



# Interim Compliance and Enforcement Strategy

July 2022 to June 2023



QUEENSLAND BUILDING AND  
CONSTRUCTION COMMISSION

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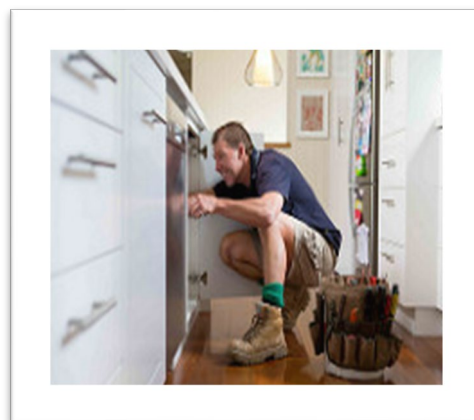
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# Background

The Queensland Building and Construction Commission (QBCC) is a statutory body established under *the Queensland Building and Construction Commission Act 1991 (Qld)* (QBCC Act).

As part of the findings in the QBCC Governance Review 2022, (the Review) it was recommended (Recommendation 11) that the QBCC implement a comprehensive and public compliance and enforcement strategy. Actions for effective implementation of recommendation 11 were to:

- 11.1 Establish a rigorous and ongoing auditing process to strengthen compliance with regulatory actions taken by the QBCC.
- 11.2 Adopt more proactive compliance strategies.
- 11.3 Employ dedicated intelligence staff to interrogate and analyse information and data to refocus operational activities and address sectoral risk.
- 11.4 Adopt an outcomes-focused performance and reporting framework that is integrated with other organisational planning and management systems.
- 11.5 Enhance the delivery of roadshows, presentations at industry events, engagement with peak organisations and stakeholder groups to support an outcomes and client-focused regulator.



As part of the Government's response to the Review, a 90 day Action Plan was developed and deliverables for recommendation 11 included to develop an interim Compliance and Enforcement Strategy for the period July 2022 - December 2022 (Recommendation 11.1). The Review found that the QBCC had not had a formalised and approved Compliance and Enforcement Strategy since 2019.

It was noted that without a compliance and enforcement strategy managerial oversight and performance will be reduced, and effectiveness and overall success of activities will not be clearly measured.

The Review quoted content from [Administering Regulation Better Practice Guide 2007](#) which states:

*"[S]cope exists for regulators to improve their administrative performance. Specific areas for improvement include systematically applying risk management procedures to address administrative cost effectiveness; measuring and reporting regulatory performance; ensuring consistency in decision making; documenting key operational and regulatory decisions; planning and implementing compliance monitoring programmes; and managing enforcement actions."*

This statement supports the intent of the new direction the QBCC is working towards in undertaking effective regulatory services through the provision of outcomes-focused compliance and enforcement strategies.

The QBCC accepts the recommendations and has responded to the Review by establishing this interim strategy. The interim strategy will extend past initial recommendation period in Recommendation 11.1 of December 2022, to 30 June 2023 to mitigate the risk of not having a formal strategy in place across the next 12 months.

This extended timeline for the interim strategy, ensures there is alignment with the Corporate Strategy refresh that is currently being undertaken by the QBCC. Consultation is already underway with staff and industry to ensure that the QBCC moves to being an insights driven Regulator. This will also ensure the new Compliance and Enforcement Strategy can be reviewed and endorsed by the soon to be appointed incoming Board.

As a result, during the next 9 months the QBCC will develop a comprehensive Compliance and Enforcement Strategy that will align to the renewal of the Corporate Strategy scheduled for government and Board approvals in 2023, together with the ability to reflect and incorporate insights based on the work being undertaken on QBCC's digital systems.

It is intended the new Corporate and complimentary Compliance and Enforcement Strategy will be finalised and approved by 30 June 2023, to commence on 1 July 2023. This strategy will then be reviewed annually.

## Purpose

The purpose of this interim Strategy is to ensure that there is a framework in place for the QBCC to commence its journey toward being an insights driven regulator. With the unprecedented changes in the building environment, resulting from inflation, labour shortages and product delays, strong but fair regulation of the building and construction industry has never been more important.

