QUEENSLAND HOME
WARRANTY SCHEME REVIEW

Discussion Paper

March 2022

Queensland Government

Interpreter statement:

The Queensland Government is committed to providing accessible services to Queenslanders from all culturally and linguistically diverse backgrounds. If you have difficulty in understanding this document, you can contact us within Australia on 13QGOV (13 74 68) and we will arrange an interpreter to effectively communicate the report to you.

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Minister's Foreword

Consumer protection is at the heart of the Queensland Home Warranty Scheme (the Scheme).

Established in 1977, the Scheme is a statutory, first resort scheme that seeks to protect consumers (homeowners) from the impacts of incomplete and defective residential construction work on their home.

Whilst improvements have been made to the Scheme in recent years, the homes in which Queenslanders choose to live have changed. They've increased in value, are more likely to have complex designs, and are more likely than in 1977 to be a high-rise apartment.

A home is often one of the biggest investments Queenslanders will make, so it is important that the Scheme continues to operate effectively and sustainably to protect these investments and consumers now and into the future.

The Scheme is one of 10 reform areas under the Queensland Building Plan (QBP) 2017 and forms a key part of the QBP Update 2021. Our Government is committed to protecting consumers with a focus on promoting certainty, transparency and fairness in the Scheme's operation.

As the economic recovery following the COVID-19 pandemic continues, investment in both new homes and renovations remains at a high level. Consistent with the 2017 commitment to further review and enhance the Scheme, the present time remains appropriate given the high levels of industry activity.

We have already heard from many Queenslanders through an online survey open between 10 to 31 August 2021 on what is working well and what should be changed in the Scheme.

I would like to thank everyone who has participated so far. Your feedback has been used to further develop the ideas in this discussion paper to improve the Scheme.

I encourage you to keep being involved in this consultation and have your say about how to ensure the Scheme operates as intended – to protect consumers and industry, and, ultimately, help promote a safer, fairer and more sustainable building and construction industry.

The Honourable Mick de Brenni MP

Minister for Energy, Renewables and Hydrogen and Minister for Public Works and Procurement

Executive Summary

The Queensland Government is progressing the next stage of review for the Queensland Home Warranty Scheme (the Scheme).

The Scheme remains the only 'first resort' home warranty scheme in Australia and aims to protect consumers for eligible residential construction work when it isn't finished or is defective.

Amendments in 2016 strengthened the Scheme and expanded what it covered. We are now looking at what else can be done to make sure consumers are properly protected if residential construction work doesn't go according to plan.

We want to hear your suggestions about what could be changed or introduced to make sure consumers and industry remain supported. It is important there is adequate scheme cover, the claim process is fair, and Queenslanders enjoy the best home warranty insurance in Australia. We also need to make sure the Scheme remains financially sustainable.

More than 300 responses were received to our initial online survey from consumers and industry, which was open between 10-31 August 2021. Thank you to everyone who responded to the survey. Your feedback and ideas directly contributed to the proposals in this discussion paper.

We encourage you to read the general information on the Scheme at the beginning of the discussion paper before looking at any relevant themes that you might be interested in.

Six key themes are guiding the review:

- comprehensive, contemporary coverage
- affordable risk-based premiums
- adequate and flexible compensation limits
- effective and efficient processes and time limits
- empowered consumers
- a modern and responsive scheme.

Proposals are suggested under each theme for further investigation. These are ways to potentially address key issues and survey feedback. They are not government policy but are designed to guide discussion and encourage ideas to improve the Scheme. A few questions are also included at the end of each proposal to help you think about some of the issues and potential implications, and this is intended to guide any submissions you provide.

We acknowledge the discussion paper is comprehensive and detailed. It is designed to cater for different audiences, including residential consumers, building industry licensees, industry groups and other stakeholders such as the insurance sector, all with various experiences and knowledge about the Scheme.

Shorter factsheets are available online for each theme as an alternative to reading through this discussion paper. A separate factsheet has also been prepared to assist consumers in the review. These factsheets can be found at www.qld.gov.au/HomeWarrantyScheme.

An online contact form is also available if you have any questions on the review process or information in the discussion paper.

Making a submission

Your comments and suggestions will help the Queensland Government consider and refine potential improvements to the Scheme.

Submissions close 5pm, Friday 6 May 2022.

Have your say:

Option 1: Attend an in-person session. These are anticipated to be limited and subject to relevant COVID-19 restrictions.

Option 2: Participate in an online webinar session.

Option 3: Participate in a focused teleconference session.

Option 4: Prepare a written response.

In-person, online and teleconference sessions are intended to be held in April and early May 2022. The number of sessions held will be dependent on registrations.

Further details about participating in these sessions, including how to register, can be found at the Queensland Government's Engagement HQ website at www.qld.gov.au/HomeWarrantyScheme.

You can also prepare your own submission and either upload, post or email it to us. Where possible, submissions should be sent electronically, preferably in Microsoft Word or other text-based formats.

To upload your submission, please visit www.qld.gov.au/HomeWarrantyScheme.

Alternatively, you can post your submission to:

Queensland Home Warranty Scheme Review
Building Policy
Public Works Division
Department of Energy and Public Works
GPO Box 2457
CITY EAST BRISBANE QLD 4001

Privacy and confidentiality

The Department of Energy and Public Works (department) is seeking input for the Queensland Home Warranty Scheme Review. All personal information collected will be treated in accordance with the *Information Privacy Act 2009*. The department may contact you for further consultation regarding the review. The department may disclose some, or all, information (excluding personal information) gathered to other Queensland Government agencies to inform the development of policy and legislative options as part of the review process. The department may collate the information received through this process and publicly release or publish data in an aggregate and non-identifiable form. The department will not otherwise disclose or publish, in full or part, any submissions in response to this discussion paper except as required under the *Right to Information Act 2009*.

Disclaimer

This discussion paper has been released to seek feedback on the Queensland Home Warranty Scheme and does not represent legal advice. The State of Queensland makes no statement, representation, or warranty about the accuracy or completeness of any information contained in this discussion paper. The State of Queensland disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages and costs any person might incur as a result of the information being inaccurate or incomplete in any way for any reason.

Background

What is the Queensland Home Warranty Scheme?

A home is often a person's largest asset and one which deserves protection. This is why it is mandatory for Queenslanders to take out home warranty insurance for most residential construction work (i.e. renovating, repairing or building a home) in Queensland valued over $3,300 (including labour and materials).

The Scheme is a 'first resort' statutory compensation scheme established in 1977 to protect consumers (i.e. homeowners) where a building contractor fails to complete residential construction work or rectify defects in that work. 'First resort' means that the consumer's first contact point is the insuring body and assistance is available in more circumstances than just death or disappearance of the contractor, which is called 'last resort' insurance.

The Scheme is administered by the Queensland Building and Construction Commission (QBCC) with premiums reviewed annually. To keep premiums as low as possible for Queenslanders, the Scheme is run on a not-for-profit basis.

The Scheme, like all insurances, can be understood as pooling risk of uncertain future events. Building contractors collect and pay a premium on behalf of consumers, and the QBCC spread the risk across the entire domestic building sector. Funds held by the QBCC may be used to compensate the consumer if the building work is not completed or is defective.

The Scheme is one of several important legislative protections for Queensland consumers, with others including implied statutory warranties that apply to building contracts and general consumer protections. Decisions about claims under the Scheme can also be reviewed internally by the QBCC or externally through the Queensland Civil and Administrative Tribunal (QCAT).

It is important to note that insurance available under the Scheme is for consumers, not contractors or other people involved in building work.

Overview of the Scheme:

- Mandatory and run as not-for-profit
- Generally covers new residential work and renovation or repair work over $3,300
- Premiums start at $194.25 and increase depending on the insurable value of the work
- Premiums are reviewed at least every 12 months
- Standard insurance cover is up to $200k (or $300k with optional additional cover)
- Time limits apply for claims and are dependent on the circumstances, e.g. generally two years for incomplete work, six and a half years for structural defects and six months for non-structural defects
- Type of work generally covered by the Scheme:
  - construction of a new home, related roofed building (e.g. a garage), townhouse or multiple unit dwelling (no more than three storeys)
  - renovation, improvement or repair of a residence or related roofed building, limited to work on or within the building envelope (e.g. internal or external painting, decks, patios, water supply, sewage, drainage, kitchens and bathrooms but excludes driveways, paths, fences)
  - building work for anything attached or connected to a residence or related roofed building, that requires building development approval (e.g. decks and patios) or a permit under the *Plumbing and Drainage Act 2018* (e.g. water supply, sewage, drainage)
  - swimming pools.

What does the Scheme cover?

The Scheme covers consumers for loss in circumstances such as:

- if a licensed contractor fails to complete a contract for residential construction work or fails to rectify defective work
- if an unlicensed contractor fails to complete or rectify this work where fraud or certain representations are made.

The Scheme also covers issues relating to building subsidence and specific circumstances for damage caused by fire, storm, vandalism or theft to incomplete work that is already part of a claim. However, the terms of cover include certain limitations and restrictions.

Further detail on Scheme cover is at **Appendix 2**.

What is the current Scheme process?

As part of the building work process, the contractor generally collects the premium from the consumer and provides it to the QBCC to insure the work. The amount is included as part of the contract and paid before work begins.

Once the premium is lodged after the contract for residential construction work has been signed, the QBCC sends the consumer a notice of cover which provides details of the work, the contractor and the premium paid. A tax invoice and a link to the Product Disclosure Booklet will also be sent. The consumer should get these documents before the work begins. A subsequent owner of the property can also contact the QBCC to see if the property has cover under the Scheme.

If the contract value changes during the work, the new price, along with other required documentation is provided to the QBCC. Depending on the change of value, there may be extra costs or a refund of the premium. These are usually forwarded through the contractor who organised the initial payment.

The consumer will also have the option of purchasing additional cover, which will increase the cover limits. If they choose to take up this option, the consumer will pay the additional premium directly to the QBCC.

If there is a dispute and building work has been left incomplete, or defective work has been identified, a consumer may contact the QBCC to lodge a complaint, noting strict timeframes apply.

Once a complaint is lodged, the QBCC discusses the issues with both parties to see if the problem can be rectified. An investigation may also occur, followed by a direction to rectify, in some circumstances. If the contractor doesn't rectify the issue at this point, the complaint proceeds as a Scheme claim, with either a payout or another contractor appointed to carry out the work. There are appeals available for certain steps along this process.

If the QBCC pays out on a claim, the QBCC pursues the contractor, or any other person through whose fault the claim arose, to recover the claim amount.

More information on the process is at **Appendix 4**.

Recent 2016 amendments explained

The Scheme was last expanded in 2016 to increase protections for consumers, promote transparency in the Scheme and improve its operation including:

- expanding the Scheme's cover to include more types of work
- introducing optional additional cover
- introducing a new premium structure and more equitable premium calculations for buildings with multiple units
- transferring the Scheme's terms and conditions to a regulation.

Additional types of work covered

Since late 2016, the Scheme has covered the following work, provided it is carried out by a licensed contractor and is for a value over $3,300:

- Erecting, constructing or installing a residential swimming pool.
- For a residence or related roofed building (e.g. shed):
  - All building work performed within the building envelope (internal or external parts of the building), e.g. painting, tiling, plastering, roof restoration and repair work, rendering of walls, floor restoration, and glazing work.

- Anything attached to the building if it requires building approval or plumbing approval.
- Any structure attached to the external part of the building where there is no other supporting structure (e.g. awning or handrail).
- Stairs or an access ramp which are permanently attached to the building.

- For plumbing and drainage for a residence or related roofed building:
  - Building work for the primary water supply (e.g. install water tank for primary water supply).
  - Building work for sewerage or drainage (e.g. work on a sanitary drain connecting a residence to the sewerage main).
  - Stormwater drainage (e.g. repair of downpipe or gutter).
- Installing a manufactured home fixed to land in a residential park, even when the residential park is located within a caravan park.

Optional additional cover

The Scheme was also expanded to provide for 'optional additional cover'.

The standard insurance cover is a maximum of $200,000. However, a consumer can increase this cover to $300,000 by paying an additional premium to the QBCC. Optional additional cover also increases payment for accommodation, removal and storage costs from $5,000 to $10,000.

New premium structure

New insurance premium tables were introduced to account for the expanded cover and optional additional cover. There are three premium tables depending on the circumstances – new residence construction; alterations, additions and swimming pools; and optional additional cover. This structure ensures consumers are paying premiums that more accurately reflect the risk for their specific work.

Notional pricing premium calculation method

The application of notional pricing was revised to make premiums more equitable for some newly captured work.

'Notional pricing' is used to describe a premium calculation method for multiple dwellings and duplexes (i.e. buildings with a number of units). Under this method, premiums are calculated by working out the average value of work per unit under the contract, identifying the premium amount that applies for that value, and then multiplying that premium amount by the number of units to work out the total premium. This method is used to determine risk associated with carrying out work on multiple dwellings and duplexes, which have the potential for higher value claims if things go wrong.

