

Queensland Government Response

to the Transport, Housing and Local Government Committee
Report No.14

Inquiry into the Operation and Performance of the
Queensland Building Services Authority 2012

May 2013

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1. Executive summary

This report is the Queensland Government's response on the recommendations from the Inquiry into the Operation and Performance of the Queensland Building Services Authority 2012 undertaken by the Transport, Housing and Local Government Committee, which was tabled in the Queensland Parliament on 30 November 2012.

Established in 1991, the primary roles of the Queensland Building Services Authority (QBSA) are to regulate the building industry; provide remedies for defective building work; provide support, education and advice for those who undertake building works and consumers; and administer the Queensland Home Warranty Scheme.

In accordance with section 107 of the *Parliament of Queensland Act 2011*, the Government is required to table a response to the report's recommendations in the Legislative Assembly by 31 May 2013. The Minister for Housing and Public Works is responsible for providing the Government's response.

An independent review panel chaired by Phil Kesby and including panel members Andrew Wallace, David Hanna and Neil Castles was appointed to assist the Minister in forming the Government's response. KPMG was also engaged to undertake further consultation with a range of key stakeholders including consumers, industry, and professional and trade associations.

The feedback from the consultation process assisted the Government in making its response. The objective of the review process, including the stakeholder consultation, was to consider the recommendations of the Transport, Housing and Local Government Committee and to determine how these may be implemented with the aim of improving the efficiency, effectiveness and transparency of the operations of the QBSA.

In developing its response, the Government was mindful that the implementation of a number of initiatives, particularly with respect to domestic building work, should entail a public benefit assessment and proceed in accordance with the principles of minimising red tape and minimising the costs to consumers of building or renovating a home.

The Government's response is comprehensive and will result in a wholesale reform of the QBSA. Like any organisation which has been in place for 22 years, overhaul and renewal is needed.

Evidence, around the number of disputes proceeding to the Queensland Civil and Administrative Tribunal (QCAT), would also suggest that the model needs an overhaul and, in this regard, would operate more effectively with:

- a stronger governance model including a professional governing board that provides the strategic direction and oversees the performance of the organisation and that reports to the Minister for Housing and Public Works
- internal firewalls that appropriately segregate certain activities from other areas of the organisation
- consumer and industry reference groups providing feedback to the board and senior management
- internal review units to review decisions concerning homeowners and licensees, and
- better processes established for the management of disputes and the certification of building works.

The Government's response is in the form of a 'Ten Point Action Plan' and a response to each of the 41 recommendations made by the Parliamentary Committee. The Ten Point Action Plan provides a series of actions for implementation and is contained within the body of this response.

The implementation of these actions should be undertaken in a staged approach with the transition from the QBSA to the Queensland Building and Construction Commission (QBCC), the appointment of a governing board, and the appointment of a Commissioner the immediate priorities. It is expected that the governing board will be appointed before the end of 2013.

An Implementation Committee will be responsible for the overview and reporting to government on the implementation of all items in the Action Plan and the Government's response to the recommendations of the Parliamentary Committee.

A number of actions are being referred for implementation by the QBSA/QBCC, with oversight by the Implementation Committee. Action items requiring further investigation will be considered by the Implementation Committee, including consultation with stakeholders and assessment of costs and benefits, before recommendations are made to the Government on implementation.

The composition of the Implementation Committee is yet to be finalised, but is proposed to include the Department of Housing and Public Works (as chair), with input from industry experts and stakeholder government departments. Where necessary, a Regulatory Impact Statement will be prepared to evaluate the likely costs and benefits to business, community and government that would flow from adoption of the proposals.

During the course of the Review Panel's considerations and the stakeholder consultation an issue regarding the security of retention monies was highlighted. Although not forming a part of this response, further consideration of this complex issue is proposed by Government, which will include consultation with the construction industry and consumers.

2. Background

On 2 August 2012, the Legislative Assembly agreed to a motion that the Transport, Housing and Local Government Committee of the Queensland Parliament inquire and report on the operation and performance of the QBSA in its regulation of the industry, including the maintenance of proper standards in the industry and that, in undertaking this inquiry, the Committee should consider:

- the performance of the QBSA on achieving a balance between the interests of building contractors and consumers
- whether the QBSA could make further changes in order to reduce regulation to lower the cost of building a home
- the effectiveness of the QBSA to provide remedies for defective building work and to provide support, education and advice for both those who undertake building work and consumers
- the governance arrangements of and between the board and the General Manager
- the effectiveness of the Queensland Home Warranty Scheme and its protections
- the current licensing requirements of the QBSA and whether they are adequate and that there are sufficient auditing processes to maintain proper standards
- the number of trades licensed by the QBSA and whether industry groups could take a greater role within QBSA in terms of licensing standards and procedures for their members, and
- examining opportunities for reform of the QBSA with a view to enhanced assistance for both industry and consumers.