Core purpose statements together with legislative obligations reflect that QBCC services should reduce risk and eliminate harm (social / economic / environmental) for all engaged in building and construction across Queensland. To be a successful regulator the QBCC must ensure there is transparent effective communication, consistent decision making, education and understanding of global impacts, with a focus on outcomes over outputs.

It is also important that we have a customer focus for the way we approach our regulatory work. Our customers are defined broadly into two groups: licensees – those involved in the building and construction sector; and consumers of the building and construction industry services, often referred to as home owners, property owners or asset owners. Beyond that we have broader industry participants and other stakeholders.

## Current regulatory framework

Our role is to educate, protect and support the Queensland building and construction industry and community. We do this through the services outlined below.

We regulate the Queensland building and construction industry including (but not limited to) by:

- [licensing](#) building and trade contractors, including certifiers
- providing education to industry and people using buildings
- providing [dispute resolution services](#) in relation to defective building work
- regulating [building product](#) supply chains to ensure safe, compliant and appropriately represented building products
- administering the [Safer Buildings](#) program to identify combustible cladding on private buildings
- monitoring and [enforcing compliance](#) with legislative obligations relating to building and construction work including payment obligations
- monitoring and protecting the [financial](#) wellbeing of the building and construction industry
- [monitoring](#) and enforcing compliance with building codes and standards to protect the public from poor quality building work in Queensland
- managing the [Queensland Home Warranty Scheme](#)
- provision of [adjudication](#) and advisory services.

## Queensland legislation

The legislation outlined following sets out the legal framework for the administration of the QBCC's services.

### QBCC Act

This legislation addresses licensing, the licensee register, statutory insurance and building products.

- [\*Queensland Building and Construction Commission Act 1991\*](#)
- [\*Queensland Building and Construction Commission Regulation 2018\*](#)
- [\*Queensland Building and Construction Commission \(Minimum Financial Requirements\) Regulation 2018\*](#)

### Building Act

The QBCC administers provisions of the Building Act including certification and pool safety.

- [\*Building Act 1975\*](#)
- [\*Building Regulation 2021\*](#)

### Security of Payment Act

This legislation addresses adjudication and project trust account requirements.

- [\*Building Industry Fairness \(Security of Payment\) Act 2017\*](#)
- [\*Building Industry Fairness \(Security of Payment\) Regulation 2018\*](#)

### Plumbing and Drainage Act

This legislation addresses plumbing and drainage licensing, the Service Trades Council and the role of local governments.

- [\*Plumbing and Drainage Act 2018\*](#)
- [\*Plumbing and Drainage Regulation 2019\*](#)

### National Construction Code

The [National Construction Code \(NCC\)](#) is Australia's primary set of technical design and construction provisions for buildings. As a performance-based code, it sets the minimum required level for the safety, health, amenity, accessibility and sustainability of certain buildings.

The NCC includes the Building Code of Australia (Volumes One and Two) and the Plumbing Code of Australia (Volume Three).

- **Volume One:** relates primarily to Class 2 to 9 buildings (commercial construction).
- **Volume Two:** relates primarily to Class 1 and 10 buildings (residential housing).

- **Volume Three:** relates primarily to plumbing and drainage associated with all classes of buildings.

The [Australian Building Codes Board](#), on behalf of the Australian Government and each State and Territory government, produces and maintains the National Construction Code.

The QBCC currently undertakes regulatory functions on a predominantly reactive basis in relation to matters, actions or issues. Over the next 12 months the QBCC will look to develop a risk-based and data driven framework to strike an appropriate balance between reactive and proactive services to meet our legislative obligations across the breadth of the acts, standards and codes under the current regulatory framework.

## QBCC goals

Across the building and construction sector, the QBCC has identified four key goals on which to focus its regulatory efforts and resources. These goals, when accomplished, each produce an important outcome that will move the QBCC towards being a risk-based, outcomes focused regulator to service the needs of all who come into contact with building and construction in Queensland.