From late 2016, notional pricing stopped applying to various work within the building envelope such as painting, plastering, floor finishing. However, it still applies in some circumstances, e.g. work that can affect structural components and common areas.

Improved clarity of terms and conditions

The terms and conditions were transferred from a Queensland Building and Construction Board (QBC Board) policy to a regulation. The aim was to provide greater clarity and consistency in the terms and ensure it reflected contemporary drafting practice.

The current terms of cover are in a schedule within the Queensland Building and Construction Commission Regulation 2018. The QBCC's 'Insurance Policy Conditions' made by the QBC Board continue to apply to contracts that were entered before the new schedule was introduced.

Current review

Why is the Scheme being reviewed?

The Scheme is one of ten key reform areas in the QBP 2017 and also forms part of the QBP Update 2021.

The aim is to ensure that the Scheme is known for certainty, equity, fairness and transparency. It is also important that the Scheme is structured to provide the best possible outcomes for protection, while also balancing the needs of consumers and industry.

As the 2016 Scheme amendments only addressed some aspects of the commitments in the QBP, the Queensland Government is continuing to investigate reforms to better protect consumers and the building and construction industry.

The economic recovery following the COVID-19 pandemic has also seen substantial investment in both new homes and renovations in Queensland. This makes it timely to review and consider further enhancements to the Scheme.

What is the review about?

We want to ensure the Scheme continues to offer the best possible outcomes for consumers and industry and that it remains contemporary.

To help guide consultation, we are seeking feedback in six key areas of review:

- comprehensive, contemporary coverage
- affordable risk-based premiums
- adequate and flexible compensation limits
- effective and efficient processes and time limits
- empowered consumers
- a modern and responsive scheme.

How is the review occurring?

The Department of Energy and Public Works is leading the next phase of the Scheme review.

On 27 July 2021, the Ministerial Construction Council (MCC) established a subcommittee to support the review. The MCC, comprised of key industry stakeholders, was established by the Minister for Energy, Renewables and Hydrogen and Minister for Public Works and Procurement, to collaborate on significant issues relating to the building and construction industry. The subcommittee consists of representatives from across the building industry and other affected sectors. The Department of Energy and Public Works chairs the subcommittee and is assisted by the QBCC.

This review of the Scheme will be informed by broad consultation, including a survey, information sessions and written submissions.

A survey was released between 10 – 31 August 2021 to help understand consumer and industry views on the current Scheme, any issues and suggestions for improvement. Survey results have directly contributed to the proposals in this discussion paper.

Information sessions are intended to be held online and, subject to COVID-19 restrictions, around Queensland in April and early May 2022.

The deadline for submissions on the Scheme review is 5pm, Friday 6 May 2022.

The subcommittee will review feedback and provide a report to the MCC and Minister on its findings, including potential improvements to the Scheme. The Department of Energy and Public Works will also carefully consider the subcommittee's report, and provide advice to the Minister. The Minister will then consider the report, advice and any recommendations, including any relevant impacts on industry, consumers and government.

Further information about the review, information sessions and how to provide a submission is at www.qld.gov.au/HomeWarrantyScheme.

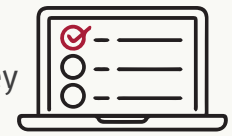
Survey results

Between 10-31 August 2021, 309 survey responses were received.

Thank you to those who responded about their experiences with the Scheme and suggestions about how it can be improved. Your feedback and ideas have helped shape this discussion paper, proposals and the future of the Scheme.

Note: The survey results represent preliminary feedback and only captures the views of those that participated, not the broader Queensland population. The survey allowed participants to complete questions relevant to them so not every participant completed every question. In some cases, percentages quoted may only represent a small number of people so may not be a statistically representative sample.

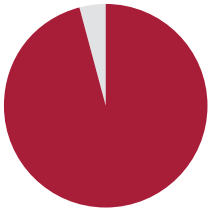
309
online survey responses



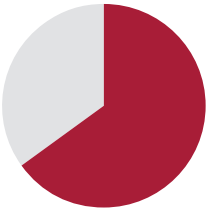
2,000
site visits to Engagement HQ review page

114
site registrations for updates

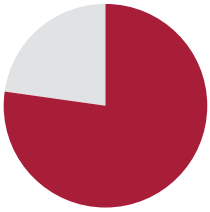
Snapshot of participation and responses:



Most participants currently or recently owned a home in Queensland – 298 out of 309 participants (96%)

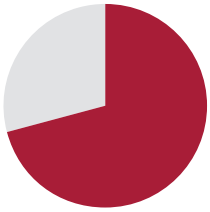


Majority were planning to, or currently in the process of, building, buying or renovating a residential property – 200 out of 309 participants (65%)

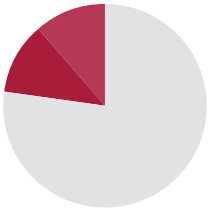


Many participants have heard of the Scheme – 264 out of 309 participants (85%)

61 out of 264 (23%) participants had an insurance claim under the Scheme and could tell us about their experience



with the majority of participants having suggestions to improve the Scheme – 188 out of 264 (71%)



112 out of 309 (36%) participants were in the building industry, with 61 out of 112 (54%) of the responses from QBCC licensed head contractors

We have also heard from you about your experiences with the QBCC. Some experiences were positive, with people grateful for the support provided by hardworking QBCC officers to help them with their claim. Other responses showed us that improvements may be needed to help consumers feel more informed and supported through the claims process.

Work is underway to review QBCC complaint and decision-making processes relating to defective building work and dispute resolution. We will continue to work with the QBCC on these and other opportunities to identify ways to improve and ensure an efficient, effective and satisfied experience for consumers and industry in delivering services for the Scheme.

The Review Proposals

Review Theme 1 – Comprehensive, contemporary coverage

The scope for the Scheme should be fit-for-purpose, contemporary and responsive.

The current Scheme is focused on providing cover for lower density residential buildings constructed on-site. For example, cover is offered for stand-alone homes, duplexes and units up to three storeys for both new builds and renovation or repair of existing buildings.

The Queensland housing sector continues to evolve with new technology, construction practices and living preferences. We are looking at ways to make sure the Scheme continues to offer suitable cover so it remains contemporary, including for new types of building and living needs.

In 2020-21,
168,468
policies were issued

77%
(129,118)
policies for renovations

23%
(39,350)
policies for new home construction.

We have heard that some Queenslanders think more can be done to make sure Scheme cover is effective – 133 out of 309 (43%) survey participants believe the current Scheme does not offer effective cover. Only 48 participants (16%) indicated that the Scheme's cover is sufficient, while the remaining 128 participants (41%) were unsure. There were also suggestions about what could be introduced in the Scheme, such as prefabricated homes, and what could be removed.

Out of the survey results, we are looking at three ideas to make sure the Scheme continues to deliver appropriate consumer protection now and into the future.

Proposal 1.1 – Extend the Scheme to include modular and flat pack (prefabricated) homes that are manufactured off-site

More people are building and living in prefabricated homes. These are dwellings that are constructed off-site and generally assembled and installed on-site. Constructing prefabricated homes off-site is not currently covered by the Scheme – only the work involved in installing these homes on-site is covered.

Prefabricated homes are well established in countries such as Japan, Austria, Germany, Sweden and other European countries. For example, in Sweden, 80% of homes are prefabricated. They are increasingly being built in Australia. In 2016, 3% of homes across Australia were prefabricated, with $6.5 billion[1] contributed to the Australian construction industry by the sector.

These homes are often promoted as more environmentally sustainable and affordable. They may also reduce project time to completion and minimise safety issues, particularly as weather doesn't need to be factored into a project build and different parts of a home can be built at the same time.

[1] https://business.vic.gov.au/__data/assets/pdf_file/0003/1880571/Prefabricated_Construction_Victorian_Business_Supply_Chain_Directory.pdf

If the Scheme was expanded to cover off-site manufacture of prefabricated homes, a range of factors would need to be considered, such as:

- which contracts and types of prefabricated structures are captured (e.g. in some cases, supply and install contracts are separate)
- who must collect the premium, when is it due and who is protected as a consumer (e.g. should developers and subsequent owners be protected)
- what work is covered or excluded (e.g. some elements of the build may be more akin to a defective product than a home; should or can interstate or international companies be subject to the Scheme)
- what is a reasonable timeframe for cover, and should it align with other cover under the Scheme
- what compensation limits are reasonable, and should they align with other types of dwellings under the Scheme.

An appropriate licensing and regulatory framework for prefabricated home industry participants could also be considered to allow the QBCC greater oversight and regulation of the standard of work and industry conduct, which can in turn reduce the risk on the Scheme. Many manufacturers or installers of prefabricated homes may already be licensed with the QBCC for other types of building work. Licences are also required if the prefabricated home is 'fixed' to the ground, e.g. plumbing connections and certification.

Case study

Quebec in Canada provides insurance cover for new prefabricated homes through its mandatory home warranty scheme in certain circumstances:

- if the manufacturer also installs the home
- if the sales and installation contract is with a licensed contractor
- if the sales contract is with the manufacturer of the prefabricated home and the installation contract is with a licensed contractor, only the onsite installation work by the contractor is covered.

POTENTIAL BENEFITS	OTHER CONSIDERATIONS
• Greater consumer protection for these types of homes • Prefabricated home construction practices could grow in popularity from improved Scheme cover • Could support innovative construction practices	• Regulator compliance powers may need to be strengthened to ensure confidence and sustainability in the Scheme (e.g. new licence classes) • Potential intersection with consumer law • Distinction between a dwelling and a product (e.g. prefabricated home modules), including aspects to be covered, noting the Scheme hasn't usually covered 'products' • Delineation of manufacturer and installer responsibilities • Ownership of goods prior to delivery and installation • May have implications for Scheme premiums depending on rates of defective or incomplete work and how the Scheme is structured • QBCC oversight of prefabricated homes built in other jurisdictions could be limited and increase risk to the Scheme • Whether a regulator could sufficiently manage interstate/international issues e.g. exports, tenders, etc • May be limited availability of builders

Have your say:

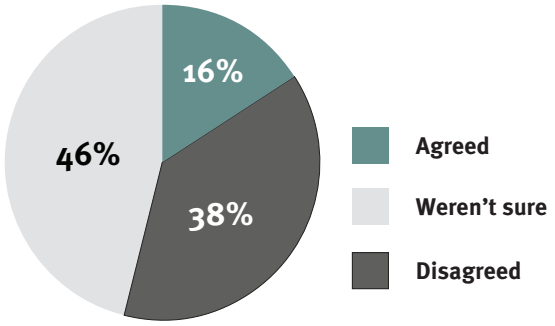
1. Do you think the Scheme should be extended to cover off-site construction of prefabricated homes?
2. What do you think about the issues with covering prefabricated homes that are constructed in another state or country and brought to Queensland to be installed? For example, practical issues with regulating or rectifying work that has occurred in other jurisdictions and any associated penalties.
3. What do you think about covering the moving process for prefabricated homes (loading, unloading and transportation)? Or is there other relevant and appropriate insurance already in place, such as insurance through a transport company?
4. Do you think that manufacturers of off-site prefabricated homes should be licensed as well as installers (noting that some parties may already be licensed)?
5. What could be some other implications for including off-site construction of prefabricated homes in the Scheme cover?
6. Should we also look at other new types of residential construction to include in the Scheme's cover, such as tiny homes that may be prefabricated and fixed to land?
7. Are there any other types of work that should be investigated for cover under the Scheme?

Proposal 1.2 – Removing some types of building work from the scope of the Scheme

It's important to make sure the current scope of the Scheme is appropriate and fit for purpose. It may be that existing elements of cover are not offering best value for consumers, and that certain building work is already covered under other insurance or warranty arrangements.

While most survey participants did not believe that the Scheme's scope should be reduced, we received quite a few suggestions for consideration.

Survery participants who think that some types of building work could be removed from the Scheme:



Standalone painting work

Some survey participants suggested reducing or removing cover for standalone painting work, which generally provides six months of cover for non-structural defects. There are other types of warranties available for painting work which are often available for several years – the manufacturer's warranty for the paint itself and the applicator warranty provided by the licensee.

Usually, if there are issues, paint manufacturers would only replace or refund the paint itself, and the consumer would cover any cost to remove and reapply the paint. The applicator warranty usually covers issues caused by poor application, such as flaking, peeling or blistering where workmanship is the cause. The Australian Consumer Law also covers voluntary warranties offered by businesses.

It is possible that these existing warranties for painting work may offer more value to consumers than the Scheme, so we are looking at whether this type of work should be removed from the Scheme.

Other work to consider removing

Some survey participants also suggested removing cover for sheds, patios and swimming pools. This work is generally constructed outside and does not usually impact on whether a residence is liveable when defects occur.

Others were concerned that the quality of some types of building work is dependent on maintenance, soil movement or weathering, such as landscaping, fencing and external concrete work, and should not be covered.

