

# QBCC Governance Review 2022



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## About the independent Lead Reviewer

**Jim Varghese AM is Chairman and owner of The Leadership Company Qld Pty Ltd, National Chair and Director of the Australia India Business Council Ltd, director of several private and not-for-profit companies.**

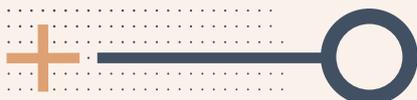


**Jim has unrivalled experience in both the public and the private sector. He completed a 30-year career in the public sector that included experience as a Chief Executive in leading government agencies covering Transport, Main Roads, Education, Training, Employment and Primary Industries in both the Victorian and Queensland public sectors.**

Jim has excellent credentials in good governance, which include fellowship of Certified Practising Accountant (CPA), Australian Institute of Management, Royal Institute of Public Administration and Australian Marketing Institute. He is a member of the Australian Institute of Company Directors (AICD).

Jim is passionate about service delivery and best practice management. He created the ‘Three Learning Frames’ management approach, which aligns outcomes with congruent relationships, structures, systems and capabilities. He was awarded the Centenary Medal for services to the Public Sector and in 2009 was awarded an Order of Australia for Services to Public Sector Reform and Services to the Community.

In 2015, Jim was appointed as Chairperson of the Queensland Government Opportunities for Personalised Transport Review into ride sharing arrangements. In 2018, the Red Meat Advisory Council appointed Mr Varghese to recommend changes to the red meat industry to meet the challenges of the twenty first century. His recent accomplishments include being appointed as Chancellor of Torrens University and Think Group in 2022.



# Lead Reviewer's foreword

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## Queensland Building and Construction Commission (QBCC) Governance Review.

### **Reconciliation and practical action to transform the QBCC into an outcomes-focused statutory agency.**

As the independent reviewer of this QBCC governance review, I have been inundated with strong views, anger, frustration and suggestions for improvement.

The last thing anybody wants is just another review, or more dramatically, a call for a royal commission.

It is important to avoid politicisation of the QBCC and focus on implementing practical recommendations for change.

We need to look forward with positivity and encourage bipartisan support for strengthening the contribution of the building industry to the Queensland economy.

I am recommending that the QBCC should now take the opportunity to transform itself into an outcomes-focused statutory agency.

I do not see any value in passing judgement on current or former employees of the QBCC, stakeholders, complainants, and media.

I have closely listened to and noted important and passionate perspectives from the Minister for Energy, Renewables and Hydrogen and Minister for Public Works and Procurement, opposition MPs, the Transport and Resources Committee, current and former employees of the QBCC, stakeholders, complainants, and the media. I have undertaken this process through the QUT stakeholder consultation forum, the Department of Energy and Public Works (EPW) online survey, written submissions, QBCC and EPW staff workshops and personal one-to-one interviews. The Governance Review Secretariat, the Australia and New Zealand School of Government (ANZSOG) and Queensland University of Technology (QUT) have provided valuable support throughout this process.

This report has been completed against the backdrop of COVID-19 and severe floods – but I remained steadfastly committed to completing this report for submission to the Government.

I wish to acknowledge the Governance Review Secretariat, QUT and ANZSOG for their dedicated commitment and support in helping me achieve this deadline.

It is critical to create and maintain the momentum for effective change and associated transformation of the QBCC.

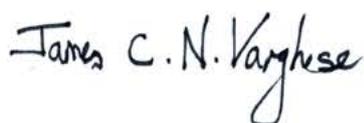
I have also reviewed several reports on the QBCC since 2012 and have attempted to integrate key messages from these reviews into this report.

In particular, I am encouraged that the reviews commissioned by the QBCC during the last two years are fully congruent with the findings of this review.

The summary of recommendations below provides a comprehensive set of recommendations with specific recommended actions for effective implementation to address the gap between where we are now and where the QBCC aspires to be as an outcomes-focused statutory agency.

*Each recommendation and action for effective implementation is designed to integrate outcomes with key relationships and ensure the congruent alignment with a redefined QBCC commission structure, authentic evaluation of feedback and associated capability to deliver.*

Yours Sincerely



Jim Varghese AM

# Executive Summary

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Queensland's building and construction industry is the state's third-largest employer and the third-largest contributor to the state's economy. The Queensland Building and Construction Commission (QBCC) is the industry's self-funded, independent regulator.

The QBCC Governance Review 2022 (the review) examined the roles and responsibilities of the QBCC, and the Queensland Building and Construction (QBC) Board, along with their respective policies, procedures, and practices.

The purpose of the review was to ensure the QBCC's governance arrangements reflect best-practice for a building and construction industry regulator and are fit-for-purpose to deliver on the objectives of the *Queensland Building and Construction Commission Act 1991* (QBCC Act).

Overall, the review observed the regulator performs a wide range of functions, across a large and varied industry. Government's nationally have asked building industry regulators to do more in an increasing complex environment. In this setting, the QBCC has sought to:

- continue with its business-as-usual (BAU) activities
- implement and regulate a significant reform agenda
- improve and enhance its internal systems and processes to transform into a modern regulator.

It has sought to do this while delivering regulatory functions in a way that is consistent with community expectations and assists the industry to contribute productively and safely in this substantial sector of the economy.

However, there are opportunities to reduce the tension inherent in the QBCC's functions. There are changes that can be made to the QBC Board's structure, the QBCC's structure, as well as to planning, procedures and protocols that will well-position the regulator for the future.

The review makes 17 recommendations broadly categorised under the following themes:

- Structure and processes
- Decision-making
- Organisational transformation
- Strategy and Planning
- Capability and culture
- Performance.

These recommendations were informed by extensive consultation through a range of communication channels and research undertaken with support from the ANZSOG, QUT and EPW.

The areas that were most topical included the conflicts of interest framework, importance of transparency, fairness, impartiality, and consistency in decision-making processes. It was clear the industry and consumer stakeholders who contributed to the review felt the QBCC had not met their expectations in managing their specific matters.

The recommendations will make the QBCC a more customer and outcomes-focused regulator through structural and functional realignment and refocus the organisation on its licensing and compliance regulatory role. An important part of this transformation is establishing an independent, quarantined Mediation, Resolution and Review Unit within the QBCC that will be responsible for mediation, internal review processes and dispute resolution. This will improve the customer experience, customer satisfaction with the QBCC, reduce appeals and alleviate a perceived need to find other avenues to pursue issues and concerns.

By the QBCC collecting premiums for the Queensland Home Warranty Scheme (QHWS) and investigating complaints that could result in a claim being made through the Scheme, there were perceptions of bias and/or a conflict of interest.

To address these perceptions, which were also raised during a review of the former Building Services Authority (QBSA) in 2012, the report recommends transferring administration of the Scheme to another agency or department. It is expected under the new model the QBCC would continue to investigate complaints about building work and would be remunerated for any services provided to support the QHWS, from the insurance fund administered by the other agency.

Recommendations relating to the QBC Board aim to demonstrate greater transparency in how board members are meeting their responsibilities and to create efficiencies that align with OECD best-practice principles. Recommended actions include the publication of a conflict of interest register and resizing the QBC Board members from ten down to seven. Under the reforms, the QBC Board members would be asked to undertake an annual assessment of their expertise and performance to ensure it is fit-for-purpose and reflects the expertise needed to govern the QBCC.

Revising the strategic plan and supporting documentation to become an outcomes-focused organisation will deliver improvements internally as well as for industry. It is the lead reviewer's belief that it is important that industry, through peak bodies, QBCC employees and consumers are consulted during the strategic planning process to ensure the organisation is addressing emerging issues.

Clear, consistent, and contemporary operational policies and procedures, as well as a precedent register and staff training, will improve the consistency of decision-making and assist industry and consumers to better understand the rationale behind decisions. The QBCC can become more customer-focused by adopting a proactive approach to compliance strategies, such as information, advice and education.

The review recognises the benefits of the introduction of a compulsory continuing professional development scheme and a comprehensive and public compliance and enforcement strategy.

The QBCC has many dedicated staff, who need to be supported through development programs to foster a culture of respect, effective-reporting, and continuous-improvement. Staff should feel comfortable in raising concerns and confident they will be addressed in an appropriate manner.

Like any organisation, the QBCC needs the right skills and systems (tools), if it is to continue to be a national leader in regulating the building and construction industry in Queensland. It is critical they attract, recruit, and retain the technical and leadership skills to transform the organisation and support industry.