Our goals for the next 12 months are:

1. **Protecting people** – Queenslanders are protected from physical or financial harm
2. **Building quality and control** – Queenslanders are protected against non-compliant, unsafe and unfit buildings
3. **Product integrity** – Queenslanders are protected against unsafe or non-conforming building products
4. **Building industry fairness** – Our licensees and the broader industry are protected against financial harm in their work environment.

## GOAL 1 – Protecting people

The physical and financial protection of Queenslanders is at the core of this interim Compliance and Enforcement Strategy.

The activities outlined under Goal 1 – Protecting people, directly relate to ensuring that only appropriately licensed individuals undertake building and plumbing work, to minimise the risk of physical harm or financial loss to Queenslanders caused by defective work.

Our focus will be to:

- prioritise investigations involving unlicensed contracting to ensure and maintain technical standards across the industry
- undertake proactive inspections at building sites to ensure compliance with licensing requirements
- develop educational material and campaigns for our customers - consumers and licensees
- undertake audits of notifiable work to ensure plumbing and drainage licensees are complying with their legislative obligations
- develop a regulatory framework to guide regulatory and compliance activity to adopt consistent practice by QBCC staff
- work with the safety regulator where a safety incident on a building site occurs and take appropriate enforcement action to ensure the safety of all Queenslanders.

## GOAL 2- Building quality and control

Consumers have the right to expect that buildings are constructed in accordance with established regulations and using only materials that comply with standards and are fit for purpose. The aim of this goal is to encourage compliance with industry standards and reduce the instances of defects.

Our focus will be to:

- educate customers (consumers and licensees) about common defects and work with both parties to reduce the instances of defective work notices being issued
- take appropriate action, where necessary, to ensure defective work notices are complied with
- undertake proactive inspections to ensure the integrity of the building certification process
- undertake proactive audits and inspections of buildings under construction to identify issues early and take appropriate action to ensure issues are rectified
- work with consumers and industry participants to ensure post-disaster rectification works are completed by appropriately licensed trades
- work with industry and provide education based on insights to maintain currency of focus for compliance and regulatory activity
- use insights from the Industry Advisory Committee to improve workplans and practices
- develop educational material to enhance industry understanding of licensing requirements and key issues
- engage with education providers and identify opportunities to present to apprentices on the role of the QBCC, their obligations as licensees and how the QBCC can assist.

## GOAL 3 – Product integrity

Australia has strict standards for building products to comply with and the focus of this goal is to ensure that only products that comply with these standards and are fit for purpose are used in Queensland. Non-conforming building products jeopardise the integrity of buildings and not only place the occupants and property owners at physical risk but also financial risk.

Our focus will be to:

- undertake proactive and reactive audits of building products to ensure they are safe, used for their intended use and appropriately represented
- investigate parties in the chain of responsibility for building products to ensure they are adhering to their legislative obligations in relation to building products
- work with industry and provide education about non-conforming building products (NCBPs) to ensure standards are achieved
- provide awareness to consumers, where appropriate, about NCBPs to enhance understanding of product compliance
- take appropriate compliance action to ensure the Safer Buildings program is adhered with.

## GOAL 4 – Building industry fairness

Everyone in the building and construction industry have the right to be paid on time for the work they do. The focus of this goal is to increase on-time and in-full payment in the industry to reduce any serious financial harm.



Poor financial management has the potential to negatively impact many parties in the industry, including consumers, subcontractors and suppliers. Ensuring licensees are implementing appropriate and timely financial health checks and taking action against those that display poor financial management will increase confidence in the sector.

This goal will be particularly important given the global shortage on materials and resources and the strain this is placing on licensees.

Our focus will be to:

- undertake compliance activities in a pragmatic and timely manner to ensure adherence with annual financial reporting obligations
- undertake proactive audits in relation to the financial health of licensees where the licensee may not meet the minimum financial requirements
- undertake proactive audits of project trust accounts to ensure that these accounts are being administered in accordance with legislative obligations, and identify and respond to parties who avoid opening a trust account
- timely administration of claims received through the Adjudication Registrar
- implement proactive activities to ensure all claims decided through the adjudication process are paid to the claimant on time
- educate licensees and their advisors about their financial obligations including trust accounts and minimum financial requirements
- exclude individuals and companies from holding a licence following the insolvency of a construction business.