Tiling, cabinet making and window dressings such as screenings and louvres are generally minor works and were also suggested by some as not needing cover under the Scheme.

POTENTIAL BENEFITS	OTHER CONSIDERATIONS
• Current scope could be reduced where it is not offering best value for consumers • May reduce business compliance costs • May lower building costs for work that may be removed under the Scheme, as no insurance premium would be required	• Scheme premiums might need to increase to offset a smaller number of policies • May increase complexity in terms of what is and is not covered • May lead to increased Scheme costs to implement and administer • May impact on consumer protection, depending on other insurance or warranties that may be available • Rates of defective work could influence justification for removal from the Scheme

Have your say:

1. Would you support removing painting of residential properties from the Scheme's cover, given there are other existing manufacturer and applicator warranties that may apply?
2. If so, what do you think about removing cover for all painting work or should removing cover for painting be limited to repainting such as during renovations?
3. Are there any other types of residential construction work that could be removed from the Scheme? Why?

Proposal 1.3 – Higher thresholds, exemptions or optional cover for some items

The thresholds to require a QBCC licence and cover under the Scheme have not changed for many years. As the thresholds are not indexed to other measures, such as inflation or an indexation policy, each year, more work requires a licence and cover under the Scheme.

DATE	BUILDING WORK THRESHOLD VALUE (I.E. THRESHOLD TO REQUIRE A QBCC LICENCE)	INSURABLE THRESHOLD VALUE (I.E. THRESHOLD TO REQUIRE SCHEME COVER)
1 July 1992	$500	$3,000
1 October 1999	$1,000	-
1 July 2000	$1,100	$3,000
1 December 2009	$3,300	-

**Note the current QBCC/QBSA Act and Regulation commenced in 1992; threshold values existed before this date.*

Instead of removing cover, some survey participants suggested that higher thresholds could be introduced for some building work such as painting or stairlifts before insurance under the Scheme is required.

Another suggestion is to introduce optional additional cover for minor residential building work, such as painting, sheds, patios or swimming pools, which could provide consumers with more flexibility to choose their level of cover. Optional cover could also be introduced for home modifications installed under the National Disability Insurance Scheme (NDIS). A further suggestion is to exempt coverage requirements for some building work if the contractor has had no successful Scheme claims against them.

These alternative proposals may be a way to provide contemporary and flexible cover that accounts for the risk profile, consumer preferences and other warranties and protections. They may also improve the affordability of residential construction work in certain situations, such as installing stairlifts, increasing its accessibility for elderly persons or Queenslanders living with a disability.

However, other things to consider for these ideas is that removing, reducing or altering Scheme coverage for some types of building work may leave consumers with less protection if there are any problems and may impact on Scheme premiums.

POTENTIAL BENEFITS	OTHER CONSIDERATIONS
• Higher thresholds may lower building costs for work that is no longer covered by the Scheme • Greater flexibility in choosing Scheme cover may better align with other insurance products	• Scheme premiums may need to increase to offset a smaller number of policies • May increase complexity, with higher costs to implement and administer • May impact on consumer protection, depending on other insurance or warranties available • Complexity of altering one threshold value and not the other (both the building work and insurance value thresholds are currently $3,300) • Consumers may not be informed enough to accurately assess level of risk they are comfortable with in choosing a level of cover • Option to reduce or opt-out of cover will have implications for subsequent owners (who are presently covered) • May not address community expectations for government to intervene if there is a large-scale market failure

Have your say:

1. Do you think there should be a higher threshold for some types of building work before a premium is payable, e.g. painting or building work for a stair lift if it is valued over $10,000 rather than the current $3,300?
2. Do you think it is a good idea to introduce more flexibility to allow consumers to choose their level of cover?
3. With the introduction of the NDIS in Queensland, should optional scheme cover be considered for home modifications made under NDIS plans?
4. What about optional additional cover instead for some minor residential building work, such as painting, sheds, patios or swimming pools?
5. What do you think about the other idea to exempt cover for some building work, e.g. standalone painting work, or if a contractor carrying out the work has not had a successful claim against them?

Review Theme 2 – Affordable risk-based premiums

The Scheme should ensure equity and affordability.

Under legislation, the Scheme must operate on actuarially sustainable principles. It is run on a not-for-profit basis to allow the Scheme to focus on consumer protection. Claims data and information on the Scheme operating costs is in **Appendix 5** and **9**.

Premiums are collected from consumers (policy holders) to fund compensation claims. Premiums are based on the reasonable cost of the building work and assume materials will be supplied by the contractor. Premiums also take into account potential risks to the Scheme, e.g. the likelihood of issues with building work, inflation and costs to rectify building work.

A separate premium calculation approach applies to multi-unit dwellings and duplexes called 'notional pricing'. This method is used to determine the risk associated with carrying out building work that has the potential for higher value claims if things go wrong. Premiums are calculated by dividing the total value of the work by the number of units affected. The corresponding premium for that value is then multiplied by the number of units. Amendments in 2016 made this structure fairer by limiting the circumstances where notional pricing applies. This reduced the premiums for some work (e.g. painting and plastering).

General information on premiums is in **Appendix 6** with more detail also on the QBCC's website: www.qbcc.qld.gov.au/contractor-insurance-requirements/insurance-premium-fees.

No premium increase in 2021

1.4% premium increase from 1 July 2020 – this was **63% lower than the previous year,** as a 3.85% premium increase applied from 1 August 2019

Proposal 2.1 Introduce a more flexible premium structure

It is important that premiums remain affordable to maximise the number of Queenslanders who can undertake construction and renovation or repair projects.

The current structure is a premium based on the contract price, i.e. total value of building work. This does not reflect particular risks such as unscrupulous licensees or the complexity of the building work.

Only 116 out of 309 (38%) participants think that the current premium fee structures are appropriate and affordable, compared to 83 (27%) who disagreed and 100 (35%) being unsure. We also received several suggestions about potential improvements to the premium structure.

Premiums based on contractor conduct

One suggestion was to apply a tiered approach or higher premiums to contractors with a history of poor conduct, defective work or claims against them under the Scheme. In this scenario, higher premiums could apply to work by a contractor with multiple recent Scheme claims approved for incomplete or defective building work, than a contractor with an unblemished building work history. This could be an additional incentive to encourage licensees to carry out work to a high standard, particularly if a licensee with a poor building history could also only pass on the base level premium to the consumer, to avoid penalising the consumer.

This idea could also help consumers research licensees before contracting to undertake building work, as they could directly compare premiums when quotes are received for work. It will also complement other research that consumers can do. For example, information about a contractor's recent work conduct, including approved Scheme claims, is already on the QBCC licensee register for five years.

Three options have been identified for this suggestion:

1. A higher premium could apply for poor conduct and the full premium amount is passed on to the consumer.
2. A higher premium could apply for poor conduct, but the consumer only pays the base premium with the contractor paying the premium difference.
3. A licence fee differential could be explored where contractors pay higher licence renewal fees because of their conduct.

Premiums based on type of work and risk

Another suggestion is to introduce greater flexibility into Scheme premiums according to the type of building work being carried out. For example, the present premium structure includes three separate premium tables – one for new construction, another for alterations, repairs, extensions and swimming pools, and a third for optional additional cover.

These structures could be modified to further account for the percentage of higher risk work under the contract, such as defective structural work that can be costly to repair. There could also be an option to reduce premiums if a technical expert is engaged during construction that could reduce the likelihood of defects.

However, moving to a more flexible model would add substantial complexity and cost in administering the Scheme. There may be benefits in moving to more of a 'user pays' model, although some consumers may see higher premiums to offset claims from riskier types of work.

POTENTIAL BENEFITS	OTHER CONSIDERATIONS
• Greater flexibility could address equity and affordability issues raised by stakeholders • Tiered structure according to work history could incentivise licensees • Competitive premiums could also empower consumers and allow them to research contractor performance	• Moves toward a user-pays model, however increased flexibility could result in significantly higher Scheme and administration costs for the QBCC • Premiums based on contractor conduct, type of work and risk may be difficult to assess and administer • Benefits are dependent on premium affordability and the ability to price premiums • Premiums based on conduct may be seen as an additional and unwarranted penalty • To maintain equity, would require finalised claims and QBCC directions to rectify or remedy work (including any appeals) before premium adjustments apply • Premiums based on contractor conduct, type of work and risk may be difficult to assess and administer • Depending on the option, higher premiums may ultimately still be paid by the consumer • May incentivise contractors to exhaust appeals to delay higher premiums • May discriminate against contractors who have a high turnover or reliance on other specialists that resulted in claims, e.g. other trade or engineering work

Have your say:

1. What do you think of the suggestion to apply higher premiums for contractors who have a tarnished history (e.g. poor conduct, defective work or claim(s) approved under the Scheme)?
2. If you agree with this suggestion, what do you think about whether the following should be considered when setting a higher premium:
   - **a.** the cost of the approved Scheme claim against the contractor, e.g. if the work only cost $5,000 versus $500,000?
   - **b.** how long ago the approved Scheme claim occurred, e.g. one year versus four years ago?
   - **c.** any approved Scheme claims longer than five years ago?
   - **d.** whether the consumer should pay the higher premium or if the difference from the base premium should be paid by the licensee?
3. What do you think of the suggestion to apply higher premiums for building work that can be potentially more expensive to rectify?
4. What do you think of a licence fee differential to incentivise conduct by licensees?
5. Are there any other factors that should influence premiums?
6. Do you have any other suggestions of ways the Scheme could incentivise contractors to undertake high quality building work?

Review Theme 3 – Adequate and flexible compensation limits

The Scheme should offer adequate and flexible insurance cover and reflect prevailing market conditions.

In 2020-21

$31.3M paid claims

(including $16.6M for defect claims, $9.9M for non-completion claims and $4.8M for subsidence claims)

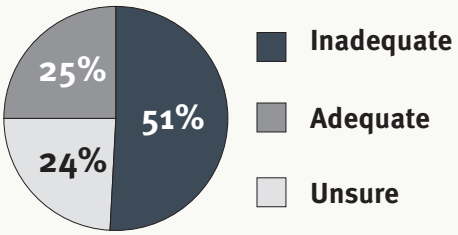
Proposal 3.1 Amending the maximum compensation limit under the Scheme for detached dwellings

The default maximum compensation limit payable for a detached dwelling under the Scheme has been in place since 1999 and is generally $200,000 for a claim, including $5,000 for alternate accommodation, removal and storage costs (refer to **Appendix 3** for further detail on the compensation limits). Since 2016, optional additional cover has been available (i.e. increasing these limits to $300,000 and $10,000 respectively), although very few consumers have taken out this option. While the default maximum compensation amount has not increased for over 20 years, inflation has risen significantly over this time as well as construction costs.

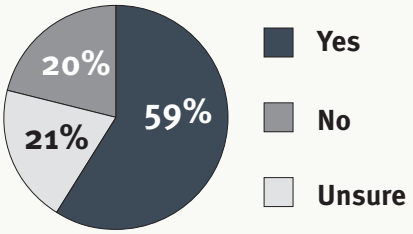
The building sector also has other cost factors. For example, the COVID-19 pandemic has affected global supply chains and there has been a boom in construction activity across Queensland, along with government stimulus, strong interstate migration and low interest rates. These factors, along with others such as natural disaster insurance repair work, are leading to reports of increased costs, labour and material shortages.

The survey results show that approximately half of participants think the current compensation limits are inadequate and do not reflect current building costs if substantial rectification work is required. We also received various suggestions about how to increase the Scheme's flexibility and better support a consumer's ability to choose their level of cover.

Survey participants said that the current maximum compensation limits are:



Support for greater flexibility in Scheme cover options:



Increase the default maximum compensation limit

A number of survey responses said that the compensation should be increased as industry cost prices have gone up. Some also suggested the cover limit for alternative accommodation, removal and storage costs does not reflect current prices.

Claims data shows that 96.2% of claims were fully compensated in 2019-20 and 97.9% in 2020-2021. Where a claim is not fully compensated, the consumer must find extra funds to complete their contracted work. While current data shows almost all claims do not exceed the current compensation limits, it is likely that this will happen more frequently over time, for example due to inflation for building work costs. **Appendix 7** provides further detail on claim compensation rates and **Appendix 8** outlines potential increases to premiums if default maximum compensation limits were increased.

Increasing the compensation limit for successful claims would provide consumers with more funds to rectify or complete residential construction work, which can be costly particularly if it involves structural issues. However, increased premiums are likely to cover these potentially higher claims to ensure the Scheme remains sustainable.

Increase the default maximum compensation limit but allow a consumer to 'opt out' and lower cover

One way to support premium affordability could be to increase the maximum compensation limit but allow consumers to 'opt out' and lower their level of cover with a corresponding lower premium. Consumers would need to be fully aware of the implications of lowering their cover and the implications this may cause for subsequent owners who are also reliant on the cover.

