

## OUR PERFORMANCE

The following section highlights our performance against the four objectives within the QBCC Strategic Plan 2020-2024 (revised for 2021-22).

### OBJECTIVE 1: PROMOTE QUALITY, SAFETY, SECURITY OF PAYMENT AND LICENSEE SUSTAINABILITY

Company insolvencies, non-payment of subcontractors, illegal phoenixing activities, safety incidents at worksites and at pools, along with potential harm from non-conforming building products (NCBP), pose significant threats to the confidence of the building and construction industry.

This objective seeks to deal with these issues through the delivery of four strategies. These are:

- Early detection – we use insights and risk-based regulatory models to focus on the greatest risk areas for the sector
- Responding effectively – we will mobilise our resources to respond appropriately
- Work collaboratively – we work with other regulators and agencies to help maintain the probity and integrity of the sector
- Industry awareness – we deliver sector-wide education and engagement activities.

TABLE 1: OBJECTIVE 1 PERFORMANCE MEASURES

SUPPORTING MEASURES	TARGET	ACTUAL	COMMENTS
<b>Percentage of compliant pools with valid pool certificates across residential, rental and short-stay properties</b>			
Qualitative statement	The QBCC's activities around its regulatory activities are described in this chapter.		
<b>Percentage year-on-year decrease in non-conforming building products (NCBP) that have potential to cause significant risk and harm being used on active building sites</b>			
Qualitative statement	The QBCC's activities around its regulatory activities are described in this chapter.		
<b>Reduction in non-compliance evidenced by approved audit programs</b>			
Qualitative statement	The QBCC's activities around its regulatory activities are described in this chapter.		
<b>Year-on-year increase in compliance with minimum financial requirements</b>			
Qualitative statement	The QBCC's activities around its regulatory activities are described in this chapter.		

## SECURITY OF PAYMENT FOR SUBCONTRACTORS

In 2021-2022, the QBCC continued its implementation of key programs which help to ensure subcontractors can be confident they will be paid for the work they do. These included:

- implementing legislative changes brought about through the passing of the *Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2020 (BIFOLA)* to ensure a safer, fairer and more sustainable building and construction industry
- continuing with financial audits and other activities to monitor compliance with minimum financial requirements (for licensees) and security of payment (e.g., trust account) obligations.

### ACTIVITIES UNDER THE MINIMUM FINANCIAL REQUIREMENTS

As at 30 June 2022, 99.8 per cent of category 4-7 licensees lodged annual financial information with the QBCC under the new annual reporting requirements. The QBCC issued 60 show cause notices for suspected non-compliance with minimum financial requirements, eight licence suspensions and one licence cancellation, based on the financial information lodged for annual reporting purposes. The QBCC also imposed licence conditions on 17 licensees for failure to lodge the required financial information on time, which resulted in four suspensions and two cancellations.

99.9 per cent of licensees belonging to categories 1-3 had lodged their annual financial information as at 30 June 2022. The QBCC commenced 117 financial audits and issued 44 show cause notices for suspected non-compliance with minimum financial requirements to licensees in categories 1-3. Based on the financial information lodged for annual reporting purposes, the QBCC suspended 18 licences and cancelled six licences. The QBCC also imposed licence conditions on 572 licensees in categories 1-3 for failure to lodge the required financial information on time, resulting in 159 licences being suspended and 90 being cancelled.

Approximately 86.6 per cent of licensees belonging to categories SC1 and SC2 had lodged their annual financial information as at 30 June 2022. The QBCC took targeted compliance actions in respect of these licensees, and lodgement rates have improved over the previous year as a result.

The QBCC's activities to date under the annual reporting requirements have resulted in the net tangible asset positions of category 4-7 licensees in Queensland improving by over \$1.5 billion.

### FINANCIAL AUDITS AND MONIES-OWED INVESTIGATIONS

During the financial year, the QBCC commenced 308 financial audits of licensees. The QBCC also conducted 201 non-payment of debts investigations, leading to 21 licence cancellations and 53 licences being suspended. Three licences were immediately suspended for breaching minimum financial requirements.

In the reporting period, approximately \$4.7 million in outstanding debts were paid to creditors who lodged a 'monies-owed' complaint to the QBCC. The cumulative amount paid to 'monies-owed' creditors since the commencement of the minimum financial requirements policy in October 2014 up to 30 June 2022 was approximately \$43.7 million.

The QBCC Act established a framework for excluding individuals from holding a contractor licence, nominee supervisor licence, site supervisor licence, or being in an influential role in a licensed company where the individual has been involved (in specified circumstances) with a financial failure. The QBCC excluded 183 individuals due to their involvement in a financial failure during the financial year. Of this number, 75 were licensees who had their licence cancelled. There were also 13 individuals permanently excluded due to their involvement in a second financial failure.

The QBCC may also exclude a company from holding a contractor licence if it has an excluded individual who is a director of, secretary of, or an influential person for the company. There were 53 companies excluded from holding a licence during the financial year.

### PAYMENT CLAIM AUDITS

The QBCC finalised a payment claim audit of 20 licensees during the financial year. The audit reviewed payment claims for the last five projects due for practical completion between 1 January 2020 and 31 March 2021 for these licensees. The audit program found no enforcement response was required for payment offences.

### PROJECT TRUST ACCOUNT APPROVED AUDITS

Parties that are required to use project trust accounts (for subcontractor payments) are subject to rules regarding deposits and withdrawals, record keeping and giving notifications. To monitor compliance with these requirements, two approved audit programs were carried out during the financial year. The audit programs reviewed the operation of 20 project trust accounts opened between 1 March 2021 and 30 June 2021, and 27 project trust accounts opened between 1 July 2021 and 28 February 2022. These audit programs did not result in any enforcement actions.

