

## OUR PERFORMANCE

The following section highlights our performance against the four objectives within the QBCC Strategic Plan 2020-2024 (revised for 2022-23).

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

Company insolvencies, non-payment of subcontractors, 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:

- **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
Year-on-year increase in compliance with minimum financial requirements	These measures are responded to qualitatively. The QBCC's regulatory activities in pursuit of these strategies and performance measures are described in the remainder of this chapter.	
Reduction in non-compliance evidenced by approved audit programs		
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		
Percentage of compliant pools with valid pool certificates across residential, rental and short-stay properties		

## SECURITY OF PAYMENT FOR SUBCONTRACTORS

In 2022-2023, 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:

- continuing investigations and compliance action for monies owed complaints and security of payment under *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 approved audit programs on project trust accounts and retention trust accounts
- 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
- investigating the implications of the voluntary administration of a trustee company and the effect for the beneficiaries of a trust account.

### ACTIVITIES UNDER THE MINIMUM FINANCIAL REQUIREMENTS

The Minimum Financial Requirements (MFR) legislation was introduced to provide greater transparency and better equip the QBCC to detect and mitigate the impacts of potential insolvencies and corporate collapses, and to help ensure that subcontractors and suppliers are paid for their work. Meeting MFR is an indicator that contractor-type licensees have a financially sustainable business and appropriate levels of working capital.

As at 30 June 2023, 99.5 per cent of category 4-7 licensees had lodged annual financial information with the QBCC under the annual reporting requirements - this information was due 31 December 2022. The QBCC imposed licence conditions for failing to lodge required financial information on time against 25 licensees, resulting in no suspensions and no cancellations to date - further regulatory action is still under investigation.

Regulatory action taken for suspected non-compliance with Minimum Financial Requirements for category 4-7 licensees, including actions taken as a result of annual reporting financial information and financial information received outside of annual reporting, included:

- issuing show cause notices for suspected non-compliance with minimum financial requirements: 41
- suspending licences: two
- cancelling licences: nil.

Further regulatory action is still under investigation.

As at 30 June 2023, 99 percent of category 1-3 licensees had lodged their annual financial information for annual reporting requirements - this information was due 31 December 2022. The QBCC imposed licence conditions for failing to lodge required financial information on time against 480 licensees, resulting in no suspensions and no cancellations to date - further regulatory action is still under investigation.

Regulatory action taken for suspected non-compliance with Minimum Financial Requirements for category 1-3 licensees based off annual reporting financial information provided, included:

- financial audits commenced: 91
- issuing show cause notices for suspected non-compliance with Minimum Financial Requirements: 80
- suspending licences: six
- cancelling licences: two.

Further regulatory action taken for category 1-3 licensees suspected non-compliance with minimum financial requirements outside of annual reporting:

- financial audits commenced: 168
- issuing show cause notices for suspected non-compliance with Minimum Financial Requirements: 48
- suspending licences: 14
- cancelling licences: six.

Approximately 85 per cent of licensees belonging to categories SC1 and SC2 had lodged their annual financial information as at 30 June 2023 - this information was due 31 March 2023.

Regulatory action taken for suspected non-compliance with Minimum Financial Requirements for categories SC1 and SC2 based outside of annual reporting:

- issuing show cause notices for suspected non-compliance with Minimum Financial Requirements: 32
- suspending licences: seven
- cancelling licences: five.

### FINANCIAL AUDITS AND MONIES-OWED INVESTIGATIONS

The QBCC conducts financial audits of licensees and investigations into non-payment of debts. These can lead to licence suspensions and cancellations where breaches of Minimum Financial Requirements are found.

During the 2022-2023 financial year, the QBCC commenced 259 financial audits of licensees. The QBCC also conducted 167 investigations into non-payment of debts, leading to 47 licence suspensions and 27 licence cancellations.

In the reporting period, approximately \$6.3 million in outstanding debts were paid to creditors who lodged a monies-owed complaint with 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 2023 is approximately \$50 million.

The QBCC Act establishes 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 220 individuals due to their involvement in a financial failure during the financial year. Of this number, 111 were licensees who had their licence cancelled. There were also 10 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 75 companies excluded from holding a licence during the financial year for these reasons.

## PAYMENT CLAIM AUDITS

In 2022-2023, in line with the approved audit program, the QBCC finalised a payment claim audit program. The audit program included a review to identify licensees for whom the QBCC has received two or more complaints for non-payment, underpayment, or late payment between 1 February 2022 and 31 July 2022. Three licensees were then audited, resulting in two receiving warning notices.