For FY20-21

698

number of finalised claims fully compensated within the $200k limit (97.9%)

15

the number of finalised claims over the $200k compensation limit (1.4%)

$31.3M
total
claims paid

Additional
$3.2M
not paid as over the compensation limit

POTENTIAL BENEFITS	OTHER CONSIDERATIONS
• Higher maximum compensation limits could offer consumers greater peace of mind and protection in the event of an issue • Higher limits could better account for current construction costs • An 'opt-out' option could offer more flexibility for consumers to determine their desired premium amount, level of cover and risk	• More flexibility may result in higher costs to implement and administer • Consumers may not have an appropriate levels of cover • May increase Scheme premiums to cover higher potential cost of claims • May increase cost of residential construction work as the Scheme premium is payable by consumers • Changes depend on whether the 'benchmark' is to ensure 100% of claims are fully compensated • Higher compensation limits may increase contractor liability if recovery action occurs for a paid claim • 'Opt out' option may be less certain for reinsurers as it is difficult to predict – may result in premium increases to address this risk • Subsequent purchasers, including unit purchasers from developers, may not be aware of an 'opt out' decision • Consumer education needed with potential issues if consumers 'opt out' and then discover cover is insufficient

Have your say:

1. Would you be willing to pay higher premiums for a higher maximum compensation limit?
2. Do you believe that every claim under the Scheme should be fully compensated, or should it be capped at a percentage (e.g. 98%) to preserve premium affordability?
3. Would you support either of the two proposals to increase the maximum compensation limit (default increase for all or default increase with ability to opt-out to lower cover)? Why?
4. If you support a new maximum compensation limit, what should it be?
5. Do you think the cover available for accommodation costs should be increased, and if so, to what amount?

Proposal 3.2 Amending the maximum compensation limits for a duplex or multi-unit dwelling

More of these types of housing are being built in Queensland as house and construction prices continue rising and land supply decreases, particularly in urban areas. To make sure the Scheme remains contemporary, we want to know whether the current limits for duplexes and multi-unit dwellings are still reasonable.

For completed duplexes, the maximum compensation limit is $200,000 per unit for defects under the Scheme (or $300,000 if optional additional cover is purchased). However, these limits apply on a proportional basis before they are finished being built, i.e. only $100,000 (or $150,000 with optional cover) for each unit for defects, non-completion, vandalism or theft; and $100,000 (or $150,000 with optional cover) for each unit for fire or storm damage (refer to **Appendix 3** for further detail on the compensation limits).

For units inside a multi-unit dwelling no greater than three storeys, the standard $200,000 compensation limit applies per unit (or $300,000 with optional additional cover) for both pre and post completion circumstances. A maximum compensation limit of up to $1 million may also apply for common property, increasing to $1.3 million if optional additional cover is purchased.

Of the survey participants, 59 out of 309 (19%) think that these maximum compensation limits are adequate and reasonable, compared to 86 (28%) who think they aren't and 164 (53%) who aren't sure. Several responses suggested that higher construction costs mean these limits are inadequate in covering repair costs or other issues for these types of dwellings.

We are looking at ways to make sure the compensation limits for duplexes or multi-unit dwellings are reasonable and offer suitable consumer protection.

One option being considered is increasing the pre-completion duplex compensation limit per unit to match that of post-completion. This would mean that duplexes would be afforded the full compensation amount regardless of whether the work is substantially complete.

Another idea being investigated is whether the existing compensation limits for common property for duplexes and multiple dwellings, and the per unit limits for multiple dwellings, should be increased. However, these proposals will require further careful consideration as they are likely to result in a higher premium to cover potentially higher claims costs.

POTENTIAL BENEFITS	OTHER CONSIDERATIONS
• Unit owners within duplexes may be eligible for greater compensation if issues arise prior to completion of the work • Could offer greater peace of mind and protection for unit buildings, including common property, in the event of an issue, such as non-completion of a contract	• Consumers may not have an appropriate level of cover • May increase costs of residential construction work as the premium is payable by consumers • Will likely increase Scheme premiums to cover higher potential cost of claims

Have your say:

1. Would you be willing to pay higher premiums for a greater level of cover for duplexes and multi-unit dwellings?
2. Should there be more cover for duplexes before they finish being constructed, and should limits still apply on a proportional basis?
3. If you support greater cover, what compensation limits should apply (per unit and for common property)?

Review Theme 4 –
Effective and efficient processes and time limits

Administrative processes should be streamlined and efficient to support consumers, industry and the QBCC.

Proposal 4.1 Refund premiums directly to consumers

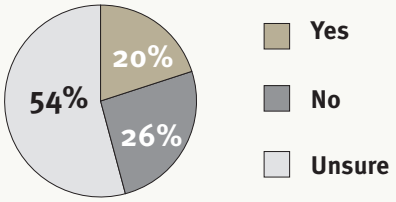
A contractor working for a consumer generally collects the Scheme premium from them and pays it to the QBCC on their behalf. Once the premium is paid, the consumer should receive the Notice of Cover and a link to the online Product Disclosure booklet from the QBCC.

If a contract increases or decreases in value, any premium changes are usually calculated by the contractor, who then arranges for an amended policy and any refunds or additional payment with the consumer. A policy may be cancelled in some circumstances such as if the contract has been cancelled and the deposit refunded. Appropriate evidence must be provided before the QBCC can cancel a policy and refund a premium.

If a policy is cancelled, the premium is usually refunded to either the contractor or a nominated person (which may be the consumer), depending on the circumstances. The QBCC can generally only refund premiums to consumers with the contractor's authority. However, premiums for optional additional cover may be refunded directly to the consumer as they are the party that originally paid the amount.

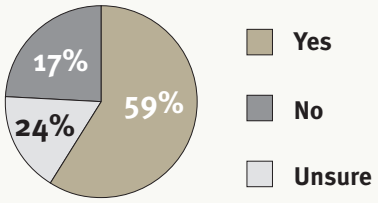
QBCC licensees are usually required to coordinate these administrative processes, as they have regular contact with the QBCC and have access to the secure online portal to provide sensitive information. It is also administratively easier for the QBCC to refund premiums to the contractor.

Survey participants who think that the current premium collection and refund process is working well:



Some Queenslanders have told us that the current refund process is more complicated and longer than the payment process, and contractors can find it difficult to finalise refund paperwork with clients. Others have suggested that consumers should be able to choose how their refunds are processed.

Survey participants who think that premiums should be refunded directly to consumers:



We are investigating whether all premiums should be refunded directly to the consumer by the QBCC. If this were to occur, contractors would no longer be involved in the refund process.

POTENTIAL BENEFITS	OTHER CONSIDERATIONS
• Consumers may see more timely refunds • Less administration for contractors	• Contractors may not provide timely evidence about a contract cancellation or variation if the consumer directly receives a refund • May impact on deposit refunds between contractors and consumers • Consumer education to ensure awareness of rights to a premium refund • Likely cost implications for QBCC systems to alter the present refund process, e.g. obtaining consumer and general insurer bank details • Complexities when insurers pay premiums and carry out residential construction work on behalf of consumers/insurance companies

Have your say:

1. What do you think about premiums being refunded directly to consumers rather than through the licensed contractor?
2. If you agree with this, should this happen as default? Or, could consumers identify their preference when the premium is paid?
3. How would this work with ensuring the correct deposit amount is refunded to the consumer?
4. If consumers could receive any refunds directly, do you think they should pay the premium directly to the QBCC too?

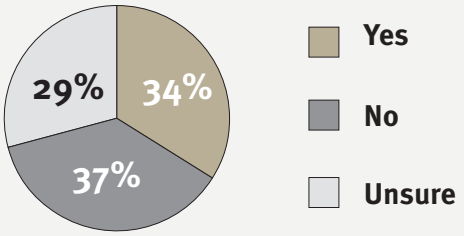
Proposal 4.2 Premiums to be kept separate from the deposit payable by the consumer

Scheme premiums are payable within either 10 business days from signing a contract or when the residential construction work starts (whichever is earlier). The premium must be paid regardless of whether, for example, a deposit has been received.

Generally, the maximum deposit allowed under a domestic building contract is 5% of the total contract price (including labour, materials and GST) if the contract is over $20,000 and 10% of the total contract price if the contract is under $20,000. The cost of paying the Scheme premium generally comes out of this deposit, as it must be paid before work commences.

We have heard from some people that paying the Scheme's premium is an additional and, in the case of consumers, often unexpected cost and suggestions were made to allow more time to pay the premium.

Survey participants who think that premiums should form part of the deposit:



We have also heard suggestions to keep the premium separate from the deposit. Some survey responses explained it can impact on a contractor's ability to start work, as paying the premium to the QBCC can reduce the deposit available to obtain materials and start work. This can happen particularly when labour shortages or shipping delays occur or prices rise for building materials, such as timber, concrete and steel.

Some respondents also suggested to increase the deposit percentage of a contract that contractors can charge consumers, particularly for lower value work between $3,300 and $20,000. This would mean that consumers could pay more before work starts, although the total contract price would remain the same and contractors would have more funds to start the building work.

We are now investigating whether premiums should be kept separate from the deposit payable by the consumer. For example, one option may be to require consumers to pay the premium directly to the QBCC and not involve the contractor. Another option may be to clarify that the contractor is entitled to collect the full deposit amount, in addition to the premium.

POTENTIAL BENEFITS	OTHER CONSIDERATIONS
• Allows contractors to adequately prepare for starting building work • Higher allowable deposits may be more appropriate with rising construction costs	• Consumer access to the QBCC's online portal to pay premiums likely needed • May increase upfront costs for consumers, although total contract cost would not change • More complex to administer and enforce, as a consumer needs to identify insurable value and premium and pay within set timeframes • May result in building work delays if consumers are late in paying the premium • Increased complexity when contract variations result in changed premium

Have your say:

1. Do you think there should be a longer timeframe to pay the premium after either signing a contract or when residential construction work starts? Why or why not? What should it be?
2. Do you think the premium should be paid separately to the deposit amount?
3. If so, do you think consumers should pay the premium directly to the QBCC?
4. Can you identify any issues with consumers paying premiums directly to the QBCC?
5. Would you support amending the allowable deposit amount to permit charging of the premium on top of this amount? Why?

Proposal 4.3 Increase time limits for consumers who notice a defect or who have work left incomplete

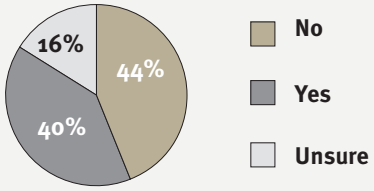
Timeframe to lodge a claim

Claims must be lodged within certain time limits depending on the issue or type of claim being made:

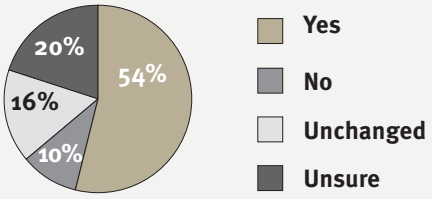
- For non-completion of work claims, the contract must end within two years of the day work starts and the claim must be made within *three months after the date the contract ends*.
- For defective work claims, structural defects are generally covered for six years and six months from the date (whichever is the earlier) of payment of the premium, a contract is entered or work is commenced and the claim must be lodged within *three months of noticing the defect*.
- Non-structural defects are covered if a consumer becomes aware of the defect within six months after the day the work is completed, and the claim must be lodged within *seven months of the completion date*.

These time limits also align with the time available for the QBCC to issue a direction to rectify to contractors for incomplete or defective building work. This is currently six years and six months after the building work was completed or left incomplete. The QBCC will also consider issuing directions to rectify for non-structural work within 12 months of the building work being completed.

Survey participants who believe that current time limits to lodge claims are appropriate:



Survey participants who support longer time limits to lodge a claim:



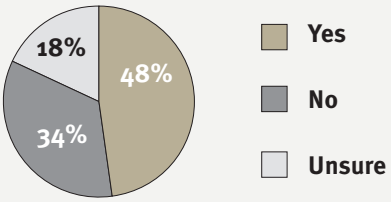
It is important that these time limits are appropriate – the timeframe to lodge a claim should be not too long to minimise risk for the Scheme, but not too short to ensure that consumers are adequately protected.

We have heard from some Queenslanders that the current time limits to lodge claims are too short. For example, we have been told by some that three months to investigate and understand an issue and make a complaint isn't long enough for consumers, particularly when there is high industry demand.

We are now looking at whether the time limits to lodge claims should be extended and what the implications may be (e.g. higher premiums). If any changes are made to these lodgement timeframes, we would also need to look at re-aligning the timeframes around directions to rectify.

Timeframe for cover under the Scheme

Survey participants who think that the time limits for the Scheme's cover should be changed:



We also heard some suggestions about changing the timeframes for the Scheme's cover for both structural and non-structural issues. Several responses noted that defects may not be discovered for some time, landlords may not become aware of issues until a lease ends, or a significant weather event exposes problems.

These suggestions to increase cover timeframes generally range from six months to at least two years for non-structural issues, and from six years, six months to at least 10 years for structural issues. Some also suggested the cover for unfinished work should be increased from two years to three years, particularly when disputes and materials shortages result in delays.