# REPORTING ON THE *BUILDING INDUSTRY FAIRNESS (SECURITY OF PAYMENT) ACT 2017* (CHAPTER 3) AND THE ADJUDICATION REGISTRY

Section 157 of the *Building Industry Fairness (Security of Payment) Act 2017* (BIF Act) provides that the Commissioner must report on the operation of the BIF Act (Chapter 3) and the Adjudication Registry (Registry), and provide forecasts and recommended improvements for the Registry.

## OFFENCE PROVISIONS UNDER CHAPTER 3 OF THE BIF ACT

Chapter 3 of the BIF Act includes offence provisions under sections 75 (Making payment claim), 76 (Responding to payment claim), 88 (Adjudicator's decision), 90 (Respondent required to pay adjudicated amount), and Parts 4A (Payment withholding) and 6A (Charge over property). Section 104A of the QBCC Act provides our investigators with powers to investigate, monitor and enforce compliance with the BIF Act.

The below summarises activities that occurred in this area in 2021-2022:

- initiated 119 cases for breaches of Section 76 and closed 120 cases, including cases carried over from the previous year
- issued 25 penalty infringement notices for contraventions of Section 76
- opened two cases for offences of Section 88 and closed one case
- issued 10 penalty infringement notices for contraventions of Section 90
- issued no warnings for Section 90 and Section 76
- investigated one case for Information Sharing under Chapter 2
- investigated no cases for Related entities under Section 24
- investigated no cases for Ending Project Bank Accounts under Section 21.

To date, there have been no cases for offences under Part 4A, and Part 6A of the BIF Act.

## ADJUDICATION REGISTRY

The Registry is established under the BIF Act. The main purpose of the BIF Act is to provide for effective, efficient, and fair processes for securing payment in the construction industry. The Adjudication process contributes to achieving this purpose by confirming three facts to parties in dispute:

- the amount of a progress payment, if any, to be paid by the respondent to the claimant (the adjudicated amount)
- the date on which any amount became or becomes payable
- the rate of interest payable on any adjudicated amount.

## ADJUDICATION APPLICATIONS

The table below outlines the total number of valid adjudication applications received by the Registrar for the period 1 July 2021 to 30 June 2022.

**TABLE 2: NUMBER OF VALID ADJUDICATION APPLICATIONS RECEIVED FOR 2021-2022**

ADJUDICATION APPLICATION TYPE	TOTAL
Standard (less than \$750,000)	264
Complex (greater than \$750,000)	29
<b>Total number of applications</b>	<b>293</b>

The table below outlines the total amount claimed from the 293 valid adjudication applications received by the Registrar for the period 1 July 2021 to 30 June 2022.

**TABLE 3: ADJUDICATION CLAIMED AMOUNT FOR 2021-2022**

<b>Total value of claims</b>	<b>\$101,938,586.07</b>
Maximum claim	\$9,949,440.97
Minimum claim	\$522.68
Average claim	\$347,913.26

## ADJUDICATION DECISIONS

A registered adjudicator is an independent person, qualified to determine payment disputes under the BIF Act.

The table below sets out the total number of adjudicator registration and renewal applications for the period 1 July 2021 to 30 June 2022.

**TABLE 4: ADJUDICATOR REGISTRATIONS AND RENEWAL APPLICATIONS FOR 2021-2022**

APPLICATION TYPE	NUMBER	FEES PAID
Registration	6	\$5,904.15
Renewal	44	\$37,111.80

Of the 293 adjudication applications received, a total of 262 were referred to an independent registered adjudicator for determination. The table below sets out the number of adjudication decisions released by registered adjudicators for the period 1 July 2021 to 30 June 2022.

**TABLE 5: NUMBER OF ADJUDICATION DECISIONS RELEASED BY REGISTERED ADJUDICATORS IN 2021-2022**

DECISION TYPE	TOTAL
Standard (less than \$750,000)	157
Complex (greater than \$750,000)	19
<b>Total number of decisions released</b>	<b>176</b>

The table below sets out the total amounts awarded by adjudication decisions released for the period 1 July 2021 to 30 June 2022.

**TABLE 6: ADJUDICATION DECISIONS RELEASED**

<b>Total value of claims - decisions released</b>	<b>\$51,816,750.76</b>
Maximum claim value - decision released	\$6,238,689.22
Minimum claim value - decision released	\$1,320.00
Average claim value - decisions released	\$294,413.36
<b>Total value of adjudicated amount - decisions released</b>	<b>\$15,854,533.66</b>

Table 7 sets out the total value of claims and amounts awarded by adjudication decisions released for the period 1 July 2021 to 30 June 2022, broken down by region.

**TABLE 7: TOTAL AMOUNTS AWARDED BY ADJUDICATION DECISIONS RELEASED IN 2021-2022 - BROKEN DOWN BY REGION**

DECISIONS BY REGION	NUMBER OF APPLICATIONS MADE TO THE REGISTRAR	TOTAL VALUE OF CLAIMS	NUMBER OF DECISIONS RELEASED	TOTAL CLAIMED AMOUNT OF DECISIONS RELEASED	TOTAL VALUE OF ADJUDICATED AMOUNT
Brisbane	175	\$44,325,595.28	104	\$22,444,375.46	\$5,011,276.50
Cairns	3	\$328,787.80	3	\$328,787.80	\$164,114.51
Gold Coast	19	\$5,959,449.75	10	\$2,475,723.08	\$974,875.25
Mackay	17	\$20,346,800.51	12	\$3,751,264.75	\$524,054.28
Maryborough	7	\$1,218,583.13	6	\$1,208,418.03	\$640,837.55
Rockhampton	19	\$4,946,879.92	10	\$4,374,308.94	\$2,220,277.92
Sunshine Coast	16	\$1,319,357.37	7	\$497,851.93	\$314,785.54
Toowoomba	22	\$12,038,724.83	13	\$5,787,288.42	\$3,318,577.90
Townsville	15	\$11,454,407.48	11	\$10,948,732.35	\$2,685,734.21
<b>Total</b>	<b>293</b>	<b>\$101,938,586.07</b>	<b>176</b>	<b>\$51,816,750.76</b>	<b>\$15,854,533.66</b>

The table below sets out the average number of business days from making an adjudication application to having an adjudication decision made, for the period 1 July 2021 to 30 June 2022.