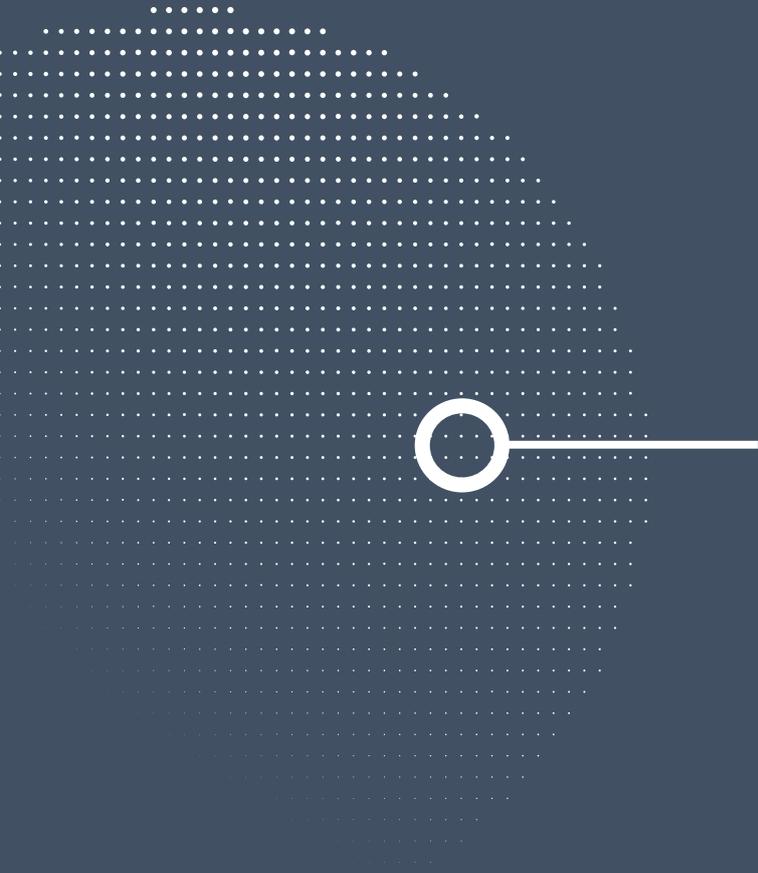
To keep pace with industry, emerging practices, and new technology, the QBCC must replace its various technology systems, which are outdated and no longer fit-for purpose, with an integrated information management platform. However, investment in such assets requires capital and successive government reform agendas have expanded the QBCC's responsibilities without changing its revenue base. The QBCC funding model needs to be contemporary and reflective of the industry. However, until the government changes the QBCC funding model there is a need to continue to financially support it through appropriation funding, including a funding injection to enable the review recommendations to be implemented.

Numerous stakeholders shared views and comments about matters outside of the review Terms of Reference (ToRs), such as the review into the role of developers in building and construction and the review into the QHWS. This feedback will be provided to the respective review teams for their consideration.

Finally, many of the themes that emerged during the review have previously been identified through other reviews into the QBCC or former QBSA. The findings in this review and recommendations align with previous reviews and reports. This review provides the most comprehensive advice to government since 2012. It is an opportunity to reset the agenda. Now is the time to roll up the sleeves, commit to implementation and importantly dedicate resources to enable effective implementation of these 17 recommendations.

The QBCC performs many functions in a challenging and often emotionally charged environment and the recommendations from this review are wide-ranging. It is important the new QBCC Commissioner is supported and given the opportunity to implement change that will benefit both industry and Queenslanders.

# Summary of Recommendations



## Structure and processes (recommendations 1 – 4)

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### Recommendation 1 – Refocus the QBCC’s regulatory role to licensing and compliance of the industry

#### Actions for effective implementation of recommendation 1

- 1.1 Transfer administration of the QHWS to another government department or agency, such as Queensland Treasury, to improve transparency and enable the Commission to refocus its regulatory role to licensing and compliance. Under this restructured model the QBCC would investigate complaints managed under the QHWS and charge a service fee or be remunerated for services undertaken for the Scheme.
- 1.2 Expand the Terms of Reference of the QHWS Review to consider the best approach to implementing action 1.1 above.
- 1.3 Transfer responsibility for prescribing technical qualification requirements across all QBCC licensees to EPW, to clarify and distinguish the policy and regulatory responsibilities.
- 1.4 Establish a committee comprising the Queensland Training Ombudsman and representatives from EPW, QBCC, Construction Skills Queensland (CSQ), Department of Employment, Small Business and Training, industry representatives and other experts as required, to assist in assessing and prescribing the technical qualification requirements for QBCC licensees.
- 1.5 Refer comments about the QHWS, which are out of scope for this review, to the QHWS review team.

### Recommendation 2 – Establish an independent, quarantined Mediation, Resolution and Review Unit within the QBCC

#### Actions for effective implementation of recommendation 2

- 2.1 As a priority, amend the relevant legislation to establish an independent, quarantined Mediation, Resolution and Review Unit within the QBCC.
- 2.2 Separate and quarantine the functions of the Mediation, Resolution and Review Unit from the QBCC licensing and compliance functions.
- 2.3 Incorporate the existing functions of the adjudication registry, internal review unit and resolution services into the Mediation, Resolution and Review Unit.
- 2.4 The independent, quarantined Mediation, Resolution and Review Unit should have a stretch target of reducing escalation of disputes to QCAT by 90 per cent.

### Recommendation 3 – Reduce the size of the QBC Board and realign measures to demonstrate alignment with continuous improvement practices

#### Actions for effective implementation of recommendation 3

- 3.1 In accordance with best-practice, right size the QBC Board to seven persons, including the Chair.
- 3.2 The composition of the reformed board must have an appropriate mix of relevant skills and experience.
- 3.3 Apply the principles of gender equality, diversity and inclusiveness in selecting members of the QBC Board.
- 3.4 Establish an industry advisory body to allow the QBC Board to effectively engage with the sector.

### Recommendation 4 – Realign structure and recognise specialist skills

#### Actions for effective implementation of recommendation 4

- 4.1 Undertake a structural realignment within the QBCC that supports an outcomes-focused regulator.
- 4.2 Recognise and promote specialist career pathways and attract specialist skills and expertise.
- 4.3 Establish a dedicated unit for developing, maintaining and hosting operational policies and procedures, particularly when implementing new reforms or transitioning to new information technology systems.

## Decision-making (recommendations 5 and 6)

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### Recommendation 5 – Enhance the QBCC’s reputation based on consistency, transparency, fair and impartial decision-making

#### Actions for effective implementation of recommendation 5

- 5.1 Develop and document operational procedures for all key regulatory activities, which provide clear guidance about consistent, fair and impartial decision-making. These procedures should reflect model litigant principles and recognise the importance of reconciliation.
- 5.2 Streamline processes and refocus operational priorities on core business.
- 5.3 Improve the customer experience through responsive and timely investigation, accurate advice and managing expectations through guidance and communication material.
- 5.4 Establish a precedent register to improve consistency of disciplinary action, including fines and education requirements.
- 5.5 Actively report on the outcomes of QBCC decisions.
- 5.6 Implement streamlined processes across regulatory agencies to reduce duplication in reporting and supports a customer focus, e.g. reporting of health and safety risks.
- 5.7 The Transport and Resources Committee support the amendments in the Building and Other Legislative Amendment Bill 2022 (BOLA) to improve consumer rights to information.

### Recommendation 6 – Enhance the transparency and accountability of the conflicts of interest framework

#### Actions for effective implementation of recommendation 6

- 6.1 Establish a public-facing conflict of interest register for the QBC Board.
- 6.2 Promote and monitor the disclosure of all forms of conflicts of interest including unreasonable and unacceptable forms of private interest for individuals in decision-making. For example, it is important that industry assists to inform decision-making but should not be able to decide a matter likely to impact an industry practitioner or organisation.
- 6.3 Develop and implement a routine ongoing induction program to manage conflicts of interest that are outcome-focused and reflect best-practice, and remind people of these obligations annually.
- 6.4 Incorporate penalties and actions to be taken where a proven violation of the Conflict of Interest policy occurs.

## Organisational transformation (recommendation 7)

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### Recommendation 7 – Invest in an integrated information management system that is contemporary, fit-for-purpose and aligns with the organisation’s functions

#### Actions for effective implementation of recommendation 7

- 7.1 Develop an organisational transformation strategy to support increased capability in leading change and systems to monitor and evaluate outcomes.
- 7.2 Recruit business transformation skills and expertise to improve the likelihood of success of organisational change.
- 7.3 Replace the existing IT systems with fit-for-purpose systems that align with the QBCC functions and reporting framework.
- 7.4 Develop staff capability to critically analyse data and information to support transitioning to an insights-driven regulator.
- 7.5 Develop QBCC’s digital capability using artificial intelligence, e.g. through an app, to support industry and assist the QBCC to be an outcome and customer-focused organisation.
- 7.6 Ensure the ethical use of data is built into all assumptions across digital capability to reflect QBCC’s functions, values, principles and ethics.

## Strategy and Planning (recommendation 8)

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### Recommendation 8 – Ensure strategic planning reflects Government’s expectations of the regulator and supports continuous improvement from the industry

#### Actions for effective implementation of recommendation 8

- 8.1 Realign the QBC Board strategic plan and supporting documents to reflect key outcomes.
- 8.2 Incorporate QBCC employee consultation into the strategic planning process.
- 8.3 Consult with industry to ensure the strategic plan is contemporary and responsive to industry challenges and promotes a financially-viable, robust, and best-practice industry.
- 8.4 Update the service charter to include an education program about the roles, responsibilities and functions of the QBCC.