## TRUST ACCOUNT AUDIT PROGRAMS

Parties that are required to use trust accounts (for progress payments and retention amounts) are subject to rules regarding deposits and withdrawals, recordkeeping and giving notifications.

To monitor compliance with these requirements, two approved audit programs on project trust accounts and one approved audit program on retention trust accounts were carried out during the 2022-2023 period (with one audit program continuing in the 2023-2024 period). The audit programs reviewed the operation of the following:

- 82 project trust accounts that were opened between 19 September 2022 and 17 March 2023
- three retention trust accounts that were opened between 15 December 2022 and 14 March 2023
- 64 project trust accounts that were opened within the targeted period of 20 March 2023 and 29 September 2023, and had audits commenced during the 2022-2023 period.

Thirty-three of the above audits were still in progress as at 30 June 2023. In total, 135 trust account audits were completed in the 2022-2023 period. This included 19 trust account audits that were carried forward from the 2021-2022 period.

These audit programs identified minor anomalies and did not result in any enforcement actions. The audit programs led to detailed tailored, educative action involving the trustees of each audited trust account.

## 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 QBCC investigators with powers to investigate, monitor and enforce compliance with the BIF Act.

The below summarises activities that occurred in these areas in 2022-2023:

- initiated 81 cases for breaches of section 76 and closed 89 cases, including cases carried over from the previous year
- issued 14 penalty infringement notices for contraventions of section 76
- opened no cases for offences of section 88
- issued 14 penalty infringement notices for contraventions of section 90
- issued no warnings for section 90 and section 76
- investigated two cases 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, and
- the rate of interest payable on any adjudicated amount.

## ADJUDICATION APPLICATIONS

Table 2 outlines the total number of valid adjudication applications received by the Registrar for the period 1 July 2022 to 30 June 2023.

TABLE 2: NUMBER OF VALID ADJUDICATION APPLICATIONS RECEIVED FOR 2022-2023

ADJUDICATION APPLICATION TYPE	NUMBER OF APPLICATIONS
Standard (less than \$750,000)	225
Complex (greater than \$750,000)	37
<b>Total</b>	<b>262</b>

Table 3 outlines the total amount claimed from the 262 valid adjudication applications received by the Registrar for the period 1 July 2022 to 30 June 2023.

TABLE 3: ADJUDICATION CLAIMED AMOUNT FOR 2022-2023

TOTAL VALUE OF CLAIMS	\$294,991,879.81
Maximum claim	\$50,588,684.30
Minimum claim	\$617.10
Average claim	\$1,125,923.21

## ADJUDICATION DECISIONS

A registered adjudicator is an independent person, qualified to determine payment disputes under the BIF Act. Table 4 sets out the total number of adjudicator registration and renewal applications for the period 1 July 2022 to 30 June 2023.

TABLE 4: ADJUDICATOR REGISTRATIONS AND RENEWAL APPLICATIONS FOR 2022-2023

APPLICATION TYPE	NUMBER	FEES PAID
Registration	6	\$5,187.24
Renewal	52	\$42,404.64

There were 262 adjudication applications received, of these 238 were referred to an independent registered adjudicator for determination. The number of applications referred is lower than the number of applications received because some applications will have been withdrawn prior to a referral being made, and in some cases an application was made in the last few days of the 2022-2023 period and may only be referred during the following period.

Table 5 sets out the number of adjudication decisions released by registered adjudicators for the period 1 July 2022 to 30 June 2023.

TABLE 5: NUMBER OF ADJUDICATION DECISIONS RELEASED BY REGISTERED ADJUDICATORS IN 2022-2023

ADJUDICATION APPLICATION TYPE	NUMBER OF DECISIONS
Standard (less than \$750,000)	152
Complex (greater than \$750,000)	20
<b>Total</b>	<b>172</b>

Table 6 sets out the total amounts awarded by adjudication decisions released for the period 1 July 2022 to 30 June 2023.

TABLE 6: ADJUDICATION DECISIONS RELEASED BY REGISTERED ADJUDICATORS IN 2022-2023

Total value of claims - decisions released	\$152,408,699.17
Maximum claim value - decision released	\$49,164,282.03
Minimum claim value - decision released	\$770.00
Average claim value - decisions released	\$886,097.09
Total value of adjudicated amount - decisions released	\$21,858,656.22

Table 7 sets out the total value of claims and amounts awarded by adjudication decisions released for the period 1 July 2022 to 30 June 2023, broken down by region.