**TABLE 8: AVERAGE NUMBER OF BUSINESS DAYS FROM APPLICATION TO DECISION**

	STANDARD	COMPLEX
Maximum	38.0	93.0
Minimum	5.0	21.0
Average	20.8	47.2

## ADJUDICATION APPLICATION FEES

Under the BIF Act, an application for adjudication must be accompanied by the prescribed fee. For the period 1 July 2021 to 30 June 2022, the prescribed application fee ranged from \$60.70 for payment claims of no more than \$10,353.05, to a percentage of the claimed amount for payment claims of more than \$1,128,044.55 (capped at \$6,073.80). The total value of adjudication application fees for applications lodged between 1 July 2021 and 30 June 2022 was \$117,731.15.

The table below sets out the adjudication application fees and represents the fee as a percentage of the average total claimed amount for applications received by the registrar in the period 1 July 2021 to 30 June 2022.

**TABLE 9: ADJUDICATION APPLICATION FEES**

CLAIM VALUE <sup>1</sup>	NUMBER OF APPLICATIONS MADE TO THE REGISTRAR	AVERAGE APPLICATION FEE	AVERAGE TOTAL CLAIMED AMOUNT	AVERAGE APPLICATION FEE AS A PERCENTAGE OF AVERAGE TOTAL CLAIMED AMOUNT
\$0 to \$10,353.05	90	\$60.70	\$5,260.47	1.15%
>\$10,353.05 to \$51,765.30	78	\$182.15	\$24,441.92	0.75%
>\$51,765.30 to \$103,530.60	38	\$295.48	\$78,944.56	0.37%
>\$103,530.60 to \$258,826.50	37	\$425.21	\$167,691.10	0.25%
>\$258,826.50 to \$517,653	16	\$546.60	\$345,565.19	0.16%
>\$517,653 to \$776,479.50	6	\$668.05	\$625,173.02	0.11%
>\$776,479.50 to \$1,128,044.55	3	\$789.55	\$955,893.72	0.08%
> \$1,128,044.55	25	\$2,214.59	\$3,128,257.91	0.07%

<sup>1</sup> As per Schedule 2 Building Industry Fairness (Security of Payment) Regulation 2017

## ADJUDICATOR FEES

Under the BIF Act, progress payment claims of less than \$25,000 have fees and expenses capped by regulation. For progress payments over \$25,000, fees and expenses are to be agreed between the adjudicator and the parties. In the absence of agreement, an adjudicator is entitled to an amount that is reasonable, having regard to the work done and expenses incurred.

The table below sets out the average adjudicator fee as a percentage of the average total claimed amount for decisions released in the period 1 July 2021 to 30 June 2022.

**TABLE 10: AVERAGE ADJUDICATOR FEE AS A PERCENTAGE OF THE AVERAGE TOTAL CLAIMED AMOUNT**

CLAIM VALUE	NUMBER OF DECISIONS MADE BY ADJUDICATORS	AVERAGE TOTAL CLAIMED AMOUNT	AVERAGE ADJUDICATOR FEES	AVERAGE ADJUDICATOR FEES AS A PERCENTAGE OF AVERAGE TOTAL CLAIMED AMOUNT
\$0 to \$10,353.05	42	\$5,734.25	\$782.19	13.6%
>\$10,353.05 to \$51,765.30	52	\$23,691.07	\$2,736.90	11.6%
>\$51,765.30 to \$103,530.60	26	\$83,034.45	\$7,781.34	9.4%
>\$103,530.60 to \$258,826.50	25	\$166,186.01	\$12,030.26	7.2%
>\$258,826.50 to \$517,653	10	\$335,304.92	\$10,046.98	3.0%
>\$517,653 to \$776,479.50	2	\$570,434.41	\$13,827.00	2.4%
>\$776,479.50 to \$1,128,044.55	3	\$955,893.72	\$22,409.53	2.3%
> \$1,128,044.55	16	\$2,291,801.98	\$44,537.10	1.9%

## ADVISORY SERVICE

The Registry provides an advisory service to further educate consumers about the role of the Registry and the adjudication process. Through the advisory service, stakeholders are connected directly to Registry staff for timely information about the adjudication process. The advisory service enhances awareness about payment rights and obligations.

For the previous 2020-2021 financial year, the Registry received a total of 1,050 enquiries. For the period 1 July 2021 to 30 June 2022, the Registry saw a decrease in the number of enquiries received to 902. This annual reduction in enquiries received can be attributed to the Registry's efforts to improve application templates and a revision into information provided on the QBCC website.

## ANNUAL REVIEW OF ADJUDICATOR GRADING

Section 22(1) of the Building Industry Fairness (Security of Payment) Regulation 2019 (BIF Regulation) provides for the review of adjudicator grading at least once every 12 months.

Pursuant to Section 20(a) of the BIF Regulation, an adjudicator is eligible to become a grade 2 adjudicator if the adjudicator has:

- decided at least 10 adjudication applications
- with at least five of those applications relating to a progress payment of more than \$25,000.