## Capability and culture (recommendation 9 and 10)

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### Recommendation 9 – Foster a culture of continuous improvement, respectful engagement and effective reporting

#### Actions for effective implementation of recommendation 9

- 9.1 Adopt staff engagement practices that include clear, purposeful and consistent communication, active listening and are responsive to emerging issues.
- 9.2 Proactively identify and manage relational issues that could adversely impact the culture, effectiveness and reputation of the QBCC.
- 9.3 Develop a collaborative and effective organisational culture through policies and protocols to engage with each other respectfully and provide clear, fair and impartial avenues for resolution of matters.
- 9.4 Communicate and report on the organisation’s priorities, ongoing work commitments and emerging issues impacting service delivery, to encourage a collaborative approach to resolving matters and effectively managing resources.
- 9.5 Empower staff to perform their roles and responsibilities with the support of appropriate training.

### Recommendation 10 – Strengthen and enhance management, licensing, investigative and technical staffing capability

#### Actions for effective implementation of recommendation 10

- 10.1 For the QBC Board:
  - a. review and update the annual self-assessment process of the QBC Board members to include external facilitation, ensuring skills and experience remain relevant and contemporary for a governing board
  - b. adopt continuous improvement strategies that include ongoing and relevant education and development to enable board members to effectively govern the QBCC.
- 10.2 For QBCC’s senior management and leadership team:
  - a. undertake a training needs analysis to understand the technical and management expertise of the leadership and management team
  - b. introduce a 360-degree assessment of senior leadership team members.
- 10.3 Implement leadership and staff development programs to ensure the QBCC maintains the capacity and capability to effectively and efficiently perform its functions, including; investigative, technical and educational capabilities to investigate complaints, inspect building work and assess licensing applications.
- 10.4 Establish systems to enable the QBCC to access expertise (e.g. past and present employees, builders, certifiers) to assist in performing its functions.
- 10.5 Enhance practices to boost specialist staff mobility and accessibility to support integrated service delivery across Brisbane and regions.
- 10.6 Develop staff written and oral communication skills in order to improve messaging about decisions, including the rationale for making a decision.

## Performance (recommendations 11 – 17)

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### Recommendation 11 – Implement a comprehensive and public compliance and enforcement strategy

#### Actions for effective implementation of recommendation 11

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

### Recommendation 12 – Strengthen and develop the building industry through effective education, support, information and advice

#### Actions for effective implementation of recommendation 12

- 12.1 Dedicate officers to meet with and educate businesses and contractors about their legal, financial and technical obligations.
- 12.2 Introduce a compulsory continuing professional development framework for all of industry.
- 12.3 Recruit additional financial and accounting expertise to support businesses to meet the legislative requirements such as the minimum financial reporting requirements.
- 12.4 Implement measures to refer *at risk businesses* to Commonwealth and state agencies that are able to provide information, grants, services and/or support from across government to help sustainable businesses succeed.
- 12.5 Collect and distribute appropriate data to assist government and peak industry associations to design and tailor education programs and services that are responsive to the building industry needs.
- 12.6 Engage with apprentices and school leavers to encourage participation in and promotion of the building and construction industry.
- 12.7 Establish dedicated QBCC extension officers to inform and educate the community, consumers, and industry about the QBCC's regulatory role.

### Recommendation 13 – Embed cooperative and collaborative relationships with stakeholders that promote trust, improve customer service which leads to a better understanding of the operating environment

#### Actions for effective implementation of recommendation 13

- 13.1 Develop and implement educational strategies to better inform consumers about their rights and obligations.
- 13.2 Develop and implement proactive communication material to manage consumer expectations about the QBCC functions and powers.
- 13.3 Take immediate steps to improve clarity and communication about the regulatory role of the QBCC and policy role of EPW.
- 13.4 Adopt a continuous improvement program to improve usability of the QBCC website with a particular focus on consumers.
- 13.5 Establish protocols between the QBCC and EPW regarding the respective roles and responsibilities in policy development.

- 13.6 The government develop a statement of expectations or similar which provides clear guidance to QBCC on the strategic priorities, emerging risks, engagement philosophy, performance and conduct. Consideration should also be given to the incorporation of the statement of expectations into QBCC's existing business planning processes and these processes should include milestones for reporting on progress.

## **Recommendation 14 – Implement a contemporary and sustainable funding model to enable the QBCC to effectively regulate the industry**

### **Actions for effective implementation of recommendation 14**

- 14.1 Priority be given to establishing a sustainable funding model, that includes activity-based funding and fixed revenue base e.g. levy and licensing fees.
- 14.2 Make funding available for the QBCC to establish a new integrated platform, and address gaps in identified organisational skills and expertise.
- 14.3 The QBCC commit to providing an efficiency dividend over time in return for additional funding.

## **Recommendation 15 – Support the independent review of the role of developers within the Queensland building and construction industry**

### **Actions for effective implementation of recommendation 15**

- 15.1 Inform the independent review panel of the findings of this review, the unique identity of developers, and liaise as appropriate with the proposed review implementation working group.

## **Recommendation 16 – Improve building resilience to the impacts of natural disasters**

### **Actions for effective implementation of recommendation 16**

- 16.1 Develop a communication strategy to inform building owners about building resilience through design and construction practices.
- 16.2 Reinforce best-practice building industry regulation through contemporary building guidelines and collaboration with industry.

## **Recommendation 17 – Establish an implementation group to monitor and report on the progress of the QBCC Review recommendations**

### **Actions for effective implementation of recommendation 17**

- 17.1 Establish a steering committee comprising the Director-General of EPW (Chair), a QBC Board member, the QBCC Commissioner and representatives from the Department of Premier and Cabinet, Queensland Treasury and any other person or agency deemed necessary by the Chair, to oversee implementation of the recommendations.
- 17.2 The steering committee will ensure regular reports are published on the progress of the implementation, and upon request give the Parliamentary Transport and Resources Committee information about the implementation process to ensure transparency and accountability.
- 17.3 The Director-General of EPW and the QBCC Commissioner monitor and foster a shared understanding of how recommendations are being implemented.
- 17.4 After two years, conduct an assessment of implementation to evaluate the efficiency and effectiveness of the recommendations in transforming the QBCC into a financially sustainable, outcomes-focused independent regulator that promotes confidence in the industry and strong economic growth.
- 17.5 Evaluate the integration, effectiveness and potential efficiencies in the governance arrangements of the ministerial, QBCC and EPW committees and the Service Trades Council, to ensure all building and construction industry sectors are adequately represented in the government's building, plumbing and drainage reform agenda.

## Abbreviations

<b>ADR</b>	Alternative Dispute Resolution
<b>ANZSOG</b>	Australia and New Zealand School of Government
<b>BAU</b>	Business as Usual
<b>BCR</b>	Building Confidence Report
<b>Building Act</b>	<i>Building Act 1975</i>
<b>The Commission</b>	Queensland Building Construction Commission (see also QBCC)
<b>CSQ</b>	Construction Skills Queensland
<b>DTR</b>	Direction to Rectify
<b>EPW</b>	Department of Energy and Public Works
<b>MCC</b>	Ministerial Construction Council
<b>MFR</b>	Minimum Financial Requirements
<b>MLP</b>	Model Litigant Principles
<b>NCBPs</b>	Non-Conforming Building Products
<b>NCC</b>	National Construction Code
<b>PD Act</b>	<i>Plumbing and Drainage Act 2018</i>
<b>QBCC or the Commission</b>	Queensland Building and Construction Commission
<b>QBCC Act</b>	<i>Queensland Building and Construction Act 1991</i>
<b>QBC Board</b>	Queensland Building and Construction Board
<b>QBP</b>	Queensland Building Plan 2017
<b>QBSA</b>	Queensland Building Services Authority
<b>QCAT</b>	Queensland Civil and Administrative Tribunal
<b>QHWS or the Scheme</b>	Queensland Home Warranty Scheme (see also the Scheme)
<b>QUT</b>	Queensland University of Technology
<b>RPL</b>	Recognised Prior Learning
<b>The Scheme</b>	Queensland Home Warranty Scheme (see also QHWS)
<b>STC</b>	Service Trades Council
<b>ToRs</b>	Terms of Reference
<b>VBA</b>	Victorian Building Authority

## Terminology and definitions

<b>Conflict of Interest</b>	Includes any actual, reasonably anticipated or perceived conflict of interest, whether personal, financial, professional or otherwise.
<b>Efficiency Dividend</b>	An annual reduction in funding for the overall running costs of an agency.
<b>Extension Officer</b>	A dedicated QBCC officer who informs and educates the wider community, consumers, and industry about the role of the QBCC.
<b>General Fund</b>	One of two funds administered by the QBCC. Also called the <i>General Statutory Fund</i> . The General Fund derives most of its revenue from fees received for licensing building industry contractors under the QBCC Act.
<b>Insurance Fund</b>	The Insurance Fund principally consists of all money received or recovered by the QBCC in connection with the QHWS. The QHWS is funded through the Insurance Fund which was established under s.26 of the <i>Queensland Building and Construction Commission Act 1991</i> . The main source of money received by the QBCC in connection with the scheme is the receipt of premiums paid by contractors who carry out residential construction work.
<b>Licensee</b>	QBCC licence holders, including building and trade contractors, occupational (plumbing and drainage and fire protection), pool safety inspectors and certifiers.
<b>Model Litigant Principles</b>	The model litigant principles set standards about how the State of Queensland, including state agencies, should behave when acting as a party to legal proceedings. Model litigants must follow principles of fairness and firmness, such as acting consistently and promptly in all claims, and keep litigation costs to a minimum and consider and participate fully and effectively in alternative dispute resolution (ADR) before commencing court proceedings.
<b>Stretch target</b>	Difficult targets set beyond what is actually expected to be achieved.