TABLE 7: TOTAL ADJUDICATION APPLICATIONS LODGED AND AMOUNTS AWARDED BY ADJUDICATION DECISIONS RELEASED IN 2022-2023 – 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	143	\$144,884,807.36	97	\$48,783,052.79	\$11,096,424.86
Cairns	7	\$15,557,320.60	3	\$8,911,470.44	\$110,913.87
Gold Coast	33	\$31,961,206.55	26	\$16,345,864.49	\$4,718,449.80
Mackay	11	\$2,968,650.89	8	\$16,585,723.39	\$2,606,360.20
Maryborough	5	\$17,756,004.80	2	\$4,990,499.58	\$1,609,916.09
Rockhampton	10	\$4,302,689.52	6	\$356,087.74	\$160,016.18
Sunshine Coast	27	\$6,185,167.38	16	\$1,170,214.93	\$1,015,329.33
Toowoomba	13	\$1,828,414.81	7	\$127,656.94	\$50,106.09
Townsville	13	\$69,547,617.90	7	\$55,138,128.87	\$491,139.80
<b>Total</b>	<b>262</b>	<b>\$294,991,879.81</b>	<b>172</b>	<b>\$152,408,699.17</b>	<b>\$21,858,656.22</b>

Table 8 sets out the average number of business days from making an adjudication application to having an adjudication decision made, for the period 1 July 2022 to 30 June 2023.

TABLE 8: AVERAGE NUMBER OF BUSINESS DAYS FROM APPLICATION TO DECISION IN 2022-2023

	STANDARD	COMPLEX
Maximum	48.0	120.0
Minimum	10.0	27.0
Average	23.1	56.6

## ADJUDICATION APPLICATION FEES

Under the BIF Act, an application for adjudication must be accompanied by the prescribed fee. For the period 1 July 2022 to 30 June 2023, the prescribed application fee ranged from \$62.22 for payment claims of no more than \$10,611.85, to a percentage of the claimed amount for payment claims of more than \$1,156,245.65 (capped at \$6,225.65). The total value of adjudication application fees for applications lodged between 1 July 2022 and 30 June 2023 was \$180,417.60.

Table 9 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 2022 to 30 June 2023.

TABLE 9: ADJUDICATION APPLICATION FEES IN 2022-2023

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 - \$10,611.85	59	\$62.22	\$5,187.90	1.20%
\$10,611.85 - \$53,059.45	80	\$186.70	\$26,915.95	0.69%
\$53,059.45 - \$106,118.85	39	\$311.19	\$71,421.90	0.44%
\$106,118.85 - \$265,297.15	28	\$435.83	\$160,101.98	0.27%
\$265,297.15 - \$530,594.30	12	\$560.27	\$372,702.76	0.15%
\$530,594.30 - \$795,891.50	7	\$684.75	\$603,061.63	0.11%
\$795,891.50 - \$1,156,245.65	6	\$809.29	\$924,691.32	0.09%
> \$1,156,245.65	31	\$3,657.63	\$8,742,651.46	0.04%

## 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.

Table 10 sets out the average adjudicator fee as a percentage of the average total claimed amount for decisions released in the period 1 July 2022 to 30 June 2023.

TABLE 10: AVERAGE ADJUDICATOR FEE AS A PERCENTAGE OF THE AVERAGE TOTAL CLAIMED AMOUNT IN 2022-2023

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 - \$10,611.85	43	\$5,548.42	\$799.46	14.4%
\$10,611.85 - \$53,059.45	47	\$27,097.61	\$3,020.23	11.1%
\$53,059.45 - \$106,118.85	34	\$74,914.99	\$5,630.55	7.5%
\$106,118.85 - \$265,297.15	18	\$164,803.47	\$10,185.71	6.2%
\$265,297.15 - \$530,594.30	7	\$385,147.51	\$12,623.82	3.3%
\$530,594.30 - \$795,891.50	3	\$609,111.22	\$8,550.00	1.4%
\$795,891.50 - \$1,156,245.65	3	\$908,213.15	\$23,924.33	2.6%
> \$1,156,245.65	17	\$8,125,585.37	\$47,206.02	0.6%

## 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 team members for timely information about the adjudication process. The advisory service enhances awareness about payment rights and obligations.

For the period 1 July 2022 to 30 June 2023, the Registry received 1,231 enquiries. This is a significant increase in the number of enquiries compared to the previous 2021-2022 financial year, where the Registry received a total of 902 enquiries.