Pursuant to Section 20(b) of the BIF Regulation, an adjudicator is eligible to receive a grade 2 registration if the Registrar considers the person's experience is equivalent to meeting the requirements set out above.

In respect of the adjudicator grade review for the period 1 July 2021 to 30 June 2022, there were five grade 1 adjudicators assessed as eligible for grade 2 registration.

## CONTINUING PROFESSIONAL DEVELOPMENT

Pursuant to section 165 of the BIF Act, it is a condition of registration that adjudicators complete continuing professional development (CPD) prescribed by regulation.

The BIF Regulation provides that an adjudicator must accumulate 10 CPD points in each CPD year (1 April to 31 March in the following year) through the completion of CPD activities. At the commencement of the reporting period for the CPD year, there were 153 registered adjudicators.

TABLE 11: ACTIVITIES PERTAINING TO THE 2021-2022 CPD YEAR

CPD RECORDS PROVIDED	143
Cancelled registrations (BIF Act Section 171)	5
Surrendered registrations	3
No record required (BIF Regulation Section 30)	2

## FORECAST OF REGISTRY OPERATIONS

With the implementation of the BIF Act in December 2018 and routine legislative amendments, the Registry continues to conduct a review of all systems and processes to ensure maximum efficiency in meeting its statutory mandate. To enhance regional customer experiences, the Registry conducts annual training on the adjudication process and associated procedures, with QBCC regional office staff across the State.

For the 2022-2023 financial year, increased workload for the Registry in respect of some functions is anticipated, including but not limited to:

- implementation of legislative reform as required
- meeting the demand for consumer advisory services
- providing education and engagement with the sector and registered adjudicators.

## LICENCE SUSPENSIONS AND CANCELLATIONS

The QBCC Act allows for the suspension or cancellation of a licence on certain grounds. The below table provides data on the grounds for these suspensions and cancellations.

TABLE 12: LICENCES SUSPENDED AND CANCELLED UNDER SECTION 48 OF THE QBCC ACT IN 2021-2022

REASON FOR SUSPENSION /CANCELLATION	SUSPENSION	CANCELLATION
Breach of minimum financial requirements (other than 'monies-owed')	60	24
Failure to pay debts ('monies-owed')	53	21
Failure to comply with a financial audit	36	14
Breach of licence condition (including annual reporting requirements and company deregistration)	3,238	1,717
Licensee not fit and proper to hold a licence (including if the licensee's interstate or New Zealand licence is cancelled or suspended)	0	9
Licensee was convicted of an indictable offence	0	2
Licensee owed an amount to the QBCC and failed to comply with a demand to discharge the debt	8	5
Licensee company ceases to have a nominee	131	63
Serious risk to health and safety	1 <sup>2</sup>	0
<b>Total</b>	<b>3,527</b>	<b>1,855</b>

<sup>2</sup> The suspended licence holder formally surrendered their licence.

The QBCC may immediately suspend a licence if it reasonably believes there is a real likelihood that serious financial loss or other serious harm will occur to other licensees, employees of other licensees, consumers, or suppliers of building materials or services. In 2021-2022, the QBCC immediately suspended four licences. In one case, the immediate suspensions arose out of concerns that if the licensee was allowed to continue to trade, they would pose a serious risk of harm to others in the industry as a result of a failure to carry out commercial and statutory obligations and therefore the licensee, or the licensee's director, were not fit and proper to hold a licence. In the remaining three cases, the licensees were immediately suspended because there was a real likelihood that serious financial loss would have occurred if this regulatory action was not taken.

## LICENSING ACTIONS TO ENSURE SAFE SYSTEMS OF WORK

In the event a building or other work on a building site under a licensee's control caused death, grievous bodily harm or a serious risk to health or safety, the QBCC Act allows for the cancellation, suspension, or conditioning of a licence.

Licensees are required under the law to report safety matters to the QBCC. Further, there is an information-sharing arrangement whereby the QBCC is advised by Workplace Health and Safety (WHS) when they become aware of incidents.

This collaborative relationship ensures a structured and appropriately focused regulatory approach to mitigating safety risks in the sector. Although immediate suspension may be taken against licensees where there is current or future risk of harm to others, that ability had been confined to specific categories of people. On 10 June 2022, following consultation between the QBCC and DEPW, the protective scope was expanded in legislation to include risk to any person.

In 2021-2022, the QBCC investigated 265 safety-related incidents involving licensees, seeking and receiving information about incidents from licensees, WHS and other parties when necessary. Generally, licensees demonstrated appropriate safety systems and behaviours. However, on 18 occasions in this period the QBCC issued show cause notices to licensees as to why their licence should not be suspended or cancelled, providing an opportunity for licensees to formally respond.

After due consideration was provided to responses received, as required by the legislation, one licensee was suspended by the QBCC. When a subsequent notice was made to cancel that same licensee, the licence was surrendered. Remedial training was imposed as a condition on two other licensees and a condition with a reprimand was imposed on another. The remaining 14 licensees complied with and satisfied the requirements within the QBCC notices issued, showing to have adequate safety systems in place.

## NON-CONFORMING BUILDING PRODUCTS

The QBCC has continued to use its powers under the NCBP laws. These laws establish a chain of responsibility, placing obligations on supply-chain participants at all stages, to ensure building products used in Queensland are safe, compliant and capable of performing to the standard that they are represented to perform.

For the period 1 July 2021 to 30 June 2022, the QBCC received 193 enquiries and complaints in relation to NCBPs. This includes community and industry-generated intelligence, as well as proactive audits instigated by the QBCC. We finalised 200 enquiries and complaints, with 44 ongoing. The number received and finalised is not equal as enquiries and complaints can be carried over from previous financial years.