We are now investigating whether the timeframes for cover should be extended. Consumers would benefit from longer timeframes, however, premiums would also likely need to rise to account for a potential increase in claims.

POTENTIAL BENEFITS	OTHER CONSIDERATIONS
• May better account for complex dispute circumstances which take an extended time to resolve • Offers greater consumer protection as more circumstances will be eligible for a claim	• Risk implications which may increase Scheme costs and premiums • May need to realign other related timeframes such as for direction to rectify processes • Increases liability for contractors if recovery action occurs for a paid claim

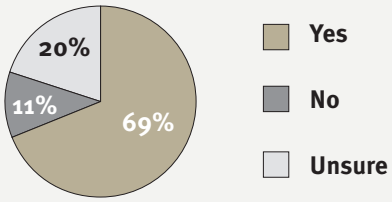
Have your say:

1. What do you think about extending the time limit for *claims* to be lodged for defective or incomplete work?
2. If you think it should be increased, what do you think it should be changed to for non-completion claims, and structural and non-structural defects claims? Why?
3. Do you think that the timeframes for the Scheme's *cover* should also be changed?
4. If so, can you please tell us what these timeframes could be for non-completed work, structural and non-structural defects? Why?

Proposal 4.4 Introduce a 'stop the clock' or discretionary mechanism for Scheme claim timeframes

The Scheme has strict and clear time limits to ensure certainty and consistency in decision-making and minimise risk to the Scheme. Knowing the timeframe in which claims can be made assists in setting premiums that maintain the sustainability of the Scheme.

Survey participants who support pausing claim timeframes or decisions where a dispute resolution process is occurring:



Some survey responses suggested there can be genuine circumstances why lodgement timeframes have not been met, but the QBCC has no flexibility to consider these individual cases. For example, where a consumer has not noticed a defect because they have been ill and not moved into a new build or where a contractor has committed to rectifying defects but the process was delayed beyond the claim window for the Scheme.

If a consumer complains to the QBCC about incomplete or defective work, the QBCC process is that this constitutes a claim under the Scheme. Normally, a dispute resolution process will occur first, and a direction to rectify or remedy work may be issued to the contractor. If these processes are unsuccessful, the QBCC may progress a claim under the Scheme.

To help consumers where the QBCC has not become involved and the consumer may be out of time to lodge a claim, we are looking at whether the QBCC could have limited discretion to approve extensions of claim lodgement timeframes in restricted circumstances. For example, where the consumer can produce satisfactory evidence on why a time limit was missed, the QBCC may apply discretion in a prescribed set of circumstances and for a short duration of time e.g. three month extension.

To make sure this process is fair for both the consumer and contractor, we are also looking at whether this process could be 'reviewable', which means able to be independently reviewed through an internal QBCC process or through QCAT.

POTENTIAL BENEFITS	OTHER CONSIDERATIONS
• Supports consumers in extenuating circumstances • Encourages resolution between consumers and contractors without defaulting to a complaint to the QBCC	• May increase liability on the Scheme by not providing certainty on the claim timeframe, which may increase rectification and Scheme costs and premiums • Process should be transparent, fair and equitable • Risk of inconsistency in application if discretion is introduced to a decision maker

Have your say:

1. What do you think about allowing claims to be lodged under the Scheme outside prescribed timeframes in extenuating circumstances?
2. What kind of extenuating circumstances could be acceptable?
3. If you agree with this, do you think that a QBCC policy should be developed to make sure decisions are fair and consistent? Should this also be legislated?
4. Should these decisions be reviewable in QCAT?

Proposal 4.5 Prescribe the QBCC's claim recovery process in legislation

The QBCC can continue a claim process or recovery action against a contractor, even if the matter is under review, to make sure work is completed or rectified in a timely way. This allows consumers to enjoy their home sooner. It also reduces the risk on the Scheme as the longer incomplete or defective work is left, the more it can cost more to fix, particularly if, for example, there is a fire, storm or vandalism which affects the building

The QBCC's Rectification of Building Work Policy and Rectification of Building Work Regulatory Guide play a critical role in a QBCC decision to issue a direction to rectify and recover a paid claim from a responsible contractor, such as in circumstances of subsidence of a building. The current Policy has been in place since 2014 and specifies the circumstances in which the QBCC may find it unfair or unreasonable to issue a direction to a building contractor. In the case of subsidence, this may include where site classification (e.g. soil testing) has occurred and an engineered design has been prepared.

A review of some QBCC decisions can be sought through either an 'internal review' process, which involves an independent QBCC officer reviewing the original decision, or 'external review', which involves QCAT reviewing the QBCC decision. Review is available for certain decisions, including those about a direction to rectify or remedy building work or the scope of work to be undertaken under a Scheme claim. For example, a contractor may dispute the fact that work is defective and seek a review of the decision.

Standard QBCC process is to progress an approved claim under the Scheme despite a review, but not seek recovery of claimed amounts while a review is occurring. This aims to support both consumer protection and fairness for a contractor. If a contractor is successful in the review, the QBCC will not try to recover the amount from the contractor, despite a claim having progressed under the Scheme.

Also, QCAT is not currently able to consider 'staying' or pausing a decision while a dispute is being heard. This ability to 'stop the clock' was removed in 2014 as there were problems with consumers being left to wait for months, or even years, if the QBCC's decisions about a claim were paused in QCAT while the dispute was heard.

One of the areas of the survey that we have received feedback on is whether the claim recovery process is equitable for contractors who are seeking a review of a decision, such as work they don't consider is defective or not part of the original contract. While the present process may offer a good balance between providing review rights for contractors and promptly completing work for consumers, one area of improvement may be to specify this process more clearly in legislation to provide added comfort to contractors.

POTENTIAL BENEFITS	OTHER CONSIDERATIONS
• Contractors will be clearer on when recovery action may occur against them • Claim recovery process will be more transparent • Consumers will continue to have incomplete and defective work claims progressed promptly	• Legislative clarification may not be needed as already aligns with QBCC practice • Moving from board policies to legislation aligns with the current approach

Have your say:

1. What do you think about specifying the QBCC claim recovery process in legislation?
2. Is it necessary to specify the process when it already aligns with QBCC practice?
3. Can you see any other issues with progressing claims while a review is occurring?

Review Theme 5 – Empowered consumers

Consumers should be properly informed before they sign a contract to build, renovate or repair a home.

Proposal 5.1 Provide a Product Disclosure Statement (PDS) to every consumer when they pay the Scheme premium

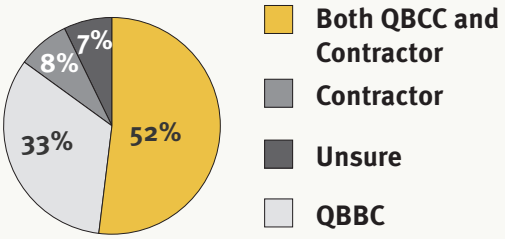
One of the ways the QBCC supports Queensland consumers is by providing information and publishing the Scheme's PDS on their website. The QBCC also provides this information to consumers when the premium is paid to ensure they are aware of the Scheme's cover, time limits and other relevant information.

The QBCC relies on accurate consumer contact details being provided by the contractor that pays the premium on behalf of the consumer. Sometimes the contractor provides, or is provided, inaccurate contact details, and the QBCC is unable to make sure the consumer has received a copy of the PDS.

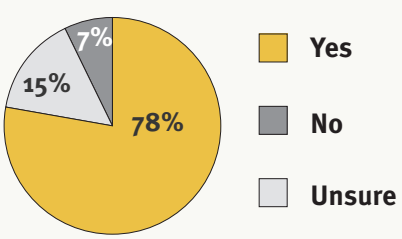
The survey results indicate that many consumers are not aware of their rights and obligations under the Scheme. There is a lot of information to take on in the early stages of building work and it is being investigated who is best placed, and should have responsibility, to provide information on the Scheme and insurance options to consumers.

To address these issues, one proposal is for both the QBCC and building contractor to provide a PDS to every consumer when they pay the Scheme premium. Other survey suggestions include consumers directly taking out insurance with the QBCC, or asking the consumer to digitally sign the bottom of the PDS or a separate page in a standard building contract to confirm they have received and read it. This could help make sure that the consumer is aware of the Scheme and the insurance options they may wish to take up, such as optional additional cover.

Most survey participants believed that both the QBCC and contractor should be responsible for ensuring the consumer has the PDS:



Survey participants who believe that contractors should be held accountable for providing accurate contact details to the QBCC:



We are also looking at other ways the QBCC could make it easier for consumers to understand information about the Scheme. We have heard from some that there is a lot of paperwork to understand when a claim is being made and we are interested in hearing your ideas about how the QBCC can make this easier, such as an online course or webinars for consumers, more easily accessible information about what building work is covered by the Scheme, translating the PDS into other languages or publishing videos explaining the Scheme and what to do if, for example, you notice a defect.

POTENTIAL BENEFITS	OTHER CONSIDERATIONS
• Supports increased consumer awareness and information • Less likelihood of consumers realising at a late stage that they are not covered or have missed a timeframe • Quicker claims resolution if consumers are more informed about processes, what is covered and for how long • Broaden awareness of existing QBCC resources, e.g. online searchable table of building work covered by the scheme	• Contractors would need to provide accurate contact details to the QBCC • Consumers may sign a declaration without understanding the PDS • Administrative implications for QBCC

Have your say:

1. Do you agree that both the QBCC and contractors should provide the PDS to every consumer on payment of the premium? Should a PDS be provided electronically or in hard copy?
2. Would you support a contractor being required to provide accurate contact details of a consumer to the QBCC when taking out a Scheme policy?
3. Are there other ways we can improve with providing information to consumers about the Scheme?
4. Should we also look at ways to help industry and consumers understand the Scheme better? Can you give any other examples?

Proposal 5.2 Review ways of publishing information about a contractor's history of building work and any disciplinary action

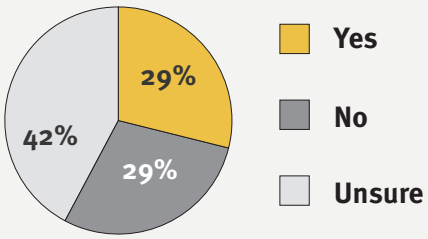
The QBCC maintains an online register that provides information about contractor licensees, such as active licences, licence class history and records of insured residential construction work, disciplinary action, directions to rectify and claims approved under the Scheme.

This is important so consumers can find out key information about whether someone holds a current licence, their history, disciplinary action and approved Scheme claims before they sign a contract. Most of this information remains on the licensee register for three, five or 10 years depending on the type of information. In relation to approved Scheme claims, the licensee register must include the number and cost of claims approved.

We have heard that more than one third of survey participants don't believe the licensee register provides enough information about a licensee. 121 out of 309 (39%) participants believe the register doesn't provide enough information, compared to 96 (31%) that think it does and 92 (30%) who aren't sure.

We are looking at ways to make sure consumers can easily access relevant information that would help them be informed. Some suggestions we are investigating include keeping information on the register for a longer period of time or having a separate register with more information about approved Scheme claims, for example the type of building work.

Survey participants who believe that the current period for a licensee's history to remain on the register is sufficient:



POTENTIAL BENEFITS	OTHER CONSIDERATIONS
• Supports increased consumer awareness and information • Enhances consumers' ability to be properly informed about a licensee's work history before entering into a contract • Supports Scheme and licensee history transparency • Promotes accountability in a contractors work	• Potential privacy and equity implications for QBCC contractors • Need to ensure a robust, consistent and transparent process for recording information on the register

Have your say:

1. Is there a need for information such as approved Scheme claims or disciplinary action against a licensee to remain on the licensee register for longer than the current five-year period? Why or why not? What duration do you recommend?
2. Is there any other information about a licensee that could be on the register that is not already available?
3. Are there other ways we can improve publishing information about a contractor's history of building work and any disciplinary action?
4. What is the best way to provide information about the Scheme to consumers?

Review Theme 6 – A modern and responsive Scheme

Consumer protection should reflect changes in the style of modern building designs and living.

The Scheme was established more than 40 years ago when homes usually had much simpler designs. Homes of this era often had three small bedrooms (without built-in wardrobes), a single bathroom, toilet and laundry. These homes were generally no higher than three storeys.

Since then, housing design and construction has changed significantly. Queensland is also benefitting from strong population growth and interstate migration, which is putting increasing demand on land availability and residential construction with demand for multi-unit dwellings continuing to rise.

For example, the number of occupied apartments across Australia increased by 78% between 1991 and 2016. In 1996, less than 18% of occupied apartments were four or more storeys high, with this more than doubling (38%) by 2016. 17% of these apartments were in Queensland, with half of these in Brisbane. Though the shift towards apartment living has increased, the Scheme has not changed to reflect this style of living.