Further, the Legislative Assembly asked the Parliamentary Committee to consult with key industry groups including home builders and building contractors, industry participants and relevant experts.

The Parliamentary Committee widely advertised its inquiry and received and considered 109 submissions, received a public briefing on 27 August 2012 from eight witnesses representing industry and government organisations, and held a public hearing on 8 October 2012 at which it heard from 34 witnesses that included home owners and their representatives, builders, tradespeople and their representatives, academics, lawyers and officers from the QBSA.

The Parliamentary Committee tabled its report in Parliament on 30 November 2012. The report contained 41 recommendations. The report is available on the Queensland Parliament website together with the submissions received (except where submitters requested their submission remain private) and transcripts from the public briefing and public hearing.

The Government's response to the recommendations is provided in this document.

3. Alignment with Government objectives

The significance of the Building and Construction Industry to the economic recovery of Queensland is why Government considers it as one of the "Four Pillars" which will form the foundations of the State's future prosperity. The creation of the QBCC represents a significant step in the fulfilment of the Government's election promise to grow a strong and sustainable property and construction sector.

Just as the strength of any building is dependent upon its foundations, the success of the building and construction industry depends greatly upon the body tasked to regulate it. The Queensland Government is committed to ensuring the establishment of an industry funded, appropriately resourced regulator under the guidance of a governing board and Commissioner (as chief executive) with independent business units responsible for the good governance of the industry.

4. Stakeholder consultation

To assist with informing the Minister's response to Parliament, KPMG was engaged by the Department of Housing and Public Works to undertake consultation with industry, licensees/builders, consumer groups and individual consumers in Brisbane, the Gold Coast, Townsville and Rockhampton.

Key themes considered in the consultation process included dispute resolution, the Queensland Home Warranty Scheme, licensing, and the role, structure and governance of the QBSA.

At the conclusion of the consultation process KPMG delivered its Report outlining the outcomes of the consultation process. This information has been considered in developing the Government's response to the Inquiry report.

5. Key improvements delivered through a Ten Point Action Plan

The focus of the key improvements is a *Ten Point Action Plan* which outlines critical actions to be progressed as a matter of priority.

The Implementation Committee will be responsible for the overview and reporting to Government on the implementation of all items in the Action Plan and the Government's response to the recommendations of the Parliamentary Committee.

Actions 1 and 2 in the Action Plan will be progressed immediately by the Government. Actions 3 to 6 will be progressed as soon as practicable by the QBSA/QBCC with oversight by the Implementation Committee. Actions 7 to 10 will be considered by the Implementation Committee, including consultation with stakeholders, before recommendations are made to the Government on implementation.

	Action Plan	Refer Inquiry Recommendation number
1	<p>Replace the Queensland Building Services Authority with a new entity called the Queensland Building and Construction Commission (QBCC) (the Commission)</p> <p>(improved governance and no additional cost to industry and homeowners)</p>	1
2	<p>Install a professional governing board with appropriate committees and establish an appropriate Commission structure with functional business units headed by their own general managers</p> <p>The governing board, consisting of appropriately experienced board members, will be responsible for developing the structure of the Commission and the appointment of the Commissioner as chief executive, who reports to the board. The board will report directly to the Minister for Housing and Public Works and will also be responsible for the strategic direction and monitoring of performance of the organisation. The board will establish appropriate industry and consumer reference groups.</p> <p>(improved governance and no additional cost to industry and homeowners)</p>	1, 2, 3, 4, 7, 8 ,40