Of the 200 enquiries and complaints that were finalised:

- 61 were public/industry-generated complaints into product families
- 121 were public/industry-generated complaints into specific sites
- 18 were cases based on general public and industry intelligence obtained by the QBCC.

The outcomes of the 200 enquiries and complaints finalised were:

- 11 determinations of NCBP, resulting in appropriate regulatory action or voluntary remedial action
- six resolutions through specific targeted education of persons in the chain of responsibility
- nine findings of conforming products, resolved through general education
- 57 resolutions through general education without requiring a finding of non-conformance
- 24 escalations for detailed technical investigation
- 43 resolutions through retaining information as general intelligence
- 42 re-directions of affected parties to other areas of the QBCC
- four were not related to non-conforming building products
- four matters were closed in the previous financial year but were not declared as NCBP until this financial year.

Through these actions, the QBCC has strengthened the knowledge and awareness of non-conforming building product legislation within industry and the general public, taking regulatory action where necessary. This decreases the risk of unsafe building products being installed in Queensland buildings.

## SAFER BUILDINGS PROGRAM

In 2018, a regulation came into effect to help identify privately-owned buildings in Queensland that may have potentially combustible cladding. As part of the Safer Buildings program, owners of these buildings were required to register their building and undertake a self-auditing process called the combustible cladding checklist, supported by industry professionals where required.

The combustible cladding checklist is an online system that is divided into three parts with buildings exiting at each part of the process. The QBCC received registrations relating to 19,940 buildings and, as at 30 June 2022, 13,978 buildings had been cleared at part 1, 3,065 buildings had been cleared at part 2, and 913 buildings had been cleared at part 3. The remaining buildings (less than 2000) have either been given measures outlined by fire safety engineers to mitigate the risk or are currently being investigated by the QBCC for non-compliance and possible referral for commencement of prosecution. These measures are undertaken to ensure the safety of occupants in buildings that may have a combustible cladding fire risk.

The QBCC continues to undertake appropriate audits to ensure the accuracy of information submitted in the checklist and to take necessary regulatory steps to ensure completion of the program. This may include site inspections and requiring the production of relevant documents to help establish if an offence has been committed product.

The part 3 compliance deadline of 3 May 2021 has now passed, including 120 registrations previously granted extensions of time, that have now expired. The QBCC has commenced 35 prosecutions against building owners, who did not complete the Safer Building checklist program, or where a combustible fire risk may be present, due to incorrect or incomplete document lodgement.

One hundred and twenty-eight private buildings have undergone cladding replacement or rectification by building owners due to the information they received from industry professionals or fire engineers during the Safer Building Checklist program.

## COMPLIANCE AND ENFORCEMENT ACTIVITIES

The QBCC uses its legal powers to investigate complaints made by consumers, contractors and other industry participants to support an equitable environment for Queensland licensees by identifying and penalising unlawful operations. We also carry out proactive audits and investigations to detect unlicensed contracting and other breaches of legislative requirements. From time to time, the QBCC conducts joint operations with other regulators to target specific risks.

During 2021-2022, the five offences listed below made up 80 per cent of all investigations:

- unlicensed contracting: 23 per cent
- Schedule 1B (domestic building contracts) offences: 26 per cent
- advertising: 13 per cent
- Security of Payment (BIF Act): seven per cent
- insurance offences: 11 per cent.

**TABLE 13: NUMBER OF INVESTIGATIONS OPENED AND CLOSED**

	2019-2020	2020-2021	2021-2022
Unlicensed contracting	585	565	651
Schedule 1B (domestic contracts)	542	563	719
Insurance	268	386	312
Security of payment <sup>3</sup>	149	281	185
Advertising	90	243	354

<sup>3</sup>A number of new sections of the BIF Act were included as part of investigations in 2020-2021 as a result of BIFOLA reforms, and therefore the number of investigations are not directly comparable to years prior to 2020-2021.

In 2021-2022, the QBCC continued to focus its investigations on unlicensed contracting, advertising and contract offences as well as safety matters. This was achieved through a considered approach which combined education and engagement activities to both licensees and property owners (where appropriate) and more robust enforcement actions where necessary. This can be seen in the above table, which shows an increase of 15 per cent in investigations for unlicensed contracting, and an increase of 28 per cent in investigations for domestic contract offences.

## CONTRACTUAL INVESTIGATIONS

The QBCC examines suspected breaches of the QBCC Act and, when required, takes appropriate action including issuing an infringement notice under:

- Schedule 1B of the QBCC Act, which regulates contracts for domestic building work between contractors and home owners
- Part 4A of the QBCC Act, which regulates subcontracts between contractors and builders and commercial contracts.

Where there are reasonable concerns that a licensee has not been complying with the requirements of the QBCC Act, we may conduct investigations requiring the licensee to produce all contracts for review. Our key focus is on domestic contracts due to the need to better protect home owners who may only rarely deal with the building and construction industry.

**TABLE 14: CONTRACTUAL INVESTIGATIONS**

	2019-2020		2020-2021		2021-2022	
	DOMESTIC CONTRACT	QBCC ACT PART 4A	DOMESTIC CONTRACT	QBCC ACT PART 4A	DOMESTIC CONTRACT	QBCC ACT PART 4A
Investigations	473	19	542	71	802	52
Warnings issued	128	8	156	25	285	22
Contractors issued with an infringement notice	206	3	218	25	263	8
Infringement notices issued	211	3	219	25	269	8

The QBCC uses a range of regulatory tools and approaches, from education to warnings and infringement notices, to encourage contractors to comply with legislative requirements, whilst protecting the rights of home owners.

## DEMERIT POINTS ISSUED TO CONTRACTORS FOR BREACHES OF LEGISLATION

The table below shows the demerit points issued to contractors in 2021-2022.