While there is minimal information on defects in Queensland apartment buildings, previous research by the UNSW City Futures Research Centre found that 72-85% of body corporates in NSW identified defects in their buildings. Other research by Griffith and Deakin Universities indicated 85% of 212 multi-owned buildings analysed had at least one defect, with a higher rate in NSW (97% of buildings analysed) than Queensland (71%) and Victoria (74%). Recent Strata Community Association (SCA) NSW research, in partnership with the Office of the NSW Building Commissioner, identified that 39% of NSW body corporates that responded to a survey experienced serious defects in the common property costing an estimated average of $332,000 to fix. The SCA have also assisted the Australian Apartment Advocacy group on a recent survey that showed just under half of the 329 Queensland respondents have experienced defects in their apartment.[2]

Incomplete or defective work on apartment buildings can be addressed in several ways, such as working with the developer or building contractor prior or post-completion, who may also have taken out private insurance. The final payment under a building contract may not be paid until identified defects are addressed.

The body corporate and apartment owners can also act against a builder to enforce the construction contract, although they may not have copies of relevant contract documents or understand the rights and limitation periods. In limited circumstances, the Office of the Commissioner for Body Corporate and Community Management may be able to provide assistance with a dispute. For example, where a body corporate refuses to take action against a builder. Parties can seek compensation or rectification by using strata or contents insurance or taking legal action against the developer or builder. This can be costly with no guarantee of winning and forcing remediation work, particularly if a builder or developer has wound up the company used to construct a building. Complexities also exist with shared liability between a developer, builder and others such as a certifier, architect or engineer.

The national 2018 Building Confidence Report (BCR), commissioned by the then Building Ministers' Forum, highlighted how important insurances are to support accountability in the building industry. However, most jurisdictions do not mandate home warranty insurance for high rise buildings.

Historically, providing home warranty insurance for high-rise apartment buildings has been challenging. Both Victoria and NSW previously mandated privately underwritten insurance cover for high-rise residential buildings but it is understood that cover was ceased following claim experiences well in excess of what was anticipated.

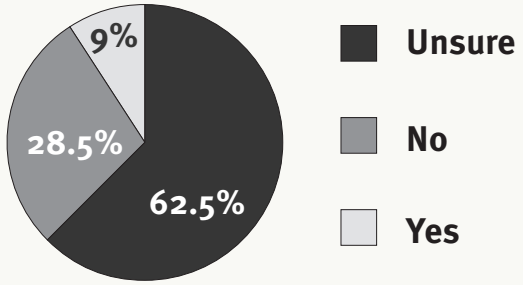
NSW has recently seen serious defects in high rise residential buildings like the Mascot and Opal Towers, although its regulatory environment is somewhat different from Queensland. In 2018, NSW introduced a bond scheme used for defects in apartment buildings if they aren't fixed by the developer up to two years after the building work has finished. From 10 June 2020, a statutory duty of care also applies to new buildings in NSW, and existing buildings where an economic loss first became apparent in the previous 10 years. This duty requires persons carrying out construction work related to a building to exercise reasonable care to avoid economic loss caused by defects.

[2] https://www.aaadvocacy.net.au/apartmentlivingresearchresults

Proposal 6.1 Provide increased consumer protection for residential buildings over three storeys, which are not currently covered by the Scheme

Preliminary survey feedback suggests that more than half of participants are unsure if there is enough consumer protection for apartments. We are exploring whether there are ways to introduce cost-effective protection for all consumers, whether their home is a single storey home, duplex or apartment in a high-rise building.

Survey participants who were unsure if there is enough consumer protection for high-rise residential buildings:



Providing cover for apartment buildings greater than three storeys could be a very significant reform to help consumers when defective building work occurs. Any remediation work could potentially be large and costly, especially if the issues are structural or involve a number of apartments, so it is important that any proposal should be financially sustainable but still affordable.

Providing cover if an apartment building doesn't get completed (e.g. if the developer goes bankrupt) is not being contemplated at this stage as it could be a very costly and financially unsustainable option. The Queensland Government's statutory review of the role of developers in the building and construction industry is also investigating the impact developers have in the industry. It is intended that this work will also consider these potential issues which may also reduce risks for consumers, improve industry practices and reduce insurance risks.

Extend the Scheme

One option under investigation is whether to expand the Scheme to cover apartment buildings greater than three storeys. This would likely need to be underwritten by a separate insurance fund to protect the existing Scheme from unmanageable risk. Unless substantial government investment occurs, it is likely that extremely high premiums would be required in the short term to build up enough capital to cover any large claims in the first few years. We have heard preliminary feedback that 162 out of 309 (52%) survey participants would be willing to pay a higher insurance premium for a high-rise building (compared to a house), compared to 147 (48%) who disagreed.

To mitigate the risk of large claims, the QBCC would likely need investigation and oversight powers to regulate the developer sector. Proactively managing the financial and quality control conduct of the large developers and building contractors undertaking high-rise residential construction work is one way to reduce the risk to the Scheme. These additional functions would need more investment in the QBCC but may lead to a greater likelihood of a sustainable Scheme.

Other potential options

Other options are also being considered to improve coverage for consumers of high-rise residential buildings, such as a bond scheme, decennial insurance held by a suitable party, a building levy or mandating comprehensive professional indemnity insurance (PII).

A bond scheme, similar to NSW for example, could require developers to provide a bond representing a percentage of the total build cost to a specified authority, which is either used to rectify work or is refunded after a specified time if no issues become apparent. One benefit is responsibility to maintain quality and ensure defect-free work is on the developer rather than a regulator. However, this option would need to assess whether funding a large bond would be sustainable for developers. It would also need to consider the scope of intended cover and whether the bond amount would be used to cover minor initial defects or more substantial defects that may not surface for several years.

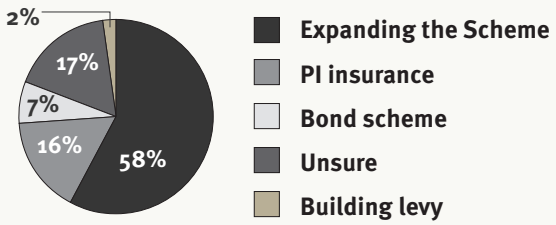
Decennial liability insurance (DLI), or inherent defect insurance, is another option being investigated. It is understood other Australian jurisdictions may also consider this approach to protect high-rise residential buildings. For example, in October 2021, NSW announced a Ministerial Advisory Panel to advise on introducing DLI into the Australian market. This is insurance generally taken out by a contractor or developer to cover costs associated with building collapse or latent structural defects that impact the integrity of the building. Cover is generally for 10 years post-completion with the developer or contractor responsible for addressing defects. This type of insurance operates in several countries, including Canada, France, Belgium, Spain, Sweden, United Arab Emirates and Qatar.

Comprehensive PII for key building industry professionals involved in high-rise residential buildings could also provide a way for consumers to seek recovery for defects, e.g. a negligence claim through the courts. There are already requirements for some professionals to hold PII, such as certifiers, architects and building designers. One factor that will need further investigation here, is whether PII is appropriate as a consumer protection mechanism,

available and reasonably priced, noting that requiring PII across all licensees was a BCR recommendation.

Another option is mandating a building levy payable by developers for all high-rise buildings. Clear details and a formula would be required to ensure the levy is sufficient to cover possible issues for the building. Like some of the other proposals, a clear benchmark on what is intended to be covered by the levy would be necessary. For example, should the levy only apply to new construction or also renovation work, which can also introduce considerable risk.

Survey participants thoughts on what is the best way to provide consumer protections for residential buildings over three storeys:



POTENTIAL BENEFITS	OTHER CONSIDERATIONS
• Greater consumer protection • Greater investment and confidence in high-rise residential developments may occur if insurance is offered • Industry more accountable for maintaining quality control of work	• May increase construction costs, as additional premiums or bonds etc may be passed onto consumers • Potential cost implications for industry and government to implement • May not offer comprehensive cover, depending on the option • May need additional regulator funding to administer and ensure sufficient industry oversight

Have your say:

1. Is there a need for increased consumer protection for apartment buildings exceeding three storeys? Why or why not?
2. Should any increased consumer protection cover only structural issues, or should all residential construction work including subsequent renovations be covered?
3. Do you think expanded Scheme cover is an effective option? Why/Why not?
4. Would you be willing to pay a higher insurance premium (compared to a house) to receive insurance cover for a high-rise apartment?
5. Alternatively, what do you think about:
   - » a government bond scheme?
   - » decennial liability insurance?
   - » mandating comprehensive PII for key industry participants?
   - » a mandatory building levy payable by developers for high-rise residential buildings?
6. Should we also be looking at other ways to make sure that risk is appropriately managed, such as licensing additional parties involved in work on residential high-rise buildings, such as developers?
7. Mixed-use buildings are increasingly being constructed (e.g. buildings with both residential and commercial offerings). Do you think consumer protection options should cover these buildings? If so, should protection only be provided for residential premises, or the whole building (including commercial lots)? What about structural issues that affect the whole building? Are there other issues that should be considered?

End of Review Proposals

Contact for further information

For more information on the review, including details on how to make a submission, please visit the consultation page at www.qld.gov.au/HomeWarrantyScheme. A contact form is also available to ask questions about the review.

Alternatively, you can call 13 QGOV (13 74 68) for general enquiries.

More information on the Scheme can be found at the QBCC's website at www.qbcc.qld.gov.au/home-warranty-insurance/overview.

The QBCC can also be contacted on 13 93 33.

Glossary of terms

Actuarially sustainable principles – these are risk management principles and account for variables such as occurrence, timing and severity of claim events to ensure the Scheme can provide consumer protection in an ongoing and sustainable manner.

Associated insurable work – this is additional protected work that may be carried out under a contract for primary insurable work, if it is on the site of the primary work and performed for residential purposes.

Consumer – this is the person who contracts with a licensed contractor to carry out residential construction work (i.e. normally the homeowner). It includes a person who purchases the work, once it is completed, if the work is primary insurable work.

Defects – these are issues in relation to residential construction work. Under the Scheme, there are two types of defects – structural and non-structural defects. Structural defects include movement in the footings of a building or non-compliance with certain parts of the building code, or any defect that makes the residence unsafe or uninhabitable. Other examples include a leaking pool or water penetration into a residence (e.g. from a leaking shower or leaking roof). Non-structural defects are cosmetic in nature or those not categorised as a structural defect.

Incomplete in relation to residential construction work – is work that has not yet met practical completion. However, this does not include work that doesn't comply with the contract because of cosmetic issues (e.g. a different shade of paint) or work that is defective.

Insurable value in relation to residential construction work – is the reasonable cost to the insurer of having the work carried out by a licensed contractor on the basis that all building and other materials are supplied by the contractor.

Non-completion claim – is a claim that may be made when a licensed contractor fails to complete residential construction work they were contracted to carry out.

Optional additional cover – this is voluntary additional cover above the default limits that may be purchased by consumers through the payment of an additional premium.

Practical completion – this is when residential construction work has been finished and is reasonably suitable to live in, i.e. some minor defects and omissions are acceptable. The date for practical completion, or how to determine the date, is usually outlined in the contract.

Primary insurable work – this is protected building work under a contract with a licensed contractor if the insurable value is more than $3,300 and includes construction of a residence, work in, on or around a residence, and swimming pool construction.

Residence – this includes detached dwellings, townhouses and buildings, of not more than 3 storeys, containing residential units.

Residential construction work – this is broadly the building work protected under the Scheme and includes primary insurable work and associated insurable work.

Appendix 1 – What are other jurisdictions doing?

Australian jurisdictions

All Australian jurisdictions, except Tasmania, have mandatory home warranty insurance for most residential building work for dwellings up to three storeys. New South Wales (NSW) and Victoria previously offered insurance for high-rise apartment buildings from the mid-to-late 1990s until 2002-2003. It is understood this cover was removed as a result of claims experience being well in excess of that anticipated. In 2008, the mandatory scheme in Tasmania was abolished. An overview summary of each scheme and its key features is included in **Table 1** below.

Queensland is the only jurisdiction to offer a first resort scheme for home warranty insurance. It is understood that all other jurisdictions currently offer last resort schemes.

First resort schemes allow owners to report claims directly to an insurer or statutory body, rather than taking civil action, if they are dissatisfied with a contractor's response to issues raised regarding residential construction work. Where the owner has a valid issue, that body then deals with it, including assessment and rectification work. If the body is unable to have the original contractor rectify the issue, the body will pay for the work to be completed and seek monies from them. First resort schemes may greatly reduce the burden on the justice system and lead to faster and cheaper resolution of disputes.

In NSW, a Strata Building Bond and Inspections Scheme (SBBIS) has been in place since 2018. This Scheme requires developers of new apartment buildings four storeys or higher to pay a building bond to NSW Fair Trading equal to 2% of the total price paid or payable of all contracts for the building. This bond is used to fix defects identified within the first two years, and is returned if not used.

Last resort schemes operate only when other avenues of rectification for incomplete or defective building work are exhausted, such as when a builder has become insolvent, disappeared or passed away. Otherwise, a consumer will need to seek rectification under implied or statutory warranties, move through dispute resolution schemes or take court action. Implied warranties generally cover matters such as suitability of materials and standard of work.