	Action Plan	Refer Inquiry Recommendation number
3	<p>Establish appropriate mechanisms of review</p> <p>It is proposed that the Commission will establish an internal review unit and procedures for reviews of insurance decisions and homeowner complaints to reduce the number of applications for review being made to QCAT. This unit will provide reports to a sub-committee of the board on the outcomes of the reviews.</p> <p>(improved governance, improved risk management, reduced red tape and no additional cost to industry and homeowners)</p>	17, 31, 34
4	<p>Develop an improved suite of domestic building contracts</p> <p>It is proposed that the Commission will review the current suite of domestic building contracts with a view to providing a fair and equitable base for consumers and licensees.</p> <p>(improved risk management and no additional cost to industry and homeowners)</p>	19, 20, 21
5	<p>Review Licensing and Compliance</p> <p>It is proposed that the following actions will be undertaken by the Commission.</p> <ol style="list-style-type: none"> 1. Review the current licensing system to ensure it is meeting its stated objectives, including clarification of what constitutes unlicensed building work (s.42 of the <i>Queensland Building Services Authority Act 1991</i> (QBSA Act)). 2. Implement a framework for Continuous Professional Development (CPD), which will also assist training providers to develop training programs that count toward professional development. This could include a non-compulsory system that rewards licensees for obtaining a minimum number of CPD points in a given period and for continuous service without having had disciplinary action taken against them. 3. Review the current financial audit regime and the ratios used to determine financial sustainability to ensure that the financial audit regime is meeting its stated objectives. This potentially has flow-on effects for insurance. 4. Develop and implement a framework for undertaking routine checks for compliance with building standards and codes. 5. Establish and implement an internal review unit which will develop alternative dispute resolution procedures, with mandated timelines for licensees to appeal a decision prior to referral to QCAT. The internal review unit will provide regular reports to a sub-committee of the board. 6. Develop and implement a regulated penalty system to apply where illegal or defective works have been approved outside required standards and tolerances. 7. Review the current demerit points system, with the penalty to fit the offence. 8. Propose amendments to the QBSA Act to more clearly identify that a licensee ought not to be categorised as a “permanently excluded individual” as a result of a “relevant bankruptcy event” and a “relevant company event” arising out of the same incident. <p>(improved risk management)</p>	<p>32, 33</p> <p>39</p> <p>37</p> <p>37</p> <p>17, 31, 34</p> <p>14, 34, 36</p> <p>34, 36</p> <p>35</p>

	Action Plan	Refer Inquiry Recommendation number
6	<p>Develop improved education and training processes for home owners and consumers</p> <p>It is proposed that the following actions will be undertaken by the Commission.</p> <ol style="list-style-type: none"> 1. Develop a more user friendly and accessible website which will incorporate on line delivery of resources to consumers and industry. 2. Develop an on line consumer awareness course for home owners intending to enter into a domestic building contract, to enable them to better understand their contractual rights and obligations. This course will be available online and free of charge to consumers. 3. Include in the review of domestic building contracts consideration of a recommendation that homeowners seek independent legal advice to assist them in understanding the contract and its inclusions and exclusions. <p>(improved risk management and no additional cost to homeowners)</p>	38 23, 28, 29 20
7	<p>In conjunction with the review into the <i>Building and Construction Industry Payments Act 2004</i>, consider the development and implementation of a rapid domestic adjudication model to fast track domestic building disputes with mandated response timelines</p> <p>The Implementation Committee will consider a rapid domestic adjudication model and how it is to be funded, including any fee.</p> <p>(improved risk management and reduced red tape)</p>	11, 12, 13, 17
8	<p>Retain the Queensland Home Warranty Scheme under government ownership and review the current Queensland Home Warranty Scheme to provide greater definition and clarity</p> <p>The Implementation Committee will consider whether the Queensland Home Warranty Scheme's scope and level of coverage should be extended, as well as providing greater definition and clarity for customers of the scheme. Any changes will be dependent on the impact on cost.</p> <p>(improved risk management)</p>	26, 27, 28, 29, 30, 31
9	<p>Review the role of private certifiers with emphasis on probity, conflicts of interest, quality and an appropriate penalty regime for failure to perform</p> <p>The Implementation Committee will examine the process of appointing private certifiers to clearly define their roles and responsibilities. The Implementation Committee will also consider restructuring the current domestic building inspection requirements with a view to a more effective and accountable system that will reduce defects and disputes without adding to cost.</p> <p>(improved risk management and aims to be cost neutral)</p>	14, 15, 37
10	<p>Expand the licensing role of the new QBCC</p> <p>It is proposed that the following actions will be considered by the Implementation Committee.</p> <ol style="list-style-type: none"> 1. Building Codes Queensland will remain in the Department of Housing and Public Works, however responsibility for the registering of plumbers and drainers and pool safety inspectors is proposed to be transferred to the Commission. 2. Consideration will be given to transferring all currently registered building trade contractors to the Commission. 3. Consideration will also be given as to whether there is a net public benefit in registering those other building related occupations that are not currently registered. <p>(reduced red tape, improved risk management and no additional cost to industry)</p>	6

6. Implementation

The Government will implement the Ten Point Action Plan in stages, due to the time it may take to fully consider certain recommendations, and undertake, where required, Regulatory Impact Statements. The first stage is to implement the legislation which establishes the Commission together with the roles and responsibilities of a governing board and the commissioner as chief executive. A number of actions are being referred for implementation by the QBSA/QBCC, with oversight by the Implementation Committee. Action items requiring further investigation will be considered by the Implementation Committee, including consultation with stakeholders, before recommendations are made to the Government on implementation.

The composition of the Implementation Committee is yet to be finalised, but is expected to include the Department of Housing and Public Works (as chair), with input from industry experts and stakeholder government departments. Where necessary, a Regulatory Impact Statement will be prepared to evaluate the likely costs and benefits to business, community and government that would flow from adoption of the proposals.