**TABLE 15: DEMERIT POINTS ISSUED TO CONTRACTORS**

	2019-2020	2020-2021	2021-2022
Demerit points issued for unsatisfied judgment debts	70	40	110
Demerit points issued for contractual offences	1,584	1,720	1,866
Demerit points issued for failure to rectify	1,862	2,556	2,768
Demerit points issued for failing to pay insurance premium	386	258	332
Demerit points issued for carrying out work without a nominee	8	0	0
Demerit points – other	156	122	68
<b>Total demerit points issued</b>	<b>4,066</b>	<b>4,696</b>	<b>5,144</b>
<b>Contractors issued with demerit points</b>	<b>515</b>	<b>594</b>	<b>672</b>

The issuance of demerit points has increased at a steady rate over the past three financial years. The most significant area of growth is seen in the issuance of demerit points for unsatisfied judgement debts which has increased by 175 per cent in the current financial year. This is a direct outcome of the QBCC's goal to ensure all licensees are paid on time.

## CERTIFIER COMPLIANCE

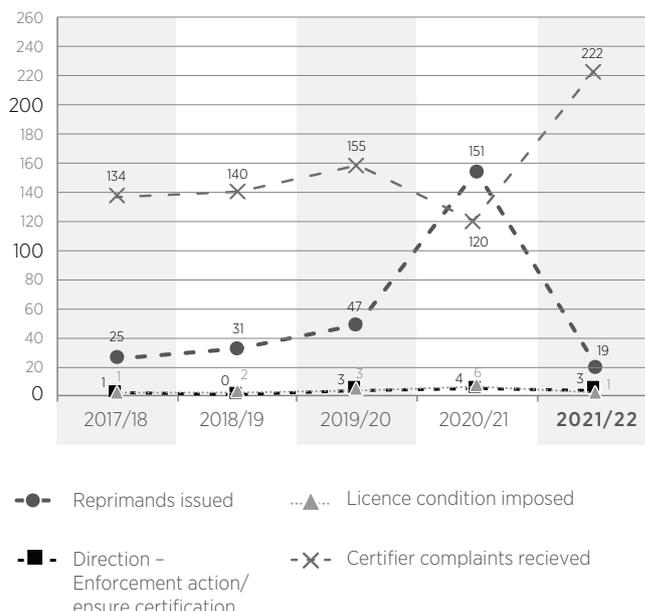
At the start of the reporting period, the QBCC had 37 open certifier complaints. An additional 222<sup>4</sup> complaints were received during 2021-2022. During the reporting period, we finalised 217 complaints. As at 30 June 2022, 42 remain open.

At the start of the reporting period, the QBCC had nine technical audits and 68 assessment audits open. During the reporting period, we commenced one technical audit and six assessment audits. We finalised four technical audits and four assessment audits over the 12 months. As at 30 June 2022, there were six technical audits and 70 assessment audits still underway.

Of the 225 completed investigations, including complaints, technical and assessment audits undertaken in 2021-2022, 19 findings of unsatisfactory certifier conduct were found.

No certifiers were found to have engaged in professional misconduct, 181 complaints were dismissed, withdrawn or closed due to insufficient evidence, and in 18 cases, the certifier's conduct was found to be satisfactory. Seven cases were duplicates.

## CERTIFIER COMPLIANCE AND COMPLAINTS RECEIVED OVER THE PAST FIVE YEARS



In October 2020, demerit point allocation and disqualification procedures were introduced for certifier licences. These new provisions are activated when convictions are recorded for particular offences (demerit offences). As at 30 June 2022, no demerit points were allocated, and no persons were disqualified from holding a certifier licence in the reporting year.

## PROACTIVE BUILDING INSPECTIONS

The QBCC proactively audits building works under construction to assess compliance against the National Construction Code and relevant Australian Standards. We encourage builders to rectify defective work to avoid the need for further action by the QBCC in the event of non-compliance being found.

In 2021-2022, 1,375 site visits or inspections were undertaken with 35 improvement notices issued.

Audits of multi-residential buildings (both townhouses and high-rise constructions) and single-detached dwellings uncovered a variety of concerns such as:

- non-compliant fire door sets
- non-compliant fixing of plaster-ceiling
- non-compliant waterproofing to external door openings
- non-compliant exterior floor sheeting
- numerous non-compliance issues relating to passive fire installations
- non-compliant incorrect installation of fire-separating walls
- inadequate disability access, particularly at lobby doorways and/or ramps
- non-compliance with timber-framing code
- non-compliance with flashings to wall openings.

<sup>4</sup> 118 complaints lodged related to four certifiers within one certification company. The complaints were opened and closed within the 2021-2022 financial year.

## PLUMBING COMPLAINTS, INVESTIGATIONS AND COMPLIANCE ACTIONS

To ensure public health and safety, the QBCC investigates complaints about plumbing and/or drainage work that does not comply with the *Plumbing and Drainage Act 2018* (PD Act).

In 2021-2022, 115 investigations were closed, including outstanding investigations carried over from 2020-2021. The table below compares enforcement actions across the past three years.

**TABLE 16: PLUMBING COMPLIANCE ACTIONS**

	2019-2020	2020-2021	2021-2022
Disciplinary orders issued to licensees	12 orders amounting to \$10,770	1 order amounting to \$0 <sup>5</sup>	1 order amounting to \$8,679
Penalty infringement notices	25 penalty infringement notices amounting to \$33,059	78 penalty infringement notices amounting to \$125,368	91 penalty infringement notices amounting to \$146,013

<sup>5</sup> Disciplinary action was taken and it was decided that a penalty infringement notice was a more efficient and effective way of dealing with the non-compliance

In 2021-2022, 16 individuals or entities were identified as breaching advertising provisions for plumbing or drainage work within the QBCC Act. A total of 24 individuals or entities were found to have had an appropriate licence but failed to display their licence number. Of these 24 individuals or entities, eight were issued an infringement notice, nine were issued warnings, and seven had no further action taken.