# Background

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## The Terms of Reference

The Queensland Building Plan (QBP) reforms aim to build a strong regulatory system and create a safer, fairer and more sustainable industry. The QBCC is Queensland's building industry regulator.

In an environment of local and national reform, it is important that the building and construction industry, a critical part of the Queensland economy, continues to be supported by a strong and effective regulatory framework that builds confidence and trust in the industry.

On 16 November 2021, the Queensland Government announced EPW commissioned an independent review of the QBCC structure. EPW appointed independent reviewer Mr Jim Varghese AM, a well-respected professional with many years' experience in the private and public sectors, to lead the review.

Mr Varghese was asked to examine the roles and responsibilities of the QBCC and QBC Board, along with their policies, procedures and practices, to ensure these arrangements are best practice for the regulator and fit-for-purpose to deliver on the objectives under the *Queensland Building and Construction Commission Act 1991* (QBCC Act). The review also builds on the work already undertaken by the QBCC to improve procedures and systems as it transitions into being an insights-driven regulator and review its dispute resolution and decision-making processes.

Mr Varghese clearly outlined the focus of the review to all stakeholders and interested parties via video.

Mr Varghese specified that this review would include:

- promoting a clear vision of the future, including the impact of changes on implementation issues and business realities
- how QBCC can best align its functions to be an efficient and effective regulator that adds trust and confidence
- identifying the roadblocks to increasing ownership of culture change and transformation within the QBCC
- identifying the quick and easy improvements to secure tangible change and ownership of policies, procedures and protocols
- ensuring that the current structure supports cross-functional collaboration and integration without duplicating overlapping duties and responsibilities
- ensuring the current structure provides clarity on points of contact for customers, partners and other stakeholders.

He also noted the view would not include:

- reviewing, investigating and passing judgement on all complaints made about the QBCC
- investigating and reviewing particular complaints and finding stakeholders and individuals guilty of misconduct or alleged corruption allegations
- passing judgement on the decisions made by the QBCC, QCAT, Queensland Ombudsman, Crime and Corruption Commission and closely associated state government decisions.

The Terms of Reference (ToRs) for the review are contained in **Attachment A**.

## Consultation

A holistic and inclusive approach to consultation and stakeholder engagement was undertaken during the review, including in-person (including digital) interviews, a discussion forum, workshops, an online survey and written submissions.

A total of 42 consultation interviews were held with individuals in addition to dedicated QBCC employee workshops in both Brisbane and regional areas. Stakeholders who engaged through the QUT hosted online discussion forum, made over 350 comments. These forums were complemented by an online survey, which recorded the completion of 61 surveys. There were 43 written submissions received by the review team and an individual analysis of all submissions was undertaken by QUT (see **Attachment B** for consultation details).

The breadth of the stakeholder engagement activities ensured the independent lead reviewer received feedback about all aspects of the QBCC governance arrangements from a diverse pool of stakeholders. The three most topical themes for stakeholders across all consultation channels were: QBCC as an organisation, including procedures, policies, systems, staff leadership, and communication (56 per cent of all responses); complaints or the complaints handling process (22 per cent of all responses); and the compliance framework (19 per cent of all responses).

Further insights about the particular issues raised by stakeholders are included under each of the recommendations.

**The direct quotations used within this report are taken from the various stakeholder engagement activities conducted throughout the review. The quotations are anonymous to protect the privacy of the stakeholders who contributed to this review.**

## Previous review reports

Over the past 20 years, the QBCC and former Queensland Building Services Authority (QBSA) have undergone several reviews to assess the regulator's effectiveness and performance. For example, the Public Benefit Test in 2002<sup>1</sup> (2002 review), review into the operation and performance of the QBSA in 2012<sup>2</sup> and regarding the role of the building industry regulators broadly within the context of the Building Confidence Report in 2018 (BCR).<sup>3</sup>

In 2012, the former Transport, Housing and Local Government Committee conducted an Inquiry into the Operation and Performance of the QBSA (2012 review) which made 41 recommendations to reform the regulator, including establishing a new governing board with truly representative and impartial membership.<sup>4</sup>

In response to the recommendations, the QBSA transitioned into the QBCC in 2013, with a professional governing board.<sup>5</sup> The introduction of the QBCC and QBC Board, was designed to '*be more reflective of the governance structure of a public company*', with the legislative function of the board being to set the strategic direction and the operational, financial and administrative policies to be followed by the Commission.<sup>6</sup>

As a part of this review, consideration was given to the findings and recommendations of the previous review reports into the QBCC and former QBSA. This review found several issues raised through previous reviews' appear not to have been fully addressed and still require serious consideration (see **Appendix C** for a full list of the reports and reviews considered). The following provides four examples of concerns that were raised in previous reviews and again as an issue during this review:

- The 2002 review identified there is an important potential conflict of interest with the one stop shop concept and there would be a clear public benefit from legal separation of the licensing, information and certain dispute resolution mechanisms from the insurance functions. During this review stakeholders raised similar concerns about the QHWS being administered by the QBCC.
- Section 3.3 of the 2012 review notes concerns raised about the representative make-up and membership of the board. This sentiment has been raised consistently throughout this review.
- Section 4 of the 2012 review discusses a strong perception by both consumers and builders that the QBSA is biased in one way or another. This remains a concern for stakeholders.
- The 2018 BCR identified insufficient funding and resourcing for regulators. This has also been raised as an issue that is potentially impacting the effectiveness of the QBCC.

In addition to the above, QBCC has commissioned reports that provide both evidence for change and details for effective implementation. The recommendations and findings of these reports provide a platform for effective implementation of this independent review (see **Appendix C** for a full list of the reports and reviews considered).

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1. Economic Insights, *Public Benefit Test – Queensland Building and Services Authority Act 1991 and Regulations* available at [Queensland Building Services Authority Act 1991 and regulations](https://www.ncc.gov.au), PBT July 2002 ([ncc.gov.au](https://www.ncc.gov.au)).

2. Report No. 14 Transport, Housing and Local Government Committee: *Inquiry into the Operation and Performance of the Queensland Building Services Authority*, November 2012.

3. Shergold, P & Weir B, 2018, *Building Confidence – Improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia* available at [building\\_ministers\\_forum\\_expert\\_assessment\\_-\\_building\\_confidence.pdf](https://www.industry.gov.au) ([industry.gov.au](https://www.industry.gov.au)).

4. Report No. 14 Transport, Housing and Local Government Committee: *Inquiry into the Operation and Performance of the Queensland Building Services Authority*, November 2012.

5. Queensland Government Response to Inquiry into the Operation and Performance of the Queensland Building Services Authority 2012 May 2013.

6. Section 11(a), *Queensland Building and Construction Commission Act 1991*.

This review acknowledges the feedback and ongoing concerns and makes recommendations that at times align with previous review recommendations. This highlights a need to commit to adoption of the reforms and provide sufficient resources to effectively implement the recommendations to ensure the concerns of industry, consumers and QBCC staff are addressed. This review provides practical and pragmatic recommendations that can be promptly implemented to enable a seamless transition for the QBCC into a customer and outcomes-focused, insights-driven regulator.

## Impacts of successive government reforms

Successive government reform agendas and senior leadership changes within the QBCC have created capability and capacity challenges impacting the ability to regulate the industry. The QBCC's expanded responsibilities and endeavour to remain the industry's one-stop shop, without satisfactory statutory independent firewalls, has diminished the organisation's specialist skills and capability, as staff are required to undertake a broader scope of work and be more agile in the work they perform.

In October 2017, the Queensland Government introduced a suite of reforms through the QBP<sup>7</sup> to address significant emerging issues in the building industry. The QBP reforms were introduced to create a safer, fairer, and more sustainable industry, focusing on key reform areas such as security of payment, non-conforming building products (NCBPs), plumbing and drainage reforms, building certification, licensing reforms and sustainable buildings.

The local reform agenda has been set against a backdrop of national reforms for the building and construction industry. In 2018, the BCR<sup>8</sup> made recommendations aimed at strengthening compliance and enforcement systems across Australia and improving regulatory oversight. Queensland has already implemented or partially implemented the BCR recommendations, however all these reforms have implications for the QBCC.

These reforms have significantly increased the compliance and enforcement activities of the QBCC.