## Approach to enforcement

The compliance posture of an industry participant is a consideration for the QBCC in taking any enforcement action. The goal of any enforcement action is to correct the non-compliant behaviour and discourage it from happening again. To achieve this, the action must be guided by the reason for the behaviour as demonstrated by the compliance posture.

Depending on the severity of the harm caused by the non-compliance, where parties have failed to comply in the first instance and are demonstrating they are willing and able to change, the QBCC will consider using approaches that assist the entity to achieve outcomes rather than reverting immediately to a strong regulatory response. In cases where an entity is wilfully breaching its obligations, recidivist offending or where there is a need to urgently reduce a risk of serious harm, the QBCC will use the full force of its enforcement tools, including criminal prosecution. For systemic issues, a multifaceted compliance strategy using several tools in combination may be used to target an entire industry.

Alternatively, in situations where large parts of the industry are facing dramatic change or pressure, the QBCC can respond by amending its regulatory response. Significant events, such as economic recession/depression, disease outbreak, or radical shifts in legislation, may occur which materially change the way the building and construction industry operates. In these situations, the QBCC may adapt its regulatory approach to respond to the changes in the industry.

## Role of education

As an insights-driven regulator it is important that the education for customers (consumers and licensees), is present in the delivery of services the QBCC provides.



A key theme will be education and engagement with industry and stakeholders to encourage voluntary compliance as well as a move towards more proactive compliance activities.

Over the next 12 months the QBCC will assess its role in education services for our customers (consumers and licensees), broader industry participants and external stakeholders to establish frameworks for the delivery of these services.

## Reporting

Concurrently with the publishing of this document the QBCC has published the [2021 - 2022 Compliance and Enforcement metrics](#).

In 2021-22 - core outputs included:



4,658 complaints about defective or incomplete work finalised



\$15.85M awarded through the adjudication process



9,017 licence applications from new licensees (not previously licensed) approved



979 Directions to Rectify defective or incomplete work issued



\$4.73M returned to customers as a result of the Monies Owed Complaint process



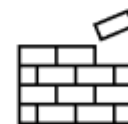
More than 112,000 total licensees



1,153 Penalty Infringement Notices issued for offences under the QBCC & BIF Acts



8,130 non-compliant licensees removed from the industry



1,375 construction sites proactively inspected to identify defects during construction

## Outputs to outcomes

The QBCC has traditionally taken an output-focused performance approach measuring delivery effort rather than value achieved. While these output indicators are important, the QBCC needs to transition into an outcomes-focused regulator to measure the impact of its activities and its effectiveness.

This will require a deliberate shift over time with future outcome measures aiming to show the QBCC's impact to prevent harm for the industry and consumers across the building and construction environment.

## Regulatory assurance – next steps

During the initial stages of this strategy and as an initial step towards improvement in regulation and enforcement practices the QBCC is in the process of resetting its organisational structure. To date this has included the addition of two new senior leadership team roles, Chief Building Regulator (CBR) and Chief Integrity and Risk Officer (CIRO).

The purpose of the CBR is to strategically lead and transform the regulatory operations of the Queensland Building and Construction Commission by redefining service delivery approaches and associated policies and processes to create efficiencies and improve regulatory outcomes for Queensland's \$47 Billion building industry. The purpose of the CIRO is to provide strategic leadership and overall guidance for the delivery of integrity and risk excellence across the QBCC.

The CBR will lead the delivery of high quality, sustainable services, programs, policy and objectives to deliver the regulatory, licensing and operational activities of the QBCC.

A key focus for the role will be to continue to successfully implement the Government of the day's reform agenda as well as driving large-scale strategic change across the QBCC's service and regulatory practices to ensure the effective and efficient administration of statutory obligations.

The CIRO is responsible for the development of a regulatory assurance framework. The CBR is responsible for implementing key elements of the regulatory assurance framework and the delivery of the future Compliance and Enforcement Strategy.

