulted in rent by large amounts, I do not think having that information available to the landlord or the agent to make a decision should be denied.

Mr COSTIGAN: Mr McBryde, following on from what Mr Grace was touching on, do you think there is some common ground there in having that dialogue before people are listed? Would you go

on record to say that you think that is a reasonable suggestion and that there is some scope for going down the path?

Mr McBryde: Certainly we encourage dialogue when the tenancy is not quite going to plan, and that could be anything. It could be that somebody has lost their job so they cannot pay rent for one week or something. Clearly that is not a major problem that the tenant has created of their own will. We encourage our members to have that conversation. Dialogue between tenants when they first start to get into problems is far better than letting it drift on until something becomes major. When enormous things happen and there is enormous damage and huge rent arrears, it would be much better to have the dialogue. So to answer your question about dialogue: certainly, yes.

Mr Grace: That has certainly been our experience in seeing the interactions between tenants and landlords in the lead-up to the end of a tenancy, that there is that dialogue that exists. We certainly encourage that, as I have said.

Just going back to an earlier point, I would just like to add that it is our submission that if there is an arrears of rent or if there is other money owing for damage caused to a property, there are options available for landlords, like anybody who enters into a contractual agreement, to pursue a client or a tenant for the money that is owing. Our position is that a tenancy database is a tool, as Mr McBryde indicated, to assess the risk of a tenant rather than as a tool to recover money owed or as a tool of punishment for owing money as well.

To go back to the earlier point about the possibility of having a tenant listed for a breach prior to the end of the tenancy, it is my submission that listing a tenant at the end of a tenancy still offers those protections for future real estate agents and future property owners to assess the tenant's potential risk, and on that basis it serves its purpose within the various tools, as Mr McBryde pointed out, for assessing the adequacy of a tenant.

Mr LAST: Mr Chair, I just want to make the comment that there is probably an opportunity or an avenue here to flag those tenants who are in arrears prior to being evicted or prior to leaving the premises and doing a runner so that there is that awareness before they become a person who gets listed on the tenant database. It may be an opportunity to have a system in place that flags these tenants as a means of identifying them so that, if potentially they are in rent arrears and then do a runner, they are flagged on the system if they go down the road and try and rent another property from another real estate agent before they have been listed on the tenancy database.

Mr McBryde: That is the purpose of a tenancy database.

Ms PEASE: For someone to be listed on that database, do they have to have been engaged in a proper or formal rental agreement?

Mr McBryde: Yes.

Ms PEASE: So the onus is on the landlord to enter into a formal rental agreement that is lodged and submitted to the RTA?

Mr McBryde: My understanding is that you cannot list a person on a database unless they are actually listed on a tenancy agreement, so a tenancy agreement between the landlord and the tenant. If a person is only a resident of the property you cannot list them; they have to be on the actual tenancy agreement. You have to have a contractual agreement between the tenant and the landlord.

Ms PEASE: Often there is no bond involved, so therefore there is nothing there to potentially protect the landlord. Mr Green, perhaps you could give me some advice on that.

Mr Green: Sorry, could you repeat the question?

Ms PEASE: Just with regard to being listed on any of the databases, is there a requirement for a person who has been listed to have had a formal rental agreement with—

Mr Green: No, that is actually incorrect. Section 12 provides that a residential tenancy agreement can be either in writing, wholly oral or both. In some situations it is wholly oral.

Ms PEASE: If they just had a formal agreement where someone says, 'Yeah, mate, you can live here for six weeks'—

Mr Green: That could be construed as a residential tenancy agreement, depending on whether or not they have exclusive occupation. There is a threshold that they have to go through to determine whether or not they are a tenant or a residential tenant.

Ms PEASE: In some instances they could potentially find that, because they have missed paying rent, they are listed on the database.

Mr Green: Yes, that is correct.

Mr MOLHOEK: Bruce, what sort of recourse do property owners have in terms of rent arrears and repairing damage? I was particularly curious to know if there have been any emerging issues around the clean-up of ice labs and meth labs in privately owned rented properties and, again, what recourse there is.