Generally, compliance action remained consistent in 2021-2022 compared to the previous year due to having a similar approach to plumbing enforcement by the QBCC. This included focusing on unlawful advertising and unlawful contracting – where Penalty Infringement Notices can be issued - as well as issuing infringement notices for notifiable work offences, a much quicker process than taking disciplinary action which has mandatory timeframes (at least 20 business days) and increases the time for an investigation to be finalised.

In addition to receiving and investigating complaints about plumbing and drainage work, the QBCC's other functions included assessing information received as part of the approved audit program for notifiable work and responding to general enquiries about plumbing and drainage. Responding to enquiries is particularly important to promote industry engagement and to raise awareness of compliance matters.

To improve the standard of plumbing and drainage work undertaken by licensed plumbers and drainers and to increase compliance with the PD Act, the QBCC was also involved in preparing and publishing webinars and tutorials about plumbing and drainage work.

In 2021-2022, the QBCC initiated work on producing and distributing educational videos targeting hot water heater installations. The QBCC also delivered presentations at Registered Training Organisations informing apprentices about plumbing-related matters relevant to the QBCC, such as plumbing defects, notifiable work requirements, and licensing.

Throughout the year, the QBCC delivered a number of presentations to plumbing, drainage and fire protection practitioners at Service Trades Council forums and the Institute of Plumbing Inspectors Queensland and attended real estate businesses across Queensland to provide advice and information on issues such as the importance of using licensed tradespeople and notifiable work requirements.

### NOTIFIABLE WORK – FORM 4/4A

For some types of plumbing and drainage work, QBCC-licensed plumbers and drainers must register details about the work with the QBCC through a Form 4/4A – Notifiable Work.

In 2021-2022, there were 106,952 Form 4/4As registered, a 0.35 per cent increase over the previous financial year. The QBCC conducts an audit program to ensure plumbers are adhering to their responsibilities and maintaining high standards in plumbing and drainage work. In 2021-2022, the QBCC opened 550 audits of contracting plumbers and drainers. As well as receiving education about their obligations, licensees found to have poor compliance were referred for further investigation and possible regulatory action.

The QBCC engages with local governments throughout Queensland to facilitate their auditing of completed notifiable work. This year, in response to feedback received, we offered a new, improved formal arrangement to local governments for reimbursement of their notifiable work audit inspection costs. This new formal arrangement updated existing operational arrangements and introduced an automatic annual increase in payments, ensuring a more equitable distribution of the revenue from notifiable work registration.

The QBCC also developed an intuitive tool, located on the QBCC website, to assist plumbers to better understand when a Form 4/4A registration is required for notifiable works. This tool can be used by licensees and their bookkeepers and requires five questions to be answered to determine whether the work is notifiable work that requires the lodgement of a Form 4/4A.

## POOL SAFETY

Pool safety laws require swimming pools to be registered and barriers to comply with the pool safety standard. The QBCC maintains a register of regulated pools and pool safety inspectors (PSIs) who issue pool safety certificates. As at 30 June 2022, there were 422,629 pools on the pools register and 566 PSIs.

The QBCC approves CPD activities for PSIs and allocates CPD points for those activities. The QBCC also investigates complaints and takes disciplinary action against PSIs. In 2021-2022:

- 30 complaints were received regarding the conduct of PSIs
- 28 complaints against PSIs were finalised
- two complaints against PSIs were withdrawn
- one complaint was closed without further investigation when allegations could not be validated
- five complaints had no grounds for disciplinary action
- 20 investigations established grounds for disciplinary action
- one investigation found where no further action was required
- 19 investigations lead to disciplinary actions taken, including licence suspension, monetary penalties, reprimands and requirements to refund inspection fees.

One complainant sought review by the QBCC's Internal Review Unit (IRU) on a disciplinary action decision. There are no clear trends emerging in the types of disciplinary action taken against PSIs.

In 2021-2022, 62 investigations were opened into pool owners who were alleged not to have obtained pool safety certificates, or to have failed to give the QBCC notice of no certificate when required. The QBCC finalised four investigations of pool owners, and of those, two resulted in the issuing of an infringement notice and two resulted in no further action.

## POOL OWNER COMPLIANCE AND ENFORCEMENT

The QBCC monitors and enforces the requirement for pool owners to obtain pool safety certificates and refers unsafe pools to local governments, which are required to inspect and may take enforcement action.

As at 30 June 2022, 40,638 pool safety certificates were issued in the reporting period which included 33,271 for non-shared pools and 7,367 for shared pools. The QBCC referred 32 properties to local governments in 2021-2022.

The QBCC published a series of educational videos for pool safety inspectors on its YouTube channel. The QBCC also delivered a co-regulatory webinar to local government authorities.

## IMMERSION INCIDENT REPORTING

The QBCC receives reports periodically of immersion incidents involving young children. These reports are provided by Queensland Health, following notification by health professionals including the Queensland Ambulance Service. In 2021-2022, the QBCC received 102 reports of immersion incidents.

These reports are also provided to the relevant local government, which is required to inspect the site of the immersion. If the local government inspection raises any concerns about the pool fence at the site of the immersion, the local government takes the necessary enforcement action to ensure the pool complies. If the local government inspection suggests a breach by a PSI, the local government refers it to the QBCC for action which is then addressed with the relevant PSI.

In 2021-2022 there were no recorded referrals of this nature to the QBCC from local governments.