## 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.

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

Under 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 that took place in the period 1 July 2022 to 30 June 2023, there were nine grade 1 adjudicators assessed as eligible for grade 2 registration.

## CONTINUING PROFESSIONAL DEVELOPMENT

As required by 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 149 registered adjudicators.

TABLE 11: ACTIVITIES PERTAINING TO THE 2022-2023 CPD YEAR

CPD records provided	136
Suspended or cancelled registrations (BIF Act section 171)	6
Surrendered registrations	5
No record required (BIF Regulation section 30)	1
Records outstanding due to an extension of time	1

## 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 team members across the State.

For the 2023-2024 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. Table 12 provides data on the grounds for these suspensions and cancellations.

TABLE 12: LICENCES SUSPENDED AND CANCELLED UNDER SECTION 48 OF THE QBCC ACT IN 2022-2023

REASON FOR SUSPENSION/CANCELLATION	SUSPENSION*	CANCELLATION*
Breach of Minimum Financial Requirements (other than 'monies-owed')	29	13
Failure to pay debts ('monies-owed')	49	22
Failure to comply with a financial audit	22	11
Breach of a licence condition (including annual reporting requirements and company deregistration)	311	255
Licensee not fit and proper to hold a licence (including if the licensee's interstate or New Zealand licence is cancelled or suspended)	0	2
Licensee was convicted of an indictable offence	0	3
Licensee owed an amount to the QBCC and failed to comply with a demand to discharge the debt	5	2
Licensee company ceases to have a nominee	166	80
<b>TOTAL</b>	<b>582</b>	<b>388</b>

\* These figures represent actions involving regulatory decisions and do not include cancellation or suspension relating to failure to renew a licence.

The QBCC may immediately suspend a licence if it reasonably believes there is a real likelihood that a person will suffer serious financial loss or other serious harm. In 2022-2023, there were no immediate suspensions imposed by the QBCC.

## LICENSING INVESTIGATIONS IN RESPONSE TO SAFETY RELATED INCIDENTS

Licensees are required by law to notify the QBCC whenever building or other work on a building site under their control may have caused the death of, or grievous bodily harm to, a person, or if the work involved a serious risk to the health or safety of a person.

Under an information-sharing arrangement, the QBCC is also advised by Workplace Health and Safety Queensland (WHSQ) when it becomes aware of such incidents. WHSQ may issue infringement and improvement notices and can prosecute and close sites where there are serious issues. The QBCC may impose licence conditions, suspend or cancel a licence or take disciplinary action depending on the circumstances of the event, any remedial actions, submissions provided by licensees, and assessment of ongoing risk. This collaborative and complementary relationship ensures a structured and appropriately focused regulatory approach to mitigating safety risks in the sector. The QBCC may also suspend a licence without allowing the licensee time to make written representations if there is a real likelihood that a person will suffer serious harm if the licence is not immediately suspended.

In 2022-2023, the QBCC investigated 238 safety matters involving licensees. In this period, one licence was suspended, three licences were cancelled, two show cause notices were issued, and seven licensees had one or more disciplinary actions or conditions imposed on their licences.

## NON-CONFORMING BUILDING PRODUCTS (NCBP)

The QBCC continues to audit building products and take appropriate action under the NCBP laws. These laws establish a chain of responsibility, placing obligations on supply-chain participants, 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 2022 to 30 June 2023, the QBCC finalised 257 enquiries and complaints, with 12 ongoing. The number received and finalised is not equal as enquiries and complaints can be carried over from previous financial years.

The outcomes of the 257 enquiries and complaints finalised were:

- 16 determinations of NCBP, resulting in appropriate regulatory action or voluntary remedial action
- nine resolutions through specific targeted education of persons in the chain of responsibility
- 15 findings of no evidence or insufficient evidence that the products were a non-conforming product for the intended use, with education provided to parties on the NCBP laws
- 134 resolutions through general education without requiring a finding of non-conformance
- 16 escalations for detailed technical investigation
- 57 resolutions through retaining information as general intelligence
- eight re-directions of affected parties to other areas of the QBCC
- two were not related to NCBP.

In 2022-2023, through a review of the team structure and processes, the NCBP team was able to work through a backlog of older cases and undertake pro-active engagement with industry through the development and publishing of product-specific factsheets, supporting industry webinars and undertaking a regional education program with manufacturers and suppliers.