It is expected that the governing board will be appointed before the end of 2013. It is anticipated that implementation of the remaining initiatives may take up to 12 months after the appointment of the governing board.

7. Government response to report recommendations

The following table provides the Government's response to the recommendations contained in the report from the Transport, Housing and Local Government Committee Inquiry into the Operation and Performance of the Queensland Building Services Authority 2012.

Rec no.	Report recommendation	Government response
1	<p>The Committee recommends that in the interests of improved confidence and transparency, the "one stop shop" model for the provision of Queensland government building services be discontinued and that the Queensland Building Services Authority be disbanded as soon as alternative mechanisms for delivering its functions can be established.</p>	<p>Not supported.</p> <p>Establish a new entity called the Queensland Building and Construction Commission (QBCC) (the Commission). Amend legislation to:</p> <ul style="list-style-type: none"> • provide for a professional governing board to be appointed by Governor in Council; and • provide for a Commissioner (ie. Chief Executive) who reports to and is appointed by the board. <p>The governing board will report to the Minister for Housing and Public Works.</p> <p>The Commission is to develop an organisational structure which has general managers for each division reporting to the Commissioner. The organisational structure will include licensing, dispute resolution and Home Warranty Scheme management divisions.</p> <p>With respect to the licensing, dispute resolution and Home Warranty Scheme management divisions, the operations of these business divisions will be firewalled below the general managers.</p>
2	<p>The Committee recommends that the Minister for Housing and Public Works restructure the building services currently provided by the QBSA so that there is a clear and transparent divide between the roles of licensing; management of directions to rectify and complete work; and management of the limited home warranty scheme.</p>	<p>Supported.</p> <p>The Commission is to develop an organisational structure which has general managers for each business division reporting to the Commissioner. The organisational structure will include licensing, dispute resolution and Home Warranty Scheme management divisions.</p> <p>With respect to the licensing, dispute resolution and Home Warranty Scheme management divisions the operations of these business divisions will be firewalled below the general managers.</p>

Rec no.	Report recommendation	Government response
3	<p>The Committee recommends that the Minister for Housing and Public Works, consider the following model as a restructuring option for the new building services authority.</p> <p>Establish a new statutory authority with each of the following functions legislatively “firewalled” from each other and managed by a general manager who is directly accountable to, and reports through, a decision making board (possibly through a sub-committee) to the responsible Minister:</p> <ul style="list-style-type: none"> • registration and regulation of licensees and certifiers • management of the limited home warranty scheme • management of directions to rectify and complete. 	<p>Supported in principle.</p> <p>Refer to recommendations 1 and 2.</p> <p>With respect to firewalling the operations of the three divisions, these operations will be firewalled below the general manager level. The general managers will report to the Commissioner and will also be available to report to the board with respect to the operations of their divisions.</p>
4	<p>The Committee recommends that the Minister for Housing and Public Works ensure that any new Board is a governing (not advisory) board and the membership of the board is truly representative and impartial.</p>	<p>Supported.</p> <p>It is proposed that the board be a governing board. Its responsibilities should be similar to those required for directors under the <i>Corporations Act 2001</i> (Cth).</p> <p>Its members will be appointed based on experience and expertise.</p> <p>It is proposed that industry and consumer reference groups be established which will provide direct input to the board.</p>
5	<p>The Committee recommends that the Minister for Housing and Public Works ensure the Department of Housing and Public Works includes a specialist building capability to provide the Minister with independent advice on the provision of building services.</p>	<p>Supported.</p> <p>The Department of Housing and Public Works is implementing this recommendation.</p>
6	<p>The Committee recommends that Building Codes Queensland remain in the Department of Housing and Public Works.</p>	<p>Supported.</p> <p>Building Codes Queensland will remain in the Department of Housing and Public Works however, responsibility for registering plumbers and drainers and pool safety inspectors is proposed to be transferred to the Commission.</p> <p>Consideration will be given to transferring all currently registered building trade contractors to the Commission.</p> <p>Consideration will also be given as to whether there is a net public benefit in registering those other building related occupations that are not currently registered.</p>