Home warranty insurance periods generally start on completion of residential building works. However, if this cannot be ascertained or the work is not completed, warranty periods may start from the date of building approval or contract termination. NSW also offers an extension period of six months if issues are identified during the last six months of the insurance period.

Table 1 - Overview of warranty schemes in Australia

Jurisdiction	Provider	Contract threshold value	Maximum compensation per dwelling	Maximum time period for cover*
QLD	Govt insurer (QBCC)	$3,300	$200,000; or $300,000 with optional additional cover	6 years, 6 months
NSW	Govt insurer (icare HBCF)	$20,000	$340,000	6 years
	Govt – Strata Building Bond and Inspections Scheme (SBBIS)	N/A	2% of total contracted price for the building	2 years
VIC	Govt insurer (VMIA / licensed distributors)	$16,000	$300,000 (escalating excess applies after 12 months)	6 years
SA	Govt insurer (SAI)	$12,000	$150,000 ($400 excess)	5 years
TAS	N/A – consumers can apply to court if dispute resolution fails	$20,000	N/A	6 years for breach of statutory warranty
WA	Private insurers approved by the Minister	$20,000	$100,000 ($500 excess)	6 years
ACT	Hybrid (ACT Govt mandates either Master Builders (ACT) fidelity fund or private insurer)	$12,000	$85,000 ($500 excess)	6 years
NT	NT Govt mandates fidelity fund provider – Master Builders (NT) sole provider	$12,000	$200,000	6 years

*Different time periods may apply for structural defects, non-structural or general defects or incomplete works in each jurisdiction. For example, the Northern Territory scheme provides a 12-month non-structural guarantee (e.g. taps, cupboards, doors) and a six-year structural guarantee (e.g. roof and wall structures, concrete slabs). Victoria provides cover for non-structural defects for two years and structural defects for six years.

In Queensland, the timeframes are generally:

Structural defects: generally, six years and six months from the date of payment of the premium, the date the contract was entered into or the date work commenced (whichever is earlier) and the claim must be lodged within three months of noticing the defect.

Non-structural defects: six months after the completion of works and the claim must be lodged within seven months of the completion date; and

Non-completion: two years from the date work starts and the claim must be lodged within three months after the date the contract ends.

Other investigations

In October 2021, NSW announced a Ministerial Advisory Panel to investigate decennial liability insurance to offer defective work cover for high-rise apartment buildings. The Panel will be chaired by a past Insurance Council of Australia President and comprised of representatives from the construction, finance and insurance sectors. It is reported this scheme may operate alongside other NSW reforms including a building assurance solution and an industry rating tool. These tools will be designed to more accurately price the risk of buildings and contractors to entice insurers into the market.

International examples

United Kingdom

In the United Kingdom, new home warranties are not legally required, although most lenders will not provide a mortgage unless some form of warranty is in place. There are several warranty providers, including NHBC, LABC Warranty, Premier Guarantee and Checkmate.

These companies have agreed to the Consumer Code for Home Builders developed by the building industry, which aims to ensure that new home buyers are informed before they enter into a contract and includes a dispute resolution service. The policies offered by these companies are generally two years cover for defects, eight years cover for structural issues, contaminated land cover and deposit protection if the builder becomes insolvent.

The New Homes Quality Board was recently established to oversee the quality and customer service provided by developers to buyers, from sales and marketing of new homes until the end of the first two years of ownership. Work is currently underway to develop a New Homes Quality Code, which will be an industry code of practice. A New Homes Ombudsman Service (NHOS) is also being established to adjudicate against the new code. This Ombudsman was the main recommendation made by an All-Party Parliamentary Group in its report on the quality and redress issues experienced by customers of new build homes. These new arrangements will be paid for by the house building industry and access to the NHOS will be free to consumers.

New Zealand

There are implied warranties operating in New Zealand for building work. Contractors must repair any defective work or remedy any defective product within 12 months of building work being completed.

After the 12-month defect period ends, a consumers' rights and obligations depends on the contract with the building practitioner. There is generally a responsibility to remedy defective work for up to 10 years, however if there is a dispute, it is up to the property owner to prove the work is defective.

Canada

In Quebec, a new home guarantee called Guarantee Plan for New Residential Buildings provides protection and was made mandatory in 1999. Residential buildings that are covered include detached, semi-detached and row-type single-family dwellings, as well as multi-family buildings (duplex, triplex, quaduplex or quintuplex). Prefabricated homes are also covered in certain circumstances.

Consumers are covered generally for up to one year after the new home is constructed for poor workmanship and up to three years for latent defects. Faulty design, construction or structural issues may be covered up to five years. Maximum coverage for a single-family home is $290,000, with different compensation limits for different types of multi-unit buildings.

In Ontario, home warranty is mandatory and administered by a private company called Tarion Warranty Corporation financed through fees paid by its members (residential building contractors). There is coverage for one year for workmanship and defect issues, two years for certain defects including water penetration and health and safety issues, and seven years for major structural defects. Maximum compensation is $300,000 with common property coverage for multi-unit dwellings up to a maximum of $3.5 million depending on the number of units.

In British Columbia (BC), the mandatory new home guarantee is delivered by private insurance companies that have been approved by the BC Financial Services Authority and meet certain legislative requirements. Construction defects relating to general work and certain elements such as electricity and plumbing are generally covered for two years, with some limits applying including common property for multi-unit buildings. There is five years coverage for the building envelope, including water penetration. Structural defects are covered for ten years. Some limits apply.

Maximum coverage is $200,000, or the purchase price if it is lower. For a multi-unit residential building, coverage is $100,000 or the purchase price if lower, and common areas are covered for $100,00 per unit up to a total of $2.5 million.

United States

In America, there are no legal requirements for a new home or renovation to have home warranty insurance in place. Industry bodies have established the National Home Service Contract Association and developed a Code of Ethics as a form of self-regulation.

Usually, a builder's warranty may be offered by the builder which covers items that are typically a permanent part of a new home or renovation, such as concrete floors, plumbing or electrical work. Coverage for workmanship and materials on most components usually lasts for 12 months, with coverage for heating, ventilation, air conditioning, plumbing and electrical systems usually two years. Some builders give coverage for up to 10 years for major structural defects.

Builders may also buy warranties from third-party independent companies. Some government agencies such as the Federal Housing Authority (FHA) and the Department of Veterans' Affairs (DVA) require builders to buy third-party warranties as a way to protect buyers of newly built homes with FHA or DVA loans.

Appendix 2 –
Current coverage under the Scheme

The Scheme covers consumers for loss suffered if a contractor (or individual where fraud or certain representations are made) fails to complete a contract for residential work or fails to rectify defective work, although coverage is subject to certain limitations. There is also assistance in specific circumstances for loss associated with incomplete work which has been damaged by fire or storm, vandalism or theft.

Coverage is only available for certain residential construction work valued at more than $3,300.

The Scheme's Product Disclosure booklet[3] provides information on what is covered under the Scheme, time limits and other requirements. This is available on the QBCC's website at: www.qbcc.gov.au/home-warranty-insurance/home-warranty-insurance-explained. Below is a summary on what is generally covered.

Claims cover for work:

- if work has not yet started, the deposit paid to the licensed contractor
- if work has started:
  - » the reasonable cost to complete the work
  - » damage by fire, storm, vandalism or theft, from the work being incomplete
  - » the reasonable cost to rectify defective work, including consequential damage to other associated work.

Types of residential construction work covered:

- construction of a residence that is a single detached dwelling or duplex
- construction of a multi-unit residential building up to 3 storeys (excluding one storey if it is mainly a car park)
- anything attached to these buildings which:
  - » needs building or plumbing approval
  - » is used for water supply, sewerage, drainage or stormwater
  - » is a verandah or deck
- stairs or a ramp providing access to these buildings
- work to support these buildings (e.g. replacing stumps)
- erection, construction or installation of residential swimming pools
- work associated with work for a residence or related building, including fencing, landscaping, driveways.

The Scheme does not cover:

- residences that may be a boat, caravan, car, tent, trailer, train or temporary buildings such as a demountable
- building work for other buildings such as:
  - » backpacker's accommodation, boarding house, caravan park, guest house, hostel, motel or hotel
  - » correctional centres or prisons
  - » educational institutions
  - » group accommodation for persons living with a physical or mental disability, hospitals, nursing homes or other health care buildings
  - » commercial or industrial premises
- building work carried out by a contractor who was engaged by an owner-builder
- off-site prefabrication of a building, including loading, unloading or transporting the building
- defective products
- electrical appliances plugged into a socket outlet
- work that is not building work such as:
  - » scaffolding, curtains, blinds, internal shutters, carpets, floating floors, vinyl, earthmoving and excavating, laying asphalt or bitumen, insulation, insect screens
  - » cubbyhouses, doghouses, shade sails, phone or data cables, water meters, water tanks not used for primary water supply
  - » slab construction which does not include construction of a building on top of it
- where a consumer has unreasonably refused to allow the licensed contractor who carried out the defective work to come back and fix it or where the licensed contractor still has an obligation to fix the work under the contract
- in relation to a pool, non-structural defects, surfacing outside the coping of the pool, all work associated with the pool (e.g. paving, slides and diving boards) and steps that are not fixed
- in relation to a shed, if the construction of the slab is performed under a separate contract, damage to the shed caused by the slab.

[3] https://www.qbcc.qld.gov.au/sites/default/files/QBCC_QHWS_-_Product_Disclosure_A4_LR_final.pdf

Appendix 3 –
Current maximum compensation under the Scheme

The maximum amounts payable under the Scheme are explained in general terms below. Please refer to information on the QBCC's website and Queensland Legislation for more detailed guidance.

Single detached dwelling/home prior to practical completion:

	Standard cover	Optional additional cover
Non-completion, defects, vandalism and theft	$200,000	$300,000
Fire or storm	$200,000	$300,000

Single detached dwelling/home after practical completion:

	Standard cover	Optional additional cover
Defects	$200,000	$300,000

Duplex prior to practical completion for each unit:

	Standard cover	Optional additional cover
Non-completion, defects, vandalism and theft	$100,000	$150,000
Fire or storm	$100,000	$150,000

Duplex after practical completion for each unit:

	Standard cover	Optional additional cover
Defects	$200,000	$300,000

Multiple unit dwelling prior to practical completion for each unit:

	Standard cover	Optional additional cover
Non-completion, defects, vandalism and theft	$200,000	$300,000
Fire or storm	$200,000	$300,000

Multiple unit dwelling after practical completion for each unit:

	Standard cover	Optional additional cover
Defects	$200,000	$300,000

Common property limits for a duplex or multiple dwelling:

	Standard cover	Optional additional cover
Common property (where notional pricing applies)	$200,000 per unit, up to a $1 million cap	$300,000 per unit, up to a $1.3 million cap

Note: In all cases above (excluding common property), the standard cover limit includes alternative accommodation and storage costs up to $5,000; and the optional additional cover limit includes alternative accommodation and storage costs up to $10,000.

Total maximum liability for all claims:

	Standard cover	Optional additional cover
If work not started	$200,000	$300,000
If work started	$200,000 - $600,000 depending on the circumstances and type of building work	$300,000 - $900,000 depending on the circumstances and type of building work

Appendix 4 – General process flow of the Scheme

Typical project – work completed and no defects

- Contract signed
- Premium collected from the consumer by the contractor and paid to the QBCC
- Notice of Cover (and PDS) issued to the consumer
- Work commences
- Work reaches completion
- No defects arise, or:
  - » any defects (including non-structural) that arise during the 1 year defects liability period are rectified by the contractor
  - » any structural defects that arise for six and a half* years post contract date are rectified by the contractor.

**Note: there is a legislative mechanism to extend this time period by a further six months (i.e. to seven years) where it takes more than six months for the works to reach completion.*

Non-completion of project – the original contractor defaults on its obligation to complete the contracted works

- Contract signed
- Premium collected from the consumer by the contractor and paid to the QBCC
- Notice of Cover (and PDS) issued to consumer
- Work commences
- Contractor fails to complete the contracted works in circumstances where the consumer is entitled to a claim under the Scheme:
  - » contract validly terminated by the consumer due to the default of the contractor
  - » contractor insolvent and licence cancelled
- Consumer makes a claim under the Scheme
- Tenders are called for the completion of the works (and rectification of any defects)
- Claim approved based on successful tender (usually the lowest) and contract entered into between consumer and successful tenderer: the consumer pays the money they retain from the original contract and the Scheme pays the rest
- Scheme will also pay for alternate accommodation and storage costs if it takes longer to complete than original contract
- Work completed.