The regional education program consisted of 115 businesses visited in the following locations: Warwick, Stanthorpe, Inglewood, Goondiwindi, Millmerran, Dalby, Esk, Mareeba, Atherton, Innisfail, Tully, Cardwell, Ingham, Charters Towers, Home Hill, Ayr, Townsville, Proserpine, Cannonvale, Sarina, Paget, Glenella, Mackay, Mount Pleasant, Clermont, Emerald, Biloela, Gladstone, Mount Isa, Longreach and Barcaldine.

Each business was provided with information on NCBP laws and an NCBP 'postcard' that contained a QR code that takes the reader to specific NCBP information and technical factsheets on the QBCC website.

Through these actions and other educative activities, the QBCC has strengthened the knowledge and awareness of NCBP legislation among industry participants 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, Part 4A Combustible Cladding of the Building Regulation 2006 (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 obligation of building owners to complete the Combustible Cladding Checklist expired on 3 May 2021, however some building owners continue to work through the checklist program to finalise their registrations.

During the 2022-2023 financial year, the QBCC received an additional 46 registrations (a total of 19,986 buildings) and an additional 46 buildings were identified as a cladding fire risk (bringing it to a total of 950). As at 30 June 2023, 18,015 buildings have exited the program having been identified as not being a cladding fire risk. One thousand and twenty one buildings remain registered in the program of which 295 are considered a potential cladding fire risk. The QBCC continues to work with building owners to complete their registrations.

The QBCC commenced proactive investigations into potential breaches of Part 4A of the Regulation and carried out site audits to ensure building owners with buildings identified as a cladding fire risk were complying with their ongoing obligations. Desktop audits were also undertaken to ensure the accuracy of information submitted in the checklist.

The QBCC completed 225 site audits of buildings identified as having a cladding fire risk to ensure building owners were meeting ongoing obligations to display an Affected Private Building Notice. Sixteen investigations were commenced into non-compliance and seven resulted in education being provided. Two hundred and two buildings were found to be complying with their obligations.

During 2022-2023, the QBCC finalised 35 prosecutions against building owners who did not complete the checklist program, or where a combustible fire risk may be present due to incorrect or incomplete document lodgement. Eighteen building owners pleaded guilty without the need for a contested hearing. Fines ranged between \$2,000 and \$8,000 for companies, \$3,000 for bodies corporate and \$1,500 for individuals. The QBCC offered no evidence for the remaining 17 matters due to case conferencing establishing that the cladding had been rectified or further information revealed no cladding was on the building.

There have been 236 buildings that 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 Program's Combustible Cladding Checklist process.

## COMPLIANCE AND ENFORCEMENT ACTIVITIES

The QBCC uses its powers under the QBCC Act 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. The QBCC also carries 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 2022-2023, the top five offences (listed below) made up 81 per cent of all investigations:

- domestic building contracts (Schedule 1B) offences: 27 per cent
- unlicensed contracting: 25 per cent
- insurance offences: 11 per cent
- advertising (which includes advertising whilst unlicensed and non-compliant advertisements): 11 per cent
- improper use of licence: 7 per cent.

TABLE 13: NUMBER OF INVESTIGATIONS OPENED AND CLOSED - TOP FIVE OFFENCES

	2019-2020	2020-2021	2021-2022	2022-2023
SCHEDULE 1B (DOMESTIC CONTRACTS)	542	563	719	812
UNLICENSED CONTRACTING	585	565	651	735
INSURANCE	268	386	312	339
ADVERTISING	90	243	354	320
IMPROPER USE OF A LICENSE	04	125	172	204

In 2022-2023, the QBCC continued to focus its investigations on unlicensed contracting, advertising breaches, contract offences, home warranty insurance breaches, corporate duties-based offences around non-conforming building products and 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.

In the previous reporting period (during March and April 2022), the QBCC's Compliance and Enforcement branch led 'boots-on-the-ground' activities, conducting door-to-door educational engagement with property owners affected by severe flooding in Brisbane and southeast Queensland. QBCC officers advised owners about the importance of only using licensed contractors during reconstruction. In August 2022, a second phase of this action was undertaken, with QBCC investigators revisiting flood-affected properties to conduct site audits and ensure compliance with the QBCC Act. Compliance rates were high, presumably due to a combination of the previous educational efforts and the fact that most of the reconstruction was funded through insurance claims.

## CONTRACTUAL INVESTIGATIONS

As part of the QBCC's responsibility to examine suspected breaches of the QBCC Act, we may conduct investigations requiring the licensee to produce all contracts for review. Although we review both domestic and commercial contracts, our key focus is on domestic contracts to provide additional support to home owners who may only occasionally deal with the building and construction industry.