Rec no.	Report recommendation	Government response
7	The Committee recommends that the Minister for Housing and Public Works ensure that the reformed building services provided by the Queensland Government continue to be self-funding.	Supported. The QBCC will be self-funding. The Government will aim to ensure minimal additional net costs are passed on to stakeholders in implementing its proposals.
8	The Committee recommends that the Minister for Housing and Public Works take the views of stakeholders into account when examining the appropriate structure for the reformed building authority and Board.	Supported. The views of stakeholders have been taken into account when considering an appropriate structure for the new Commission and governing board. In addition, industry and consumer stakeholder groups will be formed to inform the board.
9	The Committee recommends that building inspectors employed by the building authority be required to undertake regular training and assessment on their knowledge of current building regulations, standards and codes to ensure they can make informed decisions on whether building work requires rectification.	Supported. The Government acknowledges the QBSA's current commitment to the training of its work force. Regular training of the Commission's inspectors, particularly in relation to current building regulations, standards and codes, and new building materials and techniques is supported by the Government. To assist building inspectors undertaking domestic inspections to make informed decisions on whether building work requires rectification, the Government supports that a Standards and Tolerances Manual for domestic building work be developed by the Commission.
10	The Committee recommends that building inspectors employed by the building authority be provided with dispute resolution training to ensure they have the skills required to negotiate an agreed outcome between homeowners and builders whenever possible.	Supported. The Government supports not only the need for sound technical skills but also for building inspectors to be capable in the areas of dispute resolution, mediation and communication (both oral and written). The Government therefore supports that building inspectors be given training to develop these skills.
11	The Committee recommends that the Minister for Housing and Public Works examine options to enable early intervention and mediation in disputes over defects and incomplete work with a view to resolving as many as possible before they escalate further.	The Government supports 'in principle' the early intervention and mediation in disputes over defects and incomplete work and the Minister for Housing and Public Works will ensure that an Implementation Committee is appointed to develop a cost effective rapid domestic adjudication model. If necessary, the Government will undertake a Regulatory Impact Statement. While there may be some cost to participants, this should lead to earlier resolution of disputes and is expected to improve construction quality over time. It is also anticipated that early intervention would result in less disputes being dealt with by QCAT. The Government supports the development of a Standards and Tolerances Manual which is likely to have the impact of reducing the number of disputes over defects.

Rec no.	Report recommendation	Government response
12	The Committee strongly recommends that the Minister for Housing and Public Works seek amendment to the legislation to extend the powers of the new building authority to intervene when disputes arise during a contract period.	<p>The Government supports 'in principle' early intervention. This is likely to be achieved through a rapid domestic adjudication model outlined in the Government's response to recommendation 11 above.</p> <p>Should it be considered necessary, appropriate legislative amendments to enable intervention during the contract period will be proposed.</p>
13	The Committee recommends that the Minister for Housing and Public Works seek amendment to the regulations and/or legislation to ensure the new building service authority is required to respond to requests to identify defects promptly and to ensure the rectification work is also carried out in a timely manner and to an appropriately high standard.	<p>Supported in principle.</p> <p>To assist the Commission to identify defects promptly and to ensure that rectification work is carried out in a timely and appropriate manner, the Government proposes the following initiatives:</p> <ol style="list-style-type: none"> 1. develop a cost effective rapid domestic adjudication model 2. review the current suite of domestic building contracts and supporting documentation, e.g. information statement and general specification 3. introduce a Standards and Tolerances Manual. <p>It is proposed the Commission will measure its performance against set timeframes established by the board.</p>
14	The Committee recommends that the Minister for Housing and Public Works investigate ways in which to improve the building certification system in Queensland to ensure private certifiers are held accountable where they approve illegal or defective works, and to ensure the works are rectified.	<p>The Government supports in principle the recommendation. The Minister for Housing and Public Works will ensure that an Implementation Committee is appointed to examine the role of private certifiers with emphasis on probity, conflicts of interest, quality, an audit system and an appropriate penalty regime for breaches of responsibilities.</p> <p>The Implementation Committee will examine the process of appointing private certifiers to clearly define their roles and responsibilities. The Implementation Committee will also consider restructuring the current domestic building inspection requirements with a view to a more effective and accountable system that will reduce defects and disputes.</p>
15	The Committee recommends that the Minister for Housing and Public Works investigate ways in which licensees who construct and certifiers who approve unlawful or defective work (for example where a building is structurally unsound or built partially outside the property boundary) can be made responsible for rectification of the works.	The Government supports the recommendation that amendments be made to the QBSA Act/Regulations to ensure that all parties involved in the design, construction and approval processes are held accountable for their areas of involvement with regard to unlawful or defective work.
16	The Committee recommends that the Minister for Housing and Public Works review the current tendering process for rectification work and completion work with a view to ensuring a transparent and accountable process is put in place.	The Government supports the recommendation. It is proposed that the Commission will review and where necessary implement changes to the current tendering process for rectification and completion work.