CHAIR: The landlord's insurance?

Mr McBryde: The insurance does not always cover it and not everyone is insured. They are some of the issues that can make the costs much more substantial. I believe that cleaning up a meth lab is a very expensive process. I have not come across anyone and I have not had any members who have come to me directly on that one, but certainly they are added issues.

On the issue of a tenancy agreement having to be in writing and so on, I still maintain that the act says that you have to have one. I think there might be a little clause in there that says 'in writing' or whatever. If you do not have a written tenancy agreement then QCAT will toss you out, so you are not likely to get on to the thing anyway. But that is not really related to this issue.

Mr MOLHOEK: Is there recourse in terms of rent that has not been paid or damages?

Mr McBryde: Unfortunately, a lot of the members say that when they get an order from QCAT, because somebody has defaulted and they are owed money, you are never going to get it back. In fact, of all the members I have spoken to, I have only ever spoken to about one or two members who have ever got money back after going to QCAT to get an order for damages and arrears and so on. So even though we can go through the legal process and get the orders, we cannot get them fulfilled. We just write them off as bad debts.

Mr MOLHOEK: Is that for the repair of damages?

Mr McBryde: The same thing, yes. The small percentage of tenants who do this enormous damage are almost never held to account, as far as we know.

Mr MOLHOEK: Does the insurance cover it?

Mr McBryde: Most of our members use insurance. I understand that the insurance companies are fairly cunning about what they do. If a defaulting tenant bashes down one door today and another door tomorrow and a window the next day, they are three separate events. There may be an excess, and the excess is on each item. So if they have a $500 on this, that and that, by the time you have five different things the excess might come to thousands of dollars. That is an issue that many of our insured members complain about. Getting restoration is very difficult.

Ms PEASE: Could someone from Enhance or QPILCH comment on what Mr McBryde has been saying with regard to any orders by QCAT for restitution or payment of outstanding debts? If it does go to QCAT and the tenants are asked to pay, do they pay?

Mr Lavery: In QPILCH's experience, we would say that we have a lot of different interactions with QCAT and the tribunal system. In our experience, the existence and the operation of the tribunal system are meant to be balanced between the two parties involved in this jurisdiction: the landlord and the tenant. In our experience for our client base, we do not see that the system disadvantages the landlords at all. I think it exists to give them an avenue to get an outcome—and whether it is always a positive outcome for the landlord is not for the system to decide, but it operates at a balanced level. Just further to what we have been discussing today, we consider that the provisions that are being introduced through the bill are trying to strike that balance in the database regulations. That is my general comment.

Mr LAST: Does an order from QCAT becomes a SPER debt?

Mr Grace: No, it does not. Essentially it is a civil debt. As with any interaction you have, if you have signed up with a phone contract or any other legal obligation that you create for yourself, it is an agreement between you and the other person. In this instance it would be an agreement between you as a tenant and the landlord, who would most likely and most commonly have an agent involved as the facilitator of that agreement.

Like any other debt that you might have in life—with the exception of debts that you have with the state—there are provisions about bankruptcy and the enforcement of that obligation, whether it is your home loan or your tenancy agreement. At this stage those are, as I understand it, addressed in the various forms of legislation around things like bankruptcy and the enforcement process of having a minor debt claim that goes through QCAT. It is most definitely a separate option to SPER enforcement, which is essentially government and court debts and also fines.

I would add that, although related, a separate issue to being on a tenancy database is that, as I mentioned previously, we do not see that as being a penalty for having a debt but rather a tool that

the industry uses to assess the risk of a potential tenant, in the same way that a report on your credit history that you have defaulted on some form of loan should not be seen as a punishment for defaulting on that loan but as an opportunity to inform the industry that you have perhaps a poor credit history.

CHAIR: Thank you all very much for your time today. As there are no questions on notice, I declare this hearing formally closed.

Committee adjourned at 11.56 am