Where required, appropriate action is taken ranging from education, issuing warnings and infringement notices, to commencing prosecution action for more serious offending.

Table 14 provides data on the QBCC's 2022-2023 contractual investigations and related activities:

TABLE 14: CONTRACTUAL INVESTIGATIONS ACTIVITIES IN 2022-2023

	DOMESTIC CONTRACT	COMMERCIAL CONTRACT (QBCC ACT PART 4A)
INVESTIGATIONS	812	19
WARNINGS ISSUED	312	10
CONTRACTORS ISSUED WITH AN INFRINGEMENT NOTICE	201	3
INFRINGEMENT NOTICES ISSUED	206	3

## DEMERIT POINTS ISSUED TO CONTRACTORS FOR BREACHES OF LEGISLATION

Demerit points are a regulatory tool used to discourage repeated breaches and encourage corrective action. The accumulation of a certain number of demerit points can lead to the disqualification of a licence.

Table 15 shows demerit points issued to contractors in 2022-2023 for various breach categories.

TABLE 15: DEMERIT POINTS ISSUED TO CONTRACTORS

BREACH CATEGORIES	2019-2020	2020-2021	2021-2022	2022-2023
DEMERIT POINTS ISSUED FOR UNSATISFIED JUDGMENT DEBTS	70	40	110	80
DEMERIT POINTS ISSUED FOR CONTRACTUAL OFFENCES	1,584	1,720	1,866	1,454
DEMERIT POINTS ISSUED FOR FAILURE TO RECTIFY	1,862	2,556	2,768	3,092
DEMERIT POINTS ISSUED FOR FAILING TO PAY INSURANCE PREMIUM	386	258	332	430
DEMERIT POINTS ISSUED FOR CARRYING OUT WORK WITHOUT A NOMINEE	8	0	0	0
DEMERIT POINTS - OTHER	156	122	68	128
<b>TOTAL DEMERIT POINTS ISSUED</b>	<b>4,066</b>	<b>4,696</b>	<b>5,144</b>	<b>5,184</b>
<b>CONTRACTORS ISSUED WITH DEMERIT POINTS</b>	<b>515</b>	<b>594</b>	<b>672</b>	<b>686</b>

The issuance of demerit points has been increasing over the past four financial years. The most significant increase has been demerit points issued for failure to rectify, which increased by 11.7 per cent in the 2022-2023 financial year. This increase could be related to the QBCC's goal to ensure work is rectified within the required timeframe.

## CERTIFIER COMPLIANCE

The *Building Act 1975* empowers the QBCC to monitor certifier compliance through audits of building and private certification functions and investigating written complaints about allegations of unsatisfactory conduct or professional misconduct by building certifiers or former building certifiers.

In 2022-2023, the QBCC finalised 227 investigations, consisting of 96 complaints, 109 assessment audits and 22 technical audits.

For the completed investigations, the QBCC issued 14 findings of unsatisfactory certifier conduct, and one additional case of professional misconduct has been referred for disciplinary proceedings. In 2022-2023, 86 cases found the certifier's conduct to be satisfactory. There were 126 cases dismissed, withdrawn, or not started as the complaint was not properly made.

Through proactive auditing of certifiers, the QBCC has made recommendations to improve certifier performance in 75 instances.

In 2022, AssentTECS, the course provider for "Issuing Development Permits for Building Work", withdrew their provision of the course. The QBCC provided technical assistance to DEPW on the review to update the course content and components. Additional support was provided to DEPW by the QBCC as a member of the panel to select the new delivery provider.

Through these actions, the mandatory course for any building certifiers seeking development approval endorsement on their building certifier licence (Private Certifier – Class A) will continue to increase the education and compliance by private building certifiers.

## PROACTIVE BUILDING INSPECTIONS

The QBCC proactively audits building works under construction to assess compliance with 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 2022-2023, 1,404 site visits or inspections were undertaken with 110 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
- incorrect use of external cladding substrate
- non-compliant waterproofing to external door openings and decks
- non-compliant exterior floor sheeting
- numerous non-compliance issues relating to passive fire installations
- non-compliant installation of fire-separating walls.

Proactive inspections also identified numerous non-payments to the Queensland Home Warranty Scheme (QHWS), recovering more than \$43,000 in QHWS insurance premiums. Other regulatory concerns identified on site such as unlicensed contracting, alleged use of non-conforming building products and poor certification practices were referred to the relevant units within the QBCC. Assessment and outcomes of these matters form part of the outcomes for the year for those units.