Rec no.	Report recommendation	Government response
17	<p>The Committee recommends that the Minister for Housing and Public Works re-examine the use of QCAT as the only mechanism for reviewing QBSA decisions, to ensure the review process is more streamlined and user friendly and that the Minister consider introducing legislated timeframes for reviewing decisions of the new building authority.</p>	<p>Supported in principle.</p> <p>It is proposed that the Commission will establish an appropriate internal review unit and procedures to reduce the number of applications for review being made to QCAT. This unit will provide reports to a sub-committee of the board on the outcomes of the reviews.</p> <p>At present, a party to a dispute may make application to QCAT to stop any further action by the QBSA on the basis that it takes around nine months for a dispute to be heard in QCAT.</p> <p>The Government will consider changes to the QBSA Act to ensure that the Commission's jurisdiction is not adversely affected whilst proceedings are on foot in QCAT.</p> <p>In addition, the Department of Housing and Public Works has established the Building Industry Complaints Review Unit to independently review administrative complaints relating to the QBSA.</p>
18	<p>The Committee recommends the Minister for Housing and Public Works resolve the conflict whereby QCAT relies on QBSA building advice, e.g. by establishing an independent advisory board or using the Department of Public Works and Housing to provide specialist building advice to QCAT.</p>	<p>Not supported.</p> <p>The Government considers there is insufficient evidence to conclude that the outcome of decisions by QCAT is directly related to the fact that QCAT often relies on technical advice from QBSA inspectors.</p> <p>It is the view of the Government that the establishment of an independent advisory board has not been justified.</p> <p>It is noted that the parties to a building dispute are able to and often do provide their own independent evidence to QCAT.</p>
19	<p>The Committee recommends that the Minister for Housing and Public Works amend legislation to introduce a mandatory standard building contract for domestic building work and require contractors to use this contract as part of their licensing conditions.</p>	<p>The proposed mandatory contract is not supported, however it is proposed that the Commission will review the current suite of domestic building contracts with a view to providing a fair and equitable base for consumers and licensees.</p> <p>In reviewing the suite of domestic building contracts, it is proposed that the Commission will seek input from consumers and industry associations.</p>

Rec no.	Report recommendation	Government response
20	The Committee recommends that the Minister for Housing and Public Works seek amendment to legislation to require that homeowners seek legal advice before signing a building contract, or require them to sign a statement if they decide against seeking legal advice.	<p>The Government supports that homeowners be encouraged to seek independent legal advice to ensure they understand their rights and obligations in entering into a domestic building contract and that they understand what is included and excluded in the scope of works.</p> <p>It is proposed that the Commission will include in its review of domestic building contracts consideration of a recommendation that homeowners seek independent legal advice prior to entering into a domestic building contract. This recommendation will also be included in the online training course to be developed for homeowners.</p>
21	The Committee recommends that if the Minister for Housing and Public Works decides against introducing a mandatory standard contract, the Minister use the evidence submitted as part of this inquiry as the basis for a review of all building contracts drafted by industry groups with a view to discouraging any inherent bias towards the building contractor.	It is proposed that the Commission will review the current suite of domestic building contracts with a view to providing a fair and equitable base for consumers and licensees.
22	The Committee recommends that the Minister for Housing and Public Works review the evidence provided to the inquiry about payments and contractual issues relating to subcontractors with a view to improving the current system.	This issue is being thoroughly addressed in the concurrent review of the <i>Building and Construction Industry Payments Act 2004</i> . Separate recommendations will result from this review.
23	<p>The Committee recommends that the Minister for Housing and Public Works consider transferring:</p> <ul style="list-style-type: none"> • the consumer advice function to the Office of Fair Trading which is responsible for consumer rights and responsibilities, and • the consumer and contractor information and training function to Building Codes Queensland in the Department of Housing and Public Works. 	<p>Not supported.</p> <p>The Government does not propose to transfer the consumer advice function and the consumer and contractor information and training functions to the Office of Fair Trading and Building Codes Queensland. The transfer of these functions would result in fragmented service delivery and therefore customer and industry confusion. The Government however agrees that these functions should be enhanced within the Commission.</p> <p>In addition to the proposals under recommendation number 28, the Government agrees that an online consumer awareness course for consumers intending to enter into a domestic building contract needs to be developed and maintained. The course will be at no charge and will alert consumers to their contractual rights and obligations.</p>

