

## Article Information

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# Queensland Building and Construction Commission: Structural and Cultural Change is Coming

**Acknowledging stakeholder ‘anger’ and ‘frustration’, Jim Varghese AM has urged the QBCC to “transform itself into an outcomes-focused statutory agency.” Mr Varghese’s observations and no less than 17 recommendations for reform are made in his [report](#) on the QBCC Governance Review 2022 (the Varghese Report).**

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The Varghese Report identifies ‘perceptions of bias and/or a conflict of interest’ in the execution of multiple QBCC functions,<sup>[1]</sup> and includes several recommendations that seek to enhance the transparency of various QBCC functions and improve consistency in QBCC decision making (including when penalties are imposed).

Recommendations for reform include:

- prioritising a ‘sustainable funding model’, suggesting **changes to levies and licensing fees**.<sup>[2]</sup>
- use of a precedent register to record decisions imposing penalties, facilitating the application of **similar penalties in similar circumstances**.<sup>[3]</sup>
- **informing complainants** of the outcome of their complaint, **with reasons**.<sup>[4]</sup>
- **training QBCC staff** so that they have the skills and knowledge necessary to assess QBCC licence applications.<sup>[5]</sup>
- establishing a **Resolution Services Unit**, consolidating the existing security of payment (*Building Industry Fairness Act*) Adjudication Registry, QBCC’s Internal Review Unit and the existing mediation service (defective work complaints).

The Resolution Services Unit would have “a stretch target of reducing escalation of disputes to QCAT by 90 per cent”.<sup>[6]</sup> It would provide “end-to-end resolution services including both mediation and arbitration to resolve defective building work disputes in a timely manner”. Permitting (or requiring) arbitration of domestic building disputes would be a substantial change.<sup>[7]</sup> Also, mediations would no longer be limited to active contracts, and would be undertaken by trained mediators (rather than QBCC inspectors).<sup>[8]</sup>

In response to the Varghese Report, the Queensland government has [confirmed](#) it “supports the 17 recommendations (in principle), and is committed to addressing the independent reviewer’s findings to deliver reforms that reflect the outcomes being sought.”

The following table summaries Mr Varghese’ 17 recommendations, and the Queensland government’s response:

No.	Recommendation	Department Response
1.	Refocus the QBCC’s regulatory role to licensing and compliance of the industry.	Supports this recommendation in principle and have placed some action items into 90 day plan. Department will continue to progress the review of the QHWS.
2.	Establish an independent, quarantined Mediation, Resolution and Review Unit within the QBCC.	Supports this recommendation in principle and requires a detailed business case.

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| 3.  | Reduce the size of the QBC Board and realign measures to demonstrate alignment with continuous improvement practices.                                                                | Supports this recommendation and will be implemented when the current QBC Board appointment expires on 30 November 2022.                                            |
| 4.  | Realign structure and recognise specialist skills.                                                                                                                                   | Supports this recommendation and implementation group will support QBBC to give effect to the recommendation.                                                       |
| 5.  | Enhance the QBCC's reputation based on consistency, transparency, fair and impartial decision-making                                                                                 | Supports this recommendation and notes that the recent <i>Building and Other Legislation Amendment Act 2022</i> partially delivers this recommendation.             |
| 6.  | Enhance the transparency and accountability of the conflicts of interest framework                                                                                                   | Supports this recommendation and considers it a priority.                                                                                                           |
| 7.  | Invest in an integrated information management system that is contemporary, fit-for-purpose and aligns with the organisation's functions.                                            | Supports this recommendation in principle and requires a detailed business case                                                                                     |
| 8.  | Ensure strategic planning reflects Government's expectations of the regulator and supports continuous improvement from the industry                                                  | Supported without further comment                                                                                                                                   |
| 9.  | Foster a culture of continuous improvement, respectful engagement and effective reporting                                                                                            |                                                                                                                                                                     |
| 10. | Strengthen and enhance management, licensing, investigative and technical staffing capability                                                                                        | Supports this recommendation in principle and requires a detailed business case.                                                                                    |
| 11. | Implement a comprehensive and public compliance and enforcement strategy.                                                                                                            | Supports this recommendation in principle but extent of reform is dependent on other recommendation and gaps in resourcing. Also requires a detailed business case. |
| 12. | Strengthen and develop the building industry through effective education, support, information, and advice.                                                                          | Supports this recommendation in principle and recognises some legislative administrative reforms necessary.                                                         |
| 13. | Embed cooperative and collaborative relationships with stakeholders that promote trust, improve customer service which leads to a better understanding of the operating environment. | Supports this recommendation and will take steps to improve clarity and understanding about the regulatory role of the QBCC.                                        |
| 14. | Implement a contemporary and sustainable funding model to enable the QBCC to effectively regulate the industry                                                                       | Supports this recommendation in principle and requires further analysis of the costs and benefits required to balance needs without unnecessarily adding costs.     |

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| 15. | Support the independent review of the role of developers within the Queensland building and construction industry | Supported without further comment                                                                                                                      |
| 16. | Improve building resilience to the impacts of natural disasters                                                   |                                                                                                                                                        |
| 17. | Establish an implementation group to monitor and report on the progress of the QBCC Review recommendations        | Supports this recommendation and has appointed a dedicated implementation group. Group responsible for implementing the recommendations in the Review. |

The Department of Energy and Public Works has also released a 90 Day Action Plan in order to implement the recommendations.

Piper Alderman will continue monitoring any developments and the implementation of these recommendations to be best positioned to assist our clients.

*This article has been written for general educational purposes only, and is not to be taken as legal advice.*

[\[1\]](#) At pages 6, 27, 30, 33, 36, 66 of the Varghese Report

[\[2\]](#) See page 63 of the Varghese Report

[\[3\]](#) See page 37 of the Varghese Report

[\[4\]](#) See page 38 of the Varghese Report

[\[5\]](#) See pages 50 to 53 of Varghese Report

[\[6\]](#) See page 31 of the Varghese Report

[\[7\]](#) See s 32 of QBCC Act

[\[8\]](#) See page 31 of the Varghese Report