## EDUCATION AND ENGAGEMENT

Education and engagement is a regulatory requirement under our enabling legislation and fundamental to encouraging compliance, supporting safe practices and raising awareness of legislative changes. The QBCC provides education and engagement through a variety of mediums to home owners, licensees and other industry participants. In 2021-2022, key engagement activities included those outlined below.

### FACE TO FACE EVENTS AND WEBINARS

#### QBCC LED

- one Statewide Tradie Tour, which included 10 face-to-face events, incorporating two sessions per event:
  - » session one covered the technical topic of concreting and was run in conjunction with Cement Concrete and Aggregates Australia
  - » session two addressed implementation issues in relation to Project Trust Accounts
  - » a total of 341 individuals attended these face-to-face sessions
  - » a subsequent webinar on the concreting topic attracted an audience of 300 people, while the webinar on Project Trust Account implementation garnered an audience of 80 attendees.
- one webinar entitled 'Tradie Tour: A guide to building disputes prevention' was developed and delivered in conjunction with the Adjudication Registry. 257 people attended the webinar.
- 19 webinars focused on the trust account framework under the BIFOLA reforms. Topics delivered included:
  - » eligibility and overview of the framework, which was delivered six times and attracted 783 attendees
  - » managing a trust, which was delivered five times and attracted 380 attendees
  - » auditing a trust account, which was delivered once and attracted 66 attendees
  - » small group trustee question-and-answer sessions attracted 37 attendees. These sessions allowed trustees to meet with trust account experts to discuss any issues or specific compliance questions.
- 24 webinar sessions of the compulsory retention trust training have been delivered since the start of 2022. This training is required as part of the trust account framework and BIFOLA reforms. A total of 339 trustees (and their employees), adjudicators, accountants and auditors attended.
- 11 information sessions were delivered, discussing the operation of new trust account framework requirements with various industry stakeholder groups.
- three home owner information webinars were delivered providing guidance on the building and renovation process.

### INDUSTRY FORUMS

- presentations were delivered at externally hosted industry and stakeholder engagements, addressing issues within the Queensland building and construction industry, including:
  - » 10 in-person compulsory retention trust training sessions. These sessions attracted 89 attendees
  - » eight information sessions to third and fourth-year apprentices at a variety of Registered Training Organisations throughout the State
  - » one information session to construction management students at the Queensland University of Technology providing an overview of the QBCC and its functions
  - » four presentations to the Institute of Plumbing Inspectors Queensland industry forums, with topics including compliance and audit activities, notifiable work lodgement forms and defective work
  - » four National Association of Women in Construction (NAWIC) 'Women on Tools' events and four further NAWIC-organised events
  - » one joint webinar with Timber Queensland and Master Builders Queensland discussing post-flood assessment and repair, and dealing with the aftermath of the February 2022 flood event
  - » one pool safety information session for government and industry association stakeholders
  - » one plumbing and drainage information session for local government stakeholders
  - » two Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships presentations to provide an overview of the QBCC's functions including licensing, the Queensland Home Warranty Scheme, compliance and dispute resolution
  - » one Master Builders Queensland subcontractor's forum presentation on Security of Payment, monies owed and the early dispute resolution process
  - » one Construction Skills Queensland strategic presentation and discussion on trends in construction in the Townsville region.

## EXPOS

The QBCC participated in:

- two Brisbane Home Show events which generated more than 653 enquiries
- The Sunshine Mitre 10 Trade Expo and Ipswich City Council/ Queensland Police – Get Ready Community Safety and Crime Prevention Expo.

In addition, the QBCC launched a public education campaign in April 2022 with the aim of helping to protect home owners when they undertake building work, and increase awareness among licensees of their responsibilities, and how we can help them to get paid. With the building and construction industry busier than ever, the QBCC wants to help home owners avoid unlicensed tradespeople and minimise unlicensed building activity.

The QBCC also delivered a number of campaigns for licensees, home owners and stakeholders on the below topics:

- Accelerated Builder–Consumer Dispute Framework (ABCD), which is a temporary independent mediation service to help parties experiencing issues with domestic building contracts due to industry material or labour shortages
- a free and voluntary pilot project which offered professional industry training for licensees on Minimum Financial Requirements and Annual Financial Report and Safety Obligations as part of the Compulsory Continuing Professional Development (CCPD) program
- disaster preparedness, which sought to help licensees and home owners prepare for and recover from natural disasters affecting their building sites or properties
- pool safety, which was aimed at home owners to better understand swimming pool safety laws and what to know when building a pool or buying or leasing a property with a pool
- the south-east Queensland flooding event resulted in establishment of the Recover and Rebuild Tradie Register, connecting property owners with local licensed contractors and providing tips and resources to aid the flood recovery effort.

## SUPPORTING THE SKILLS UPLIFT OF THE BUILDING AND CONSTRUCTION INDUSTRY

With the building and construction industry constantly changing, licensees and industry stakeholders need to keep up with the latest changes to legislation and standards. While some professionals, such as private certifiers, architects and engineers are required to do CPD. While it is good business practice, there is currently no formal framework for the wider building and construction industry, specifically for QBCC licensees. A sub-committee of the Ministerial Construction Council (MCC) with significant support from industry developed a draft CCPD Framework for consideration by DEPW.

To test elements of the draft framework, the QBCC delivered a pilot program which delivered free online professional development courses from May to November 2021.

Topics covered included Minimum Financial Requirements and Annual Financial Reporting, and safety obligations. More than 160 participants from across Queensland and interstate took part in the courses, with initial training course registrations filling up within 22 minutes of release.

The QBCC has provided data and insights gathered from the pilot program to the DEPW, to assist with its consideration on whether CCPD is legislated in Queensland.