Rec no.	Report recommendation	Government response
24	The Committee recommends that the Minister for Housing and Public Works establish a telephone service in the Department of Housing and Public Works to provide a single point of inquiry for consumers to ensure they are directed to the appropriate building services provider/ authority.	<p>Not supported.</p> <p>This recommendation is based on recommendation 23 which seeks to transfer responsibility for various aspects of the QBSA's activities to various other entities such as Office of Fair Trading.</p> <p>As recommendation 23 is not supported, the Government believes that with an appropriate governance structure it is best to retain a single entity rather than fragment service delivery.</p>
25	The Committee recommends that the Minister for Housing and Public Works ensure QBSA staff undergo training in customer relations and receive the training necessary to carry out their roles and responsibilities in the new authority or relevant Government department to the highest possible standard.	<p>Supported.</p> <p>The Government acknowledges QBSA's current commitment to the continuous training of its staff.</p> <p>The Commission will continue with training of its staff relevant to their respective duties and in particular focus on training around customer engagement and communication.</p>
26	<p>The Committee recommends that the Minister for Housing and Public Works consider extending the Scheme to provide for:</p> <ul style="list-style-type: none"> • a tiered approach where homeowners can select the level of cover they wish to purchase, for example levels may be determined by the type of work being undertaken, the level of risk associated with the work and the maximum amount of cover desired; and • the opportunity to take out cover for building works that do not need a building approval. 	<p>Supported in principle.</p> <p>The Minister for Housing and Public Works will ensure that an Implementation Committee is appointed, with input from the insurance industry, to consider whether there are benefits to a tiered approach to the level of cover after considering premium costs and whether the type of work covered should be extended. This should include consideration of works that do not need a building approval.</p>
27	The Committee recommends that the Minister for Housing and Public Works consider extending the Queensland Home Warranty Scheme to the construction or renovation of all homes irrespective of the method of construction and to swimming pools and ancillary structures.	<p>Supported in principle.</p> <p>Refer to the Government's response to recommendation 26 above. The review will also consider the construction of swimming pools and modular and flat pack (prefabricated) homes.</p>

Rec no.	Report recommendation	Government response
28	<p>The Committee recommends that an information pack and fact sheet be developed by the new building authority and that building contractors should be required to provide these to each person taking out insurance for residential construction works before a contract is signed in order to:</p> <ul style="list-style-type: none"> • ensure consumers fully understand the limited nature of the insurance before they sign the building contract and • educate consumers about important provisions of the Scheme, including what the insurance does and does not cover. 	<p>Supported.</p> <p>It is proposed that the Commission will develop an on line consumer awareness course for homeowners intending to enter into a domestic building contract. The consumer awareness course will include a section which will assist consumers to better understand the Queensland Home Warranty Scheme.</p> <p>The Commission will also make this consumer information more widely available, including to banks and finance institutions.</p>
29	<p>The Committee recommends the fact sheet referred to in the previous recommendation be published on all relevant departmental websites, as well as the building authority's website.</p>	<p>Supported.</p> <p>Information in relation to the Queensland Home Warranty Scheme is provided on the current QBSA website. The website is quite complex and redevelopment work needs to be undertaken to make it more user-friendly for all types of users including consumers, licensees, industry professionals and financiers.</p> <p>Links to the Commission website will be included on the relevant Government department's websites.</p>
30	<p>The Committee recommends that Queensland Home Warranty Scheme be renamed to better reflect its function, for example Limited Home Warranty Scheme.</p>	<p>Not supported.</p> <p>The Government will retain the name for the time being. This will be reconsidered subsequent to the review of the Queensland Home Warranty Scheme.</p>
31	<p>The Committee recommends that the Minister for Housing and Public Works investigate processes for reviewing building authority decisions in relation to the Limited Home Warranty Scheme including the option of introducing a mediation process for dispute resolution.</p>	<p>Supported.</p> <p>The Government agrees that a process will be established within the Commission whereby consumers can request a review of a decision with respect to the Queensland Home Warranty Scheme. The internal review unit will provide reports directly to a sub-committee of the board.</p>
32	<p>The Committee recommends that the Minister for Housing and Public Works use evidence provided to this inquiry on the current licensing regime to undertake an independent review of all existing licenses to test for fitness for purpose, eligibility requirements, costs and benefits.</p>	<p>Supported.</p> <p>The QBSA was undertaking a review of its licensing classes when the Parliamentary Review was announced and the Government agrees that this review be recommenced and its findings be referred to the Minister for Housing and Public Works for consideration.</p>