## PLUMBING COMPLAINTS, INVESTIGATIONS AND COMPLIANCE ACTIONS

The QBCC investigates complaints made about plumbing and/or drainage work in order to minimise risk to public health and safety and the environment. A specialist team of investigators monitor and enforce compliance with the *Plumbing and Drainage Act 2018* (PD Act) and parts of the *Queensland Building and Construction Commission Act 1991* (QBCC Act).

In 2022-2023, 107 investigations were closed, including outstanding investigations carried over from 2021-2022.

Table 16 provides details of enforcement actions taken over the course of the financial year.

TABLE 16: PLUMBING COMPLIANCE ACTIONS IN 2022-2023

COMPLIANCE ACTION TYPE	NUMBER OF ACTIONS
Disciplinary orders issued to licensees	2 orders amounting to \$3,160.00
Penalty Infringement Notices	74 notices amounting to \$111,987.00

The QBCC values the constructive benefits offered through education and engaging with the plumbing and drainage industry.

Throughout 2022-2023, the QBCC attended industry-specific forums, training organisations, and active building sites, speaking with plumbers, drainers, and apprentices. This provided an opportunity to share information and receive feedback about the impacts and trends occurring in the trade.

The QBCC took proactive steps to ensure compliance by conducting licence inspections of persons carrying out work associated with plumbing, drainage, and fire protection (water-based). These measures were undertaken to safeguard the community from unlicensed persons.

## 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 2022-2023, there were 109,177 Form 4/4As registered, a 2.1 per cent increase over the previous financial year.

The QBCC conducts an audit program to ensure licensees are adhering to their responsibilities in relation to submitting Form 4/4As when required. In 2022-2023, the QBCC commenced 550 audits of plumbers and drainers, of which 542 were completed during the financial year.

Of these completed audits, 46 per cent were found to be compliant and 19 per cent were non-compliant, with the remainder withdrawn or closed due to the licensee not contracting for work (35 per cent). Of the 102 non-compliant licensees, the majority were referred for a secondary audit to check their future compliance (69 per cent), with 11 per cent receiving education about their obligations and 20 per cent referred to the Plumbing Investigation Unit for investigation and, where necessary, appropriate regulatory actions ranging from warnings, Penalty Infringement Notices and disciplinary actions.

To support the compliance of notifiable work, Queensland Local Governments may conduct physical audits of notifiable work. The QBCC may reimburse Local Governments for conducting audits on up to 5 per cent of Form 4/4As registered in their area each quarter. In 2022-2023, the QBCC made payments to 16 Local Governments for a total value of \$1,054,954.81. This is a 10 per cent increase over the previous financial year, when 13 Local Governments sought payment.

## POOL SAFETY

Pool safety laws require swimming pools to be registered and have 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 2023, there were 435,079 registered pools and 505 PSIs.

The QBCC approves continuous professional development (CPD) activities for PSIs and allocates CPD points for those activities. The QBCC also investigates complaints and takes disciplinary action against PSIs. In 2022-2023:

- 39 complaints were received regarding the conduct of PSIs
- 32 complaints against PSIs were finalised
- two complaints against PSIs were withdrawn
- five complaints were closed without further investigation when allegations could not be validated
- seven complaints had no grounds for disciplinary action
- 17 investigations established grounds for disciplinary action, which lead to actions 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 2022-2023, 150 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 143 investigations of pool owners, and of those, 65 resulted in issuing of a warning notice and 78 resulted in no further action.

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 2023, 36,762 pool safety certificates were issued in the reporting period which included 29,265 for non-shared pools and 7,497 for shared pools. The QBCC referred 41 properties to Local Governments in 2022-2023.

In 2022-2023, the QBCC published seven educational videos for PSIs on the QBCC's website, YouTube channel and social media pages. The QBCC also attended three meetings with the Swimming Pool and Spa Association (SPASA) to discuss concerns within the PSI industry and identify specific areas where the QBCC can focus upcoming educational material.

The QBCC worked with Local Government authorities to establish a strategy to collaborate and manage investigations involving joint regulatory powers. This involved meeting with the City of Gold Coast Council Development Compliance Coordinator and corresponding with other Local Government authorities to discuss and clarify issues or concerns. The QBCC also attended eight meetings with the Office of Fair Trading investigators to discuss investigative and engagement methods.