Note: where work has not commenced, the Scheme will compensate the consumer for their lost deposit (up to the maximum lawful deposit)

Project completed with defects

- Contract signed
- Premium collected from the consumer by the contractor and paid to the QBCC
- Notice of Cover (and PDS) issued to consumer
- Work commences
- Work reaches completion
- Defects comes to the attention of the consumer
- Consumer requests contractor to rectify defects – contractor refuses/fails to rectify defects
- Consumer makes complaint to QBCC
- QBCC issues direction to rectify – contractor refuses/fails to comply with direction
- Tenders are called for the rectification of the defects
- Claim approved based on successful tender (usually the lowest) and contract entered into between consumer and successful tenderer: Scheme pays rectifying contractor
- Scheme will also pay for alternate accommodation and storage costs if the consumer must vacate the residence while rectification works are carried out.

**Note: actual experience may differ from these high-level process flows, depending on the circumstances of the claim.*

Appendix 5 –
Overview of data on the Scheme

Queensland Home Warranty Scheme								
	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Insurance Claims Paid (total)	$36.9M	$40.1M	$41.4M	$45.2M	$47.5M	$41.3M	$29.0M	$31.3M
Non completion	$9.3M	$13M	$16.8M	$17.1M	$17.4M	$20.7M	$10.6M	$9.9M
Defects	$19.3M	$17.9M	$17.6M	$22.1M	$25.5M	$15.4M	$14.1M	$16.6M
Subsidence	$8.3M	$9.2M	$6.9M	$6.0M	$4.6M	$5.2M	$4.3M	$4.8M
Theft and vandalism	Nil	$0.02M	$0.02M	Nil	Nil	Nil	Nil	$0.003
Insurance Policies Issued (total)	79,802	87,820	94,822	105,256	120,199	120,294	128,170	168,468
New homes	28,503	30,913	32,850	35,005	33,148	27,531	25,695	39,350
Alterations and additions	51,299	56,907	61,972	70,251	87,051	97,453	102,475	129,118
Premium Revenue (Gross)	$82.8M	$96.4M	$107.4M	$96.2M	$91M	$88.9M	$93.6M	$140.9M
Insurance Claims Received*	1,301	1,356	1,290	1,378	1,508	1,440	1,371	1,537
Insurance Claims Finalised (total)	1,574	1,506	1,330	1,368	1,524	1,531	1,366	1,416
Claims Approved	1,349	1,192	971	885	1,034	1,034	822	732
Claims Declined**	225	314	359	483	289	326	388	550
Claims Not Declined or Approved ***	—	—	—	—	201	171	156	134

*Claims received includes claims reopened.
**For 16-17 this includes Claims Declined and Claims Not Approved. For 17-18 and 18-19 this is separated.
***This figure is for all claims where there was no approval, but which were not declined, includes claims withdrawn, opened in error, referred to Resolution Services, or duplicate.

Appendix 6 –
Information about Scheme premiums

Average premium paid over the last five financial years for new builds, alterations and optional cover

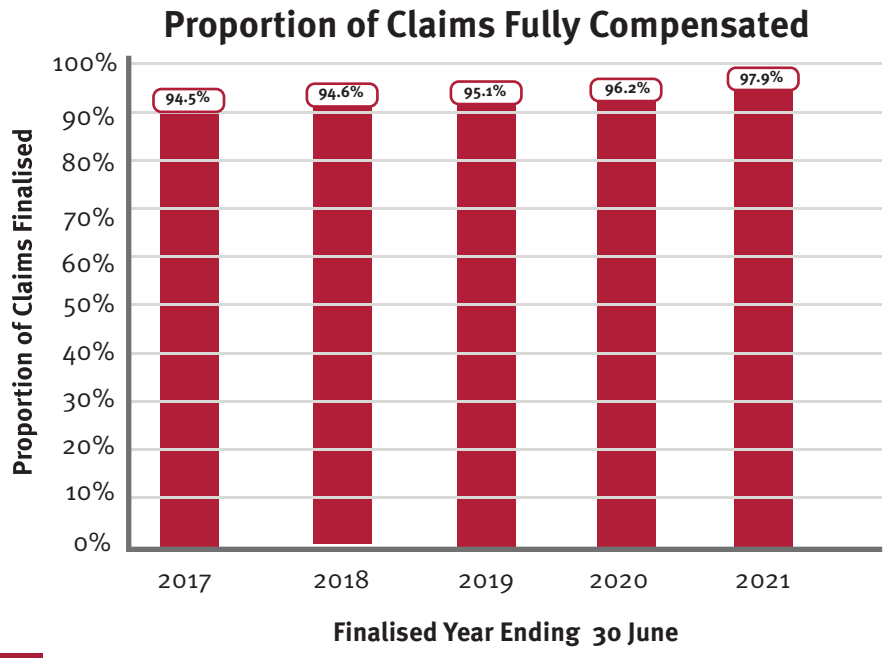
Average premium	2016-17	2017-18	2018-19	2019-20	2020-21
New builds	$1,973	$1,763	$1,905	$2,062	$2,124
Renovations	$362	$334	$380	$387	$433
Optional additional cover	$401	$329	$462	$409	$314

Examples of current premiums compared to the last two years

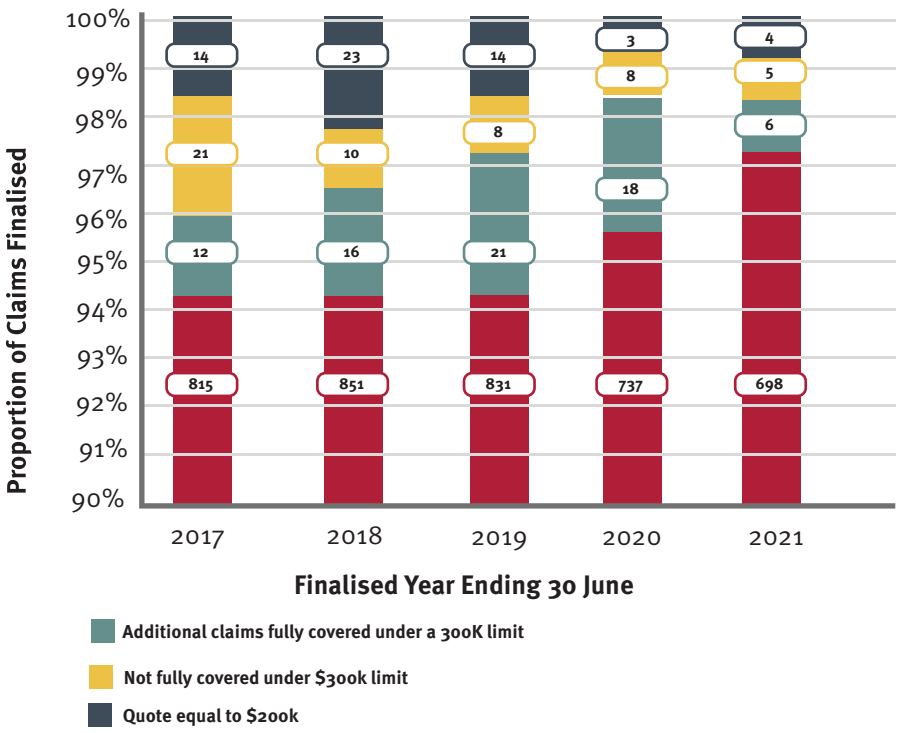
Insurable Value	2019-20 premium	2020-21 premium	2021-22 premium
$3,300 renovation contract	$206.95	$209.85 (+$2.90)	$209.85
$36,647 renovation contract (average renovation contract 2020-21*)	$444.05	$450.25 (+$6.20)	$450.25
$200,000 renovation contract	$2,019.35	$2,047.60 (+$28.25)	$2,047.60
$306,452 new residence (average cost of constructing new home in 2020-21**)	$2,178.15	$2,208.65 (+$30.50)	$2,208.65
$500,000 renovation contract	$5,736.40	$5,816.70 (+$80.30)	$5,816.70
$500,000 new residence	$5,071.25	$5,142.25 (+$71.00)	$5,142.25
$1,000,000 new residence	$10,841.05	$10,992.80 (+$151.75)	$10,992.80

Source: QBCC data

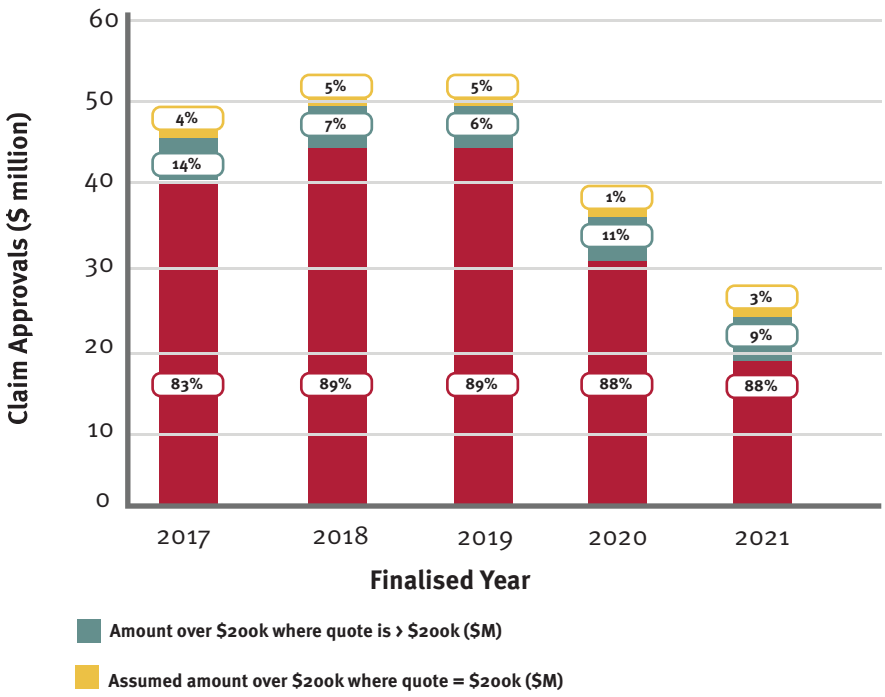
Appendix 7 –
Scheme compensation data



Proportion of Claims Finalised



Breakdown of Claim Approvals



Appendix 8 – Potential changes if higher compensation limits are introduced

Scheme premiums (note these are estimates only)			
Contract value band	**$ Current average premium (1 July 2020)**	**% indicative change if limit increased to $300k**	**% indicative change if limit increased to $400k**
Contract type – new builds			
$0-$100k	$421	0%	0%
$101k-$200k	$865	2%	3%
$201k-$300k	$1,327	1%	2%
$301k-$400k	$2,474	2%	3%
$401k-$600k	$4,299	6%	10%
$601k-$800k	$7,263	7%	12%
$801k-$1M	$9,332	4%	7%
$1.01M-$3M	$11,447	12%	23%
Contract type – alterations			
$0-$100k	$307	0%	0%
$101k-$200k	$1,150	1%	1%
$201k-$300k	$2,470	8%	12%
$301k-$400k	$3,903	6%	10%
$401k-$600k	$5,153	7%	11%
$601k-$800k	$6,381	7%	13%
$801k-$1M	$6,967	12%	22%
$1.01M-$3M	$7,895	4%	9%

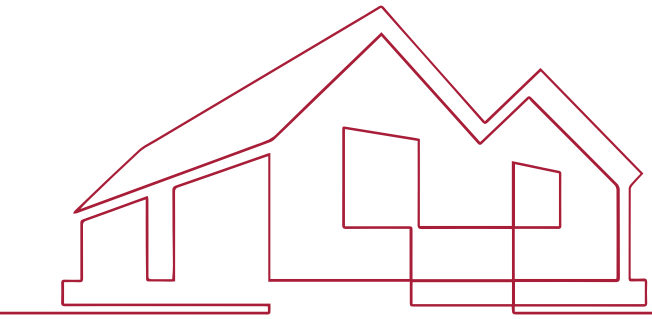
Source: QBCC data

Appendix 9 –
Scheme administration costs

FY	Total	Direct	Interfund
2011-12	$17,573,639.06	$2,058,626.74	$15,515,012.32
2012-13	$16,697,835.72	$1,942,253.47	$14,755,582.25
2013-14	$18,972,374.02	$3,068,182.62	$15,904,191.40
2014-15	$25,893,454.14	$5,552,390.74	$20,616,398.92
2015-16	$29,233,661.03	$5,900,134.62	$23,333,526.41
2016-17	$31,691,114.60	$9,017,680.98	$22,673,433.62
2017-18	$30,892,358.35	$7,457,546.25	$23,434,812.10
2018-19	$31,771,228.62	$5,768,212.38	$26,003,016.24
2019-20	$30,841,492.26	$4,623,930.81	$26,217,561.45
2020-21	$30,619,910.60	$5,124,068.03	$25,495,842.57

The QBCC Act provides that there is a General Statutory Fund and an Insurance Fund administered by the QBCC. The General Statutory Fund is primarily comprised of revenue from fees received for licensing building industry contractors under the QBCC Act. The Insurance Fund derives its revenue from premiums, claim recoveries and investment returns. Scheme administration costs are paid from the Insurance fund.

Source: QBCC data



The Department of Energy and Public Works

Queensland Government