Rec no.	Report recommendation	Government response
33	<p>The Committee recommends that Section 42 of the QBSA Act, which provides that “a person must not carry out, or undertake to carry out, building work...unless that person holds a contractor’s licence of the appropriate class under this Act”, be revised to make it clear that there is no breach of the Act if the “building work” is carried out by an appropriately licensed builder.</p>	<p>Supported.</p> <p>The Government is aware that s.42 of the QBSA Act may at times lead to unintended consequences. For example, a licensed trade contractor who is not a builder and who engages an appropriately licensed building contractor would be in breach of this section despite it being a relatively minor amount.</p> <p>A further example is where a special purpose vehicle (company) that is established to deliver a project that includes building work, the nominee of the company must be a registered builder and as such the company will be licensed even though this company will contract with a registered building company to perform the work.</p> <p>The Government agrees to review the legislation.</p>
34	<p>The Committee recommends that:</p> <ul style="list-style-type: none"> ▪ the Minister for Housing and Public Works investigate the value of establishing a structure and/or process for the review of disciplinary decisions (prior to escalation to QCAT) and ▪ in implementing the disciplinary regime, the new building authority incorporate the provision of explanations for banning, disqualification and exclusion decisions to the licensees/applicants. 	<p>Supported.</p> <p>The Government proposes that a process will be established within the Commission whereby licensees can request a review of a decision in relation to disciplinary matters.</p> <p>The Government supports that any new legislation which governs disciplinary procedures, mandates that the Commission must, when making its decision give reasons as to why it has banned, disqualified or excluded a licensee.</p> <p>In addition, the legislation will require that the Commission must, when making its decision give reasons as to why it has rejected an application by an excluded individual to become a permitted individual.</p>
35	<p>The Committee recommends that the Minister for Housing and Public Works seek amendment to the QBSA Act to provide that where an individual’s ‘relevant bankruptcy event’ and ‘a relevant company event’ stem from the same financial incident, that they be deemed one event for the purposes of penalties.</p>	<p>The Government supports the amendment to section 56AC of the QBSA Act. In this regard a ‘relevant bankruptcy event’ and a ‘relevant company event’ should be treated as one event if they arise out of the same incident.</p>
36	<p>The Committee recommends that the new building services authority:</p> <ul style="list-style-type: none"> • review the current disciplinary regime for licensees with a view to strengthening penalties where appropriate • implement the regime in a comprehensive and consistent manner and • establish a rigorous ongoing auditing process to ensure compliance. 	<p>The Government supports that the Commission undertake the following audits of the QBSA’s current processes and reports back to the Minister for Housing and Public Works with its findings and recommendations for reform regarding:</p> <ul style="list-style-type: none"> • the current demerit points system with a view to ensuring that the penalty is commensurate with the offence; and • the implementation of audit programs to: <ul style="list-style-type: none"> – ensure that disciplinary decisions are made objectively and consistently; and – ensure that licensees comply with disciplinary decisions.

Rec no.	Report recommendation	Government response
37	<p>The Committee recommends that the new building authority:</p> <ul style="list-style-type: none"> • retain the current audit regimes (i.e. licence and financial audits) with a view to increasing the numbers and effectiveness of these regimes and • implement a new audit regime to check routinely for compliance with building standards and codes. 	<p>Supported in principle.</p> <p>The Government supports that an independent expert undertake a review of the audit process and benchmarks (i.e. financial ratios) used in assessing the relative financial strength of a licensee.</p> <p>The Government notes that the outcome of the review under recommendation 14 should substantially address the issue of compliance with building standards and codes.</p> <p>In addition, the implementation of a Standards and Tolerances Manual will assist in addressing the issue of compliance with building standards and codes.</p>
38	<p>The Committee recommends that the online search facility be reviewed to ensure that consumers are able to access as much relevant and substantiated information as legally possible about a builder's status and that provision be made by the new building authority for the database to be maintained on a regular and ongoing basis.</p>	<p>Supported.</p> <p>The Government agrees that the licensee database needs to be current and proposes that the Commission will establish processes to ensure the currency of the site.</p> <p>The Government proposes that the Commission make more comprehensive information available on line about licensees and that any changes strike a balance between safeguarding licensees and informing consumers.</p> <p>The Government concurs that the Commission website must be user friendly and readily accessible.</p>
39	<p>The Committee recommends that the Minister for Housing and Public Works investigate:</p> <ul style="list-style-type: none"> • the benefits of mandatory Continuing Professional Development (CPD) for all licensees and • the potential to link mandated CPD to licence eligibility requirements. 	<p>Not supported.</p> <p>However, the Government considers that continuing professional development is necessary to ensure a strong industry. In the case of the building industry, professional development training is best run by professional training providers, industry bodies and product manufacturers.</p> <p>This could include a system that rewards licensees for obtaining a minimum number of CPD points in a given period and for continuous service without having had disciplinary action taken against them.</p> <p>It is considered appropriate for the Commission to implement a framework for continuing professional development which will also assist training providers to develop training programs that count toward professional development.</p> <p>The website would provide details of courses available, the providers of these courses and the professional development points allocated for the completion of these courses. This element of the website could also be accessed by training providers and individual licensees to update attendance at training courses.</p> <p>It is proposed that the Commission be responsible for conducting systematic audits.</p>

Rec no.	Report recommendation	Government response
40	The Committee recommends that the Minister for Housing and Public Works use the evidence provided to the inquiry to examine ways in which the industry groups can take a greater role within the newly formed building authority in terms of licensing standards and procedures for their members.	Supported. The Government agrees to the formation of two separate advisory groups, being a consumer reference group and an industry reference group to provide input to the governing board. This may be general feedback or it could be issues referred for consideration and advice to these reference groups by the governing board.
41	The Committee recommends that the Minister for Housing and Public Works take the recommendations contained in this report into consideration before agreeing to any timeframes for the introduction of the draft Regulations stemming from the National Occupational Licensing System.	The Government supports this recommendation.