Additionally, the QBCC attended two meetings with the Queensland Rental Accommodation Regulators Group to discuss issues within the industry, regulatory strategies and approaches to compliance and enforcement. Members include various Local Government authorities, Office of Fair Trading, Department of Housing, Electrical Safety Office, and the Residential Tenancies Authority.

## IMMERSION INCIDENT REPORTING

The QBCC periodically receives reports of immersion incidents involving young children. These reports are provided by Queensland Health, following notification by health professionals including the Queensland Ambulance Service. In 2022-2023, the QBCC received 118 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 to address with the relevant PSI. In 2022-2023 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 2022-2023, key engagement activities included those detailed below:

### FACE TO FACE EVENTS AND WEBINARS – QBCC LED

- 49 compulsory retention trust training webinar sessions, required under the trust account framework and BIFOLA reforms.
- five trust information sessions were delivered, for current trustees to discuss any issues and show examples of compliant trust records
- four home owner information webinars were delivered providing guidance on the building and renovation process

- three Service Trades Council industry forums included updates on compliance and education activities and notifiable work
- 29 face-to-face presentations were delivered to accountants and licensees on their financial reporting obligations.

### FACE TO FACE EVENTS AND WEBINARS – INDUSTRY FORUMS

Presentations were delivered at externally hosted industry and stakeholder engagements, addressing issues within the Queensland building and construction industry, including:

- 16 information sessions to third and fourth-year apprentices at a variety of Registered Training Organisations (RTO) 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 information sessions to Master of Construction International Students at Bond University providing an overview of QBCC's functions
- one presentation to TAFE Queensland Plumbing Industry Sector Panel and industry representatives on topics including important aspects of the plumbing industry and contribution to TAFE Queensland Plumbing Product Strategy
- one presentation at the Master Plumbers Association Queensland Plumbing and Gas industry forum, with topics including MFR and project trust accounts
- six National Association of Women in Construction (NAWIC) 'Women on Tools' events and two additional NAWIC-organised events
- one Master Builders Queensland Sunshine Coast Influencers (Women in Building) Workshop forum presentation providing an overview of the dispute resolution function, the Early Dispute Resolution (EDR) process and options available for contractors via adjudication, and how contractors can effectively engage in the process
- one Construction Skills Queensland strategic presentation and discussion on trends in construction in the Brisbane region
- two Bunnings events aimed at trade contractors to provide an overview of the QBCC's functions, including licensing, the QHWS, compliance and dispute resolution.

### EXPOS

The QBCC also participated in:

- two Brisbane Home Show events which generated more than 722 enquiries
- three Mitre 10 trade expos
- two Bunnings trade expos.

Towards the end of the previous reporting period, the QBCC also ran a public education campaign (from April to June 2022) targeted at both home owners and licensees with the objective of educating customers about QBCC's functions and powers. Based upon positive independent market research showing the campaign had achieved its objectives, a second burst of the campaign ran from 6 February 2023 until 6 March 2023.

The campaign focused on the importance of using a licensed builder and increased awareness among licensees of their responsibilities, and how QBCC can help them get paid.

With the building and construction industry experiencing peak intensity, the QBCC identified the importance of helping home owners avoid unlicensed tradespeople and minimise unlicensed building activity.

The content of phase two of the education campaign remained the same as phase one, however the homeowner market was targeted more heavily than the licensee market during the second phase.

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

- **insolvency events** – supporting customers through insolvency events with clear communication outlining the support available
- **product integrity** – urging licensees to remain vigilant about the products they use and providing them with information preventing the use of Non-Conforming Building Products related to their license class
- **Minimum Financial Requirements** – reminding licensees to complete their mandatory financial reporting to ensure QBCC licensees undertake a financial health check to demonstrate they are financially sustainable
- **pool safety** – communications aimed at home owners and short-term stay providers outlining the swimming pool safety laws and what to know when building a pool or buying or leasing a property (including short-term accommodation) with a pool
- **Home Warranty Insurance** – driving awareness of the QHWS and the unique protection offered to Queensland home owners
- **payment disputes** – raising awareness of how to report issues related to payments or contracts to QBCC.

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

During the 2022-2023 financial year, the QBCC has continued to investigate and understand how best to support licensees and industry stakeholders to keep up with the latest changes to legislation and standards. The QBCC has continued to engage with educational institutions and professional bodies to gauge how we can best provide this information, as well as explore the channels in which information can be provided. This information will be used as a basis to inform future learning and engagement strategies to support a thriving and resilient building and construction industry.

Additionally, we continued our support of Government in its considerations of whether Compulsory Continuous Professional Development (CCPD) is legislated in Queensland.