Regulators have been expected to implement government reform in addition to the BAU activities, placing significant pressure on the ability to deliver outcomes and quality service delivery with its existing resources. As identified in the BCR, the effectiveness of all Australian building and construction industry regulators has been hindered by a reported lack of resources, skills and capability and the speed and volume of legislative reforms.<sup>9</sup>

Compounding the QBCC's challenges, is the frequent criticism of the regulator by the media, and members of the Opposition which has resulted in a reactive organisation rather than one that is outcomes-focused and proactive.

## Research

This review is supported by research undertaken by the Australia and New Zealand School of Government (ANZSOG). ANZSOG conducted an analysis of the QBCC's governance model and mandate, regulatory approach, and capability requirements, and compared these with other comparable construction industry regulators in Australia.

Principally, the breadth of the QBCC's functions and responsibilities are broader than other Australian building industry regulators. For example, the QBCC differs from other jurisdictions as the only regulator to administer a first resort home warranty scheme (the QHWS). The QBCC also has regulatory responsibilities for the use of NCBPs and administers a more mature and sophisticated licensing framework.

The findings of the ANZSOG research have been incorporated throughout this report under the relevant recommendations.

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7. Queensland Building Plan 2017 available at [Queensland Building Plan | Department of Energy and Public Works \(epw.qld.gov.au\)](https://www.qld.gov.au/energy-and-public-works/queensland-building-plan).

8. Shergold, P & Weir B, (2018). *Building Confidence – Improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia* available at [building\\_ministers\\_forum\\_expert\\_assessment\\_-\\_building\\_confidence.pdf](#) (industry.gov.au).

9. Queensland Audit Office, *Licensing builders and building trades*, Report 16: 2019–20.

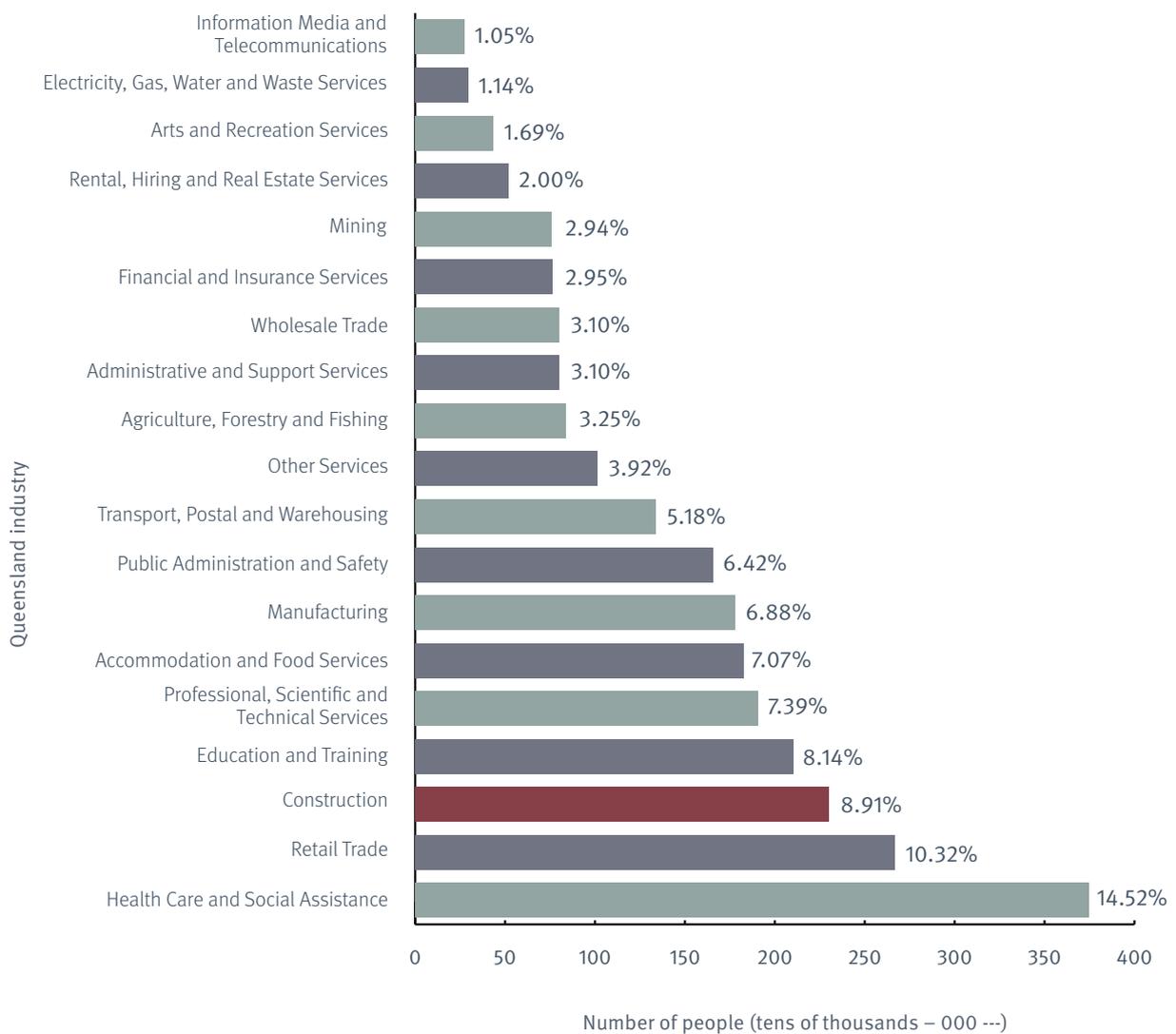
# Introduction

## Queensland’s building and construction industry

The building and construction industry is a significant driver of the Queensland economy. Each year it contributes \$47 billion to the state’s economy and employs around 230,000 people. The industry is made up of residential, commercial and infrastructure sectors. This industry is the third largest contributor to the Queensland economy and third largest employer in the state.<sup>10</sup>

### Employed persons by industry, Queensland, 2020-21

Source: ABS 6291.0.55.003, Labour Force, Australia, Detailed, Quarterly, May 2021



10. ABS 6291.0.55.003, Labour Force, Australia, Detailed, Quarterly, May 2021.

# About the QBCC

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## Overview

The QBCC is Queensland's independent building and construction industry regulator. As an independent regulator it is expected to act objectively, impartial and without influence from any party or organisation external to the QBCC. This independence is shown through the QBCC interactions stakeholders, staffing and financing. It is independent of EPW and can make decisions independent of the Minister. This independence is reflected in legislation, which requires the Minister to table in the Legislative Assembly, any written direction they give to the Commission in relation to the Commission and its functions. Research from ANZSOG has identified that no such direction has ever been tabled.

The QBCC was established on 1 December 2013, replacing the former QBSA, with all the QBSA's functions, assets and liabilities transferred to the QBCC.

The QBCC supports the Queensland community by providing information, advice, and regulation to ensure the maintenance of proper building standards and remedies for defective building work across the state. Compared to other jurisdictions in Australia, the QBCC has a broader regulatory scope, a more comprehensive licensing framework and is the only regulator that monitors financial reporting requirements.<sup>11</sup> The reforms introduced by successive governments, accompanied by subsequent legislative amendments, have significantly increased the compliance and enforcement activities of the QBCC.

The QBCC has been a national leader in the regulation and detection of NCBPs, including identifying buildings in Queensland with a potential cladding fire risk through the Safer Buildings Taskforce (SBT). Reported actions taken by the QBCC in relation to NCBPs include investigations, enforcement, and general education. In the 2020-2021 financial year, the QBCC responded to 238,479 phone calls and received 20,683 emails. In the same period, the QBCC regulated 93,147 licensees in addition to 2071 owner builders.<sup>12</sup>

The QBCC offers customer, regulatory and corporate services through eight service centers located across regional Queensland and two Brisbane offices located in West End. The regional offices are in Cairns, Townsville, Rockhampton, Gold Coast, Mackay, Maryborough, Sunshine Coast, and Toowoomba.

As at 30 June 2021, the QBCC employed around 523 full-time equivalent staff in professional, technical and administrative roles including building certifiers, plumbers, fire protection experts and building inspectors.<sup>13</sup>

## QBCC structure and governance arrangements

The QBCC is an independent statutory authority, consisting of the QBCC Board, Commissioner, the organisational unit under the control of the Commissioner, and the Service Trades Council (STC).<sup>14</sup> The STC was established separately under the *Plumbing and Drainage Act 2018* (PD Act).

The QBCC Act prescribes the functions and powers of the QBCC and QBCC Board and the PD Act prescribes the functions of the STC. The STC, among other things, can assist the Commissioner to perform functions effectively and efficiently under part 2, divisions 1 to 7 of the PD Act (licensing) and review decisions of the Commissioner made under section 51 (disciplinary action).<sup>15</sup>

The organisational structure of the QBCC is contained in **Attachment E**.

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11. ANZSOG, *Analysis of the governance model, regulatory approach, and capability requirements of the Queensland Building and Construction Commission (QBCC)*, April 2022.

12. QBCC Annual Report 2020-2021, pp23-24, accessed at [publication-qbcc-annual-report-2020-2021.pdf](#).

13. *Ibid*, p28.

14. Section 6, *Queensland Building and Construction Commission Act 1991*.

15. Section 106, *Plumbing and Drainage Act 2018*.

## QBCC roles and responsibilities

The QBCC Act prescribes the QBCC functions which can be broadly categorised as licensing of building certifiers, pool safety inspectors, contractors, nominee, site supervisor and occupational licensees; administering the QHWS; regulating building products; maintaining building and construction standards; regulating the security of payment laws, providing support, education and advice to industry and consumers.

These functions and measures are designed to balance the interests of building contractors and consumers.

The QBCC administers the following legislation:

- *Building Act 1975* (Building Act)
- Building Regulation 2021 (BR)
- *Building Industry Fairness (Security of Payment) Act 2017* (BIF Act)
- Building Industry Fairness (Security of Payment) Regulation 2018 (BIF Regulation)
- *Plumbing and Drainage Act 2018* (PD Act)
- Plumbing and Drainage Regulation 2019 (PDR)
- *Queensland Building and Construction Commission Act 1991* (QBCC Act)
- Queensland Building and Construction Commission Regulation 2018 (QBCC Regulation)
- Queensland Building and Construction Commission (Minimum Financial Requirements) Regulation 2018 (MFR Regulation).

## The QBC Board roles and responsibilities

The QBC Board is the QBCC's governing board responsible for the Commissions strategies, operational, administrative and financial policies and ensuring the QBCC performs its functions and exercises its powers effectively and efficiently. They are also responsible for providing guidance and leadership to the Commissioner and STC and advising the Minister on relevant issues; and consulting the building industry and consumers.<sup>16</sup>

## The QBCC Commissioner's roles and responsibilities

The Commissioner is responsible for the overall management of the organisation. Roles and responsibilities of the Commissioner include:

- administration of the licensing system
- administration of a system of inspection
- issuing directions for rectification of building work
- monitoring, investigating, and enforcing compliance with the building product laws under the Act, including giving directions for remedial action
- taking disciplinary and other proceedings
- assessing and approving payment of insurance claims
- undertaking strategic planning
- issuing warnings to the public or any section of the public
- providing and promoting consumer education
- publishing information about building products
- providing an advisory service to consumers
- providing courses of instruction
- performing a function given to the Commissioner under an Act.<sup>17</sup>

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16. Section 11, *Queensland Building and Construction Commission Act 1991*.

17. Section 20, *Queensland Building and Construction Commission Act 1991*.

## Governance in the context of the review

The aim of the QBCC Governance Review 2022 is to provide advice and practical recommendations to strengthen QBCC's functions and internal processes, including decision-making and complaints handling, and to provide guidance for best-practice governance arrangements to be implemented, supporting QBCC's transition to an insights-driven regulator. There is an urgent need to maintain the momentum of building industry reforms with a contemporary, fit-for-purpose governance framework that reflects best practice.

Many definitions and models of good corporate governance exist and focus on the effective and efficient leadership and management of an organisation. Governance is conceptualised as a system of structures, policies, and relational practices which include formal elements such as strategies, structures and roles, procedures, and processes, as well as informal elements such as organisational culture, relationships, and behaviours.<sup>18</sup>

According to the Governance Institute of Australia

“ **Governance** encompasses the system by which an organisation is controlled and operates, and the mechanisms by which it, and its people, are held to account. Ethics, risk management, compliance and administration are all elements of governance. ”<sup>19</sup>

Within the Queensland Government, corporate governance has been explained as the leadership balance of stewardship (i.e., vision, strategy, design, implementation, monitoring, and review), conformance (i.e., financial regularity, probity, propriety, and regulatory compliance), and performance (i.e., economy, efficiency, cost-effectiveness, equity, and access).<sup>20</sup>

To examine the dimensions of corporate governance within the QBCC, consultation questions were based on four key themes: strategy and planning, capability and culture, process and structure, and performance.

### 1. Strategy and planning

- Legislative functions and powers
- Organisational vision and strategies
- Risk management.

With a mandate to regulate and provide service to the building and construction industry, the review examined QBCC's stewardship of strategy and planning. Analysis included QBCC's strategic alignment with legislation and the clarity of its vision, purpose, and strategies. The review also explored the effectiveness of QBCC procedures and protocols for the identification and management of conflicts of interest, and how well building regulators worked to create complementary approaches to compliance and enforcement. Within strategy and planning, the risk and compliance and prioritisation framework was reviewed to understand how the regulator enhances stakeholder trust and confidence.

The independent lead reviewer has assessed the current state of the QBCC's strategy and planning (where we are now), analysed the feedback received on QBCC's desired future and determined action required to address any gaps.

### 2. Capability and culture

- Skills and capability match the legislation functions
- Ethical, open, transparent and values-based organisational culture
- Agency culture.

Feedback was sought on the capacity and capability of the QBCC as well as emerging risks and opportunities for the board and senior leadership, including decision-making integrity and accountability, the perception of leadership, understanding of stakeholders, and the effectiveness of the organisation's culture with a specific focus on leading, developing, and empowering teams.

The independent lead reviewer has assessed the current state of the QBCC's capability and culture (where we are now), analysed the feedback received on QBCC's desired future and determined action required to address any gaps.

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18. Subramaniam, N. et al. (2013). Understanding corporate governance in the Australian public sector. *Accounting, Auditing, & Accountability Journal*, 26(6), 946-977.

19. Governance Institute of Australia, *What is Governance*, viewed 1 March 2022 [governanceinstitute.com.au](https://governanceinstitute.com.au).

20. Queensland Audit Office (QAO), *Leading Accountability – Governance* available at <https://www.qao.qld.gov.au/sites/default/files/better-practice/pscmasterclass.pdf>.

### 3. Structure and Processes

- Clarity of roles
- Accountability
- Processes for resolving issues
- Engagement with staff and stakeholders on operational performance.

Important elements of regulator performance include the effectiveness of compliance monitoring and enforcement activities that are balanced, proportionate with risk, while minimising administrative burden. Governance processes, procedures, and protocols for managing and resolving complaints and disputes, and processes for licensing, fee collection, and insurance were also examined from multiple stakeholder perspectives.

The independent lead reviewer has assessed the current state of the QBCC's processes and culture (where we are now), analysed the feedback received on QBCC's desired future and determined action required to address any gaps.

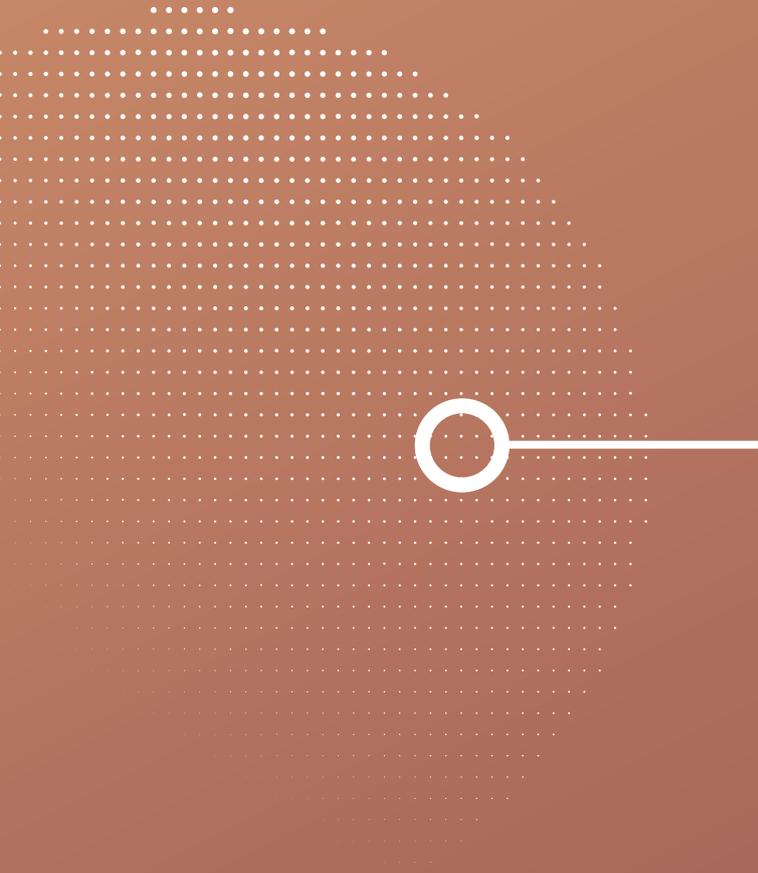
### 4. Performance

- Analysis of organisational structure and operational performance
- The extent to which technical information systems support decision-making
- How systems and processes support effective decision-making.

Continuous improvement, the provision of information and support to assist with compliance, and transparency and accountable decision-making, are all fundamental elements of effective governance. The review sought the views of stakeholders on the effectiveness of systems and processes for internal and external reporting of QBCC performance, and how results and outcomes are used to evaluate QBCC's performance.

The independent lead reviewer has assessed the current state of the QBCC's performance (where we are now), analysed the feedback received on QBCC's desired future and determined action required to address any gaps.

# Recommendations +



## Structure and processes

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### Recommendation 1 – Refocus the QBCC’s regulatory role to licensing and compliance of the industry

#### Assessment: where are we now?

The OECD has found the governance arrangements for regulators are a key factor in a regulator’s ability to operate effectively to achieve the outcomes it is responsible for.<sup>21</sup>

#### One-Stop Shop

The QBCC’s, like other building industry regulators’, responsibilities have expanded over time, and it is regulating an increasingly complex industry. For example, regulation of NCBPs and security of payment laws. The laws administered by the QBCC are believed to be more comprehensive than other Australian building regulators, which was captured in a comment made by a stakeholder - *‘the Queensland Building and Construction Commission (QBCC) is quite likely the most effectual regulator [in the Australian] building industry’*. However, it was also noted *‘there are areas where the QBCC could improve governance that will in turn support better outcomes for the industry, consumers, and the Queensland government.’*

The QBCC’s broad range of functions have made it a one-stop shop for both consumers and industry. This integrated service delivery model was developed because of the interdependent nature of the QBCC’s regulatory functions, such as licensing, dispute resolution and the QHWS.

The QBCC’s workload has also increased significantly over time, for example, in the 2011-2012 financial year (FY) the former QBSA processed 73,256 QHWS policies compared to the QBCC processing 168, 468 policies in 2020-2021 and it processed 1,230 mutual recognition licence applications, which is more than double the number of applications processed in 2011-2012 (former QBSA). However, the former QBSA had 350 FTE in the 2011-2012 FY compared to the QBCC employing 523 FTES in 2020-2021.

The one-stop shop model has positioned the QBCC to be viewed as the *‘judge and jury’*, increasing the potential for conflicts of interest with its other functions. For example, the QBCC collects the money for QHWS premiums and assesses claims made against the Scheme.

#### Licensing

A key function of the QBCC is administration of the building and construction industry licensing framework. The Queensland Audit Office (QAO) has found the QBCC has effective processes and probity checks in place to assess whether individuals and companies who apply for a licence meet the requirements. Further, the QAO found that staff are generally well-trained, but there are opportunities to improve the training and guidance materials provided.<sup>22</sup>

Currently, the technical qualifications for licensing purposes are prescribed by the QBCC (under the PD Act) and EPW (under the QBCC Act and Building Act). This potentially creates confusion about the role of the QBCC as a regulator. The QBCC prescribing technical qualifications for the plumbing and drainage occupational licence, appears to have contributed to industry confusion about the policy function of EPW and the regulatory role of the QBCC.

Broadly, comments about licensing focused on the government’s policy decisions, although stakeholders misdirected the comments about these decisions towards the QBCC. Through the discussion forum, stakeholders suggested the QBCC, industry and consumers would benefit from a reduction or separation of QBCC functions, particularly the roles and responsibilities relating to licensing and compliance. For example, *‘trade contractor licensing and consumer building complaints should be entirely separate.’*

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21. OECD 2014, *The Governance of Regulators - OECD* available at [The Governance of Regulators | OECD Best Practice Principles for Regulatory Policy | OECD iLibrary \(oecd-ilibrary.org\)](#).

22. Queensland Audit Office, *Licensing builders and building trades* (Report 16: 2019-20) available at [Licensing builders and building trades \(Report 16: 2019-20\) \(qao.qld.gov.au\)](#).

## QHWS

The QBCC administers the QHWS, which is the only first-resort home warranty scheme in Australia. The QHWS seeks to protect consumers in the low-density domestic building sector. The Scheme aims to provide consumer protection if a building contractor fails to complete work or rectify defective work. It is mandatory insurance for certain residential construction work that is regulated through a fixed-price and cost-plus contract. This insurance covers the homeowner for loss if something goes wrong during the building process.

In 2020-2021, the QBCC processed 168,468 insurance policies for residential construction work, and approved \$31.3 million in insurance claim costs under the Scheme. This included:

- \$16.6 million for defects claims
- \$9.9 million for non-completion claims
- \$4.8 million for subsidence claims.

During this time, around 98 per cent of claims were fully compensated under the Scheme.

The QHWS is a key reform area of the QBP and QBP Update 2021, which committed to a further review of the Scheme.<sup>23</sup> A current review of the QHWS is considering reform options to strengthen the Scheme in collaboration with consumers and industry.

Most of the comments about the QHWS were made by consumers and industry. These submitters believed there was a need for more transparency, which could be achieved by separating the QHWS and compliance functions.

Of the 61 responses to the online survey, about 62 per cent (37 people) of respondents did not believe the QBCC managed the QHWS in a timely, accurate, fair and transparent manner. A submitter to the review commented that, *'the home warranty scheme is a great idea however poorly managed and definitely does not cover the homeowner as it is envisioned by the homeowner.'*

## Feedback: where do we want to be?

### One-Stop Shop

Stakeholders expressed a view that the breadth of QBCC functions have grown to such an extent that it is impacting its effectiveness. This sentiment was captured through comments such as, *'it's all just way too complex, the QBCC grew from a licencing body to this massive government agency'* or the QBCC was trying to be *'everything to everyone'*.

A previous review recommended the one-stop shop model be disbanded to improve confidence and transparency. This sentiment, to a degree, resonated during this review with stakeholders suggesting a need to satisfactorily firewall functions to improve transparency, impartiality and integrity in performing the QBCC functions.

If the conflicting functions are quarantined, the one-stop shop model provides unrivalled convenience, access and balancing of the interests of consumers and contractors, which is one of the key objects of the QBCC Act.

### Licensing

Licensing policy and the QBCC procedures were raised by stakeholders as being difficult to navigate, including the range and scope of licence classes. One submitter stated, *'the scope of works of individual licences is so narrow, that in order to do the work you should be able to do, you have to become a builder'*. Some licensees expressed concerns about the fire protection licensing framework, for example, *'current licencing framework, new qualifications, and an aging workforce will result in an exit of competent practitioners from the industry.'*

EPW as the department responsible for policy development would be the sole agency responsible prescribing technical qualifications for QBCC licensing purposes.

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23. QBP 2017 & QBP Update 2021 are available at [2021 update to the Queensland Building Plan | Department of Energy and Public Works \(epw.qld.gov.au\)](https://www.epw.qld.gov.au/2021-update-to-the-queensland-building-plan).

## QHWS

A majority of comments about the QHWS were made by consumers and industry, who wanted more transparency and a separation of the QHWS from other QBCC functions. The functional change was reflected in comments such as, it would be beneficial to ‘*separate Qld Home warranty insurance scheme (QHWS) from the licensing and compliance activities (two separate agencies)*’.

Submissions suggested the Scheme could be administered through ‘*a commercial insurer*’.

## EPW QHWS review

EPW is currently undertaking a review of the QHWS.<sup>24</sup> At the time of writing this report, a discussion paper with proposals under the following six key themes, was open for public consultation:

- Comprehensive, contemporary coverage – the scope for the Scheme should be fit-for-purpose, contemporary and responsive
- Affordable risk-based premiums – the Scheme should ensure equity and affordability
- Adequate and flexible compensation limits – the Scheme should offer adequate and flexible insurance coverage and reflect prevailing market conditions
- Effective and efficient processes and time limits – administrative processes should be streamlined and efficient to support consumers, industry and the QBCC
- Empowered consumers – consumers should be properly informed before they sign a contract to build, renovate or repair a home
- A modern and responsive Scheme – consumer protection should reflect changes in the style of modern building designs and living.<sup>25</sup>

Various comments received during this review about the QHWS were out of scope of the ToRs. For example, the QHWS does not currently apply to buildings over three storeys’ such as apartment buildings. These comments have been referred to the QHWS review team for their consideration.

## What research told us

The *OECD Best Practice for Regulatory Policy: The Governance of Regulators* discusses key principles for establishing and operating regulatory agencies<sup>26</sup>. One such principle is that ‘*regulators should not be assigned conflicting or competing functions or goals [without] clear public benefit in combining these functions and [where] the risks of conflict can be managed effectively.*’<sup>27</sup>

## Concluding comment

The QBCC functions should reflect the OECD principle by refocusing regulatory functions on licensing and compliance of the building and construction industry. The performance of functions, such as administering the QHWS, that are perceived as a conflicting with other QBCC functions, needs to be administered by a separate entity.

Realigning and clarifying the functions of the QBCC will address the perception of bias and conflict of interest, and improve industry and consumer confidence in the regulatory framework.

While the administration of the QHWS should sit outside the QBCC, it is important that any work performed by the QBCC that relates to the QHWS should be funded by the Insurance Fund, regardless of who administers it. For example, where the QBCC investigates a complaint about defective building work covered under a QHWS policy, the QBCC should be appropriately remunerated for the investigation into the complaint.

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24. [About | Queensland Home Warranty Scheme review | Have your say about Queensland Government programs and initiatives \(engagementhq.com\)](#).

25. [Queensland Home Warranty Scheme discussion paper \(epw.qld.gov.au\)](#).

26. OECD (2014), OECD Publishing: Paris available at [The Governance of Regulators | OECD Best Practice Principles for Regulatory Policy | OECD iLibrary \(oecd-ilibrary.org\)](#).

27. Ibid, pp. 30, 46, 68, 98, 106 (Principles have been selected for relevance).

## **Recommendation 1: Refocus the QBCC's regulatory role to licensing and compliance of the industry**

### **Actions for effective implementation of recommendation 1**

- 1.1 Transfer administration of the QHWS to another government department or agency, such as Queensland Treasury, to improve transparency and enable the Commission to refocus its regulatory role to licensing and compliance. Under this restructured model the QBCC would investigate complaints managed under the QHWS and charge a service fee or be remunerated for services undertaken for the Scheme.
- 1.2 Expand the Terms of Reference of the QHWS Review to consider the best approach to implementing action 1.1 above.
- 1.3 Transfer responsibility for prescribing technical qualification requirements across all QBCC licensees to EPW, to clarify and distinguish the policy and regulatory responsibilities.
- 1.4 Establish a committee comprising the Queensland Training Ombudsman and representatives from EPW, QBCC, CSQ, Department of Employment, Small Business and Training, industry representatives and other experts as required to assist in assessing and prescribing the technical qualification requirements for QBCC licensees.
- 1.5 Refer comments about the QHWS, which are out of scope for this review, to the QHWS review team.

# Recommendation 2 – Establish an independent, quarantined Mediation, Resolution and Review Unit within the QBCC

## Assessment: where are we now?

In 2020-2021, the QBCC processed 168,468 insurance policies for residential construction work and received 4,792 complaints about defective or incomplete work (about 3 per cent of premiums issued).<sup>28</sup> This shows that most homeowners and contractors have had a neutral experience within the building and construction industry.

Where disputes arise, the parties are significantly invested, emotionally and financially, in the process and outcome of an investigation. Therefore, it is critical that any resolution process is efficient, responsive, cost-effective, fair and all parties are treated with respect.

Disputes can be resolved through the parties negotiating an amicable outcome, an independent mediator assisting to resolve a dispute or through arbitration. The QBCC, as an independent party, performs a critical role through its mediation and dispute resolution functions.

### Dispute Resolution

The current process typically starts with a homeowner lodging a defective work complaint.

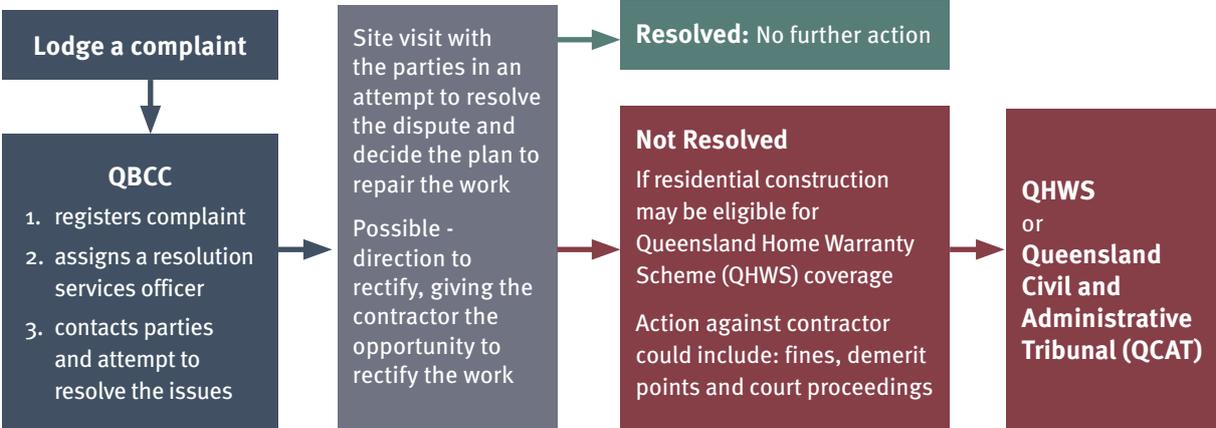
If the homeowner’s contract is still active, the QBCC offers an early dispute resolution (EDR) service that aims to resolve disagreements between parties through facilitation. This is intended to keep projects moving and prevent potentially lengthy and costly disagreements and delays. If the contract has already ended, parties are still encouraged to try to resolve the complaint without further QBCC involvement, in the first instance.

The EDR process was introduced in response to the *Transport, Housing and Local Government Committee Report No. 14 (2012 review)*<sup>29</sup> and is intended to resolve matters quickly and fairly. However, stakeholders believe the current process is not sufficiently independent, transparent or impartial.

Where the contract is complete, or the relevant parties can’t reach a resolution, the issue progresses through the QBCC’s dispute resolution process. This includes the matter being referred to a building inspector. The building inspector may contact the parties to try and facilitate an outcome and/or undertake a visual site inspection to inspect the items of complaint, assess responsibility for any defective work identified and, where appropriate, issue the contractor with a Direction to Rectify (DTR). Where a DTR is issued, the period that rectification work must be undertaken will typically be 35 days. There are consequences if a contractor fails to comply with a DTR including it appearing on their public record, as well as potential fines and demerit points or disciplinary action.

The current EDR process is depicted below in Figure 1.

Figure 1



28. QBCC Annual Report 2020-2021 pp. 25-26.

29. *Inquiry into the Operation and Performance of the Queensland Building Services Authority 2012.*

## Internal Review process

The internal review process, which was also established in the QBCC Act in response to the 2012 review, applies to QBCC decisions. The aim of this process is to assist in quickly resolving disputes about QBCC decisions.

QBCC decisions can be reviewed internally through the Internal Review Unit located within the QBCC. Unlike the adjudication registry there are no legislative provisions that establish independence between the Internal Review Unit officers (internal reviewers) and other QBCC officers.

Industry and consumers believe the current structure could enable undue interference from other QBCC officers resulting in a bias or potential conflict of interest, *‘having an agency carry out internal reviews of their own agency is ludicrous and results in bias towards the QBCC...this causes much suffering to consumers.’*

Questions have also been raised about the QBCC’s capability to effectively mediate and resolve issues, which is needed for effective dispute resolution.

## Feedback: where do we want to be?

### Dispute Resolution

Some stakeholders believed the dispute resolution policies and procedures were unclear and are insufficiently transparent as one participant stated, *‘the QBCC policies are not transparent’*.

Stakeholders concluded ineffective dispute resolution processes and inconsistent decision-making could potentially increase the number of cases being escalated to QCAT.

There was a strong view that an independent body should be established to undertake internal reviews and resolve disputes.

## What research told us

During 2020-2021, 5,449 building complaints and disputes were lodged with the QBCC. During this same period, the QBCC opened 1,010 internal review cases and closed 995 internal review cases in addition to some cases being managed from the previous financial year.<sup>30</sup> The results of those completed reviews are:

- 558 (56 per cent) decisions were upheld
- 111 (11 per cent) decisions were overturned
- 98 (10 per cent) decisions were varied
- 228 (23 per cent) matters were discontinued.

Regardless of the above statistics, stakeholders have a strong view that the Internal Review Unit is not independent and fails to make decisions fairly and balance the interest of all parties.

The Adjudication Registry model is established under the *Building Industry Fairness (Security of Payment) Act 2017* (BIF Act). This office is responsible for managing the adjudication process for payment disputes under the BIF Act.

This Act:

- ensures the registry consists of the registrar and staff, whose responsibility is solely to assist in performing the registry functions
- prescribes the registry powers and functions
- prevents the QBCC Commissioner from giving directions to the registrar when performing certain functions
- enables the registrar to make policies, which are published on the QBCC website
- requires the registrar to be appointed by Governor in Council.

The legislation creates independence in performing the registry functions, while being located within the QBCC.

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30. QBCC Annual Report 2020-2021, p26, accessed at [publication-qbcc-annual-report-2020-2021.pdf](https://www.qbcc.qld.gov.au/publication-qbcc-annual-report-2020-2021.pdf)

## Concluding comment

An independent, quarantined Mediation, Resolution and Review Unit comprising of the Adjudication Registry, Internal Review Unit and mediation services should be established. The Resolution Services Unit would provide end-to-end resolution services including both mediation and arbitration to resolve defective building work disputes in a timely manner. The mediation step of the process would not be limited to active contracts, (as per the current EDR process) and would be undertaken by trained mediators rather than building inspectors.

This unit could be established in legislation and is expected to reduce the volume of disputes being escalated to QCAT. By this Unit operating independent of the QBCC's licensing and compliance functions, consumers and industry can have confidence and trust in the outcomes of the dispute resolution process.

The retention of this independent quarantined unit is best placed within the QBCC framework as it will be easier to access and resolve matters put before it. Placing it outside the QBCC framework may increase inter-agency complexity and accompanying bureaucratic procedures and processes.

### **Recommendation 2: Establish an independent, quarantined Mediation, Resolution and Review Unit within the QBCC**

#### **Actions for effective implementation of recommendation 2**

- 2.1 As a priority, amend the relevant legislation to establish an independent, quarantined Mediation, Resolution and Review Unit within the QBCC.
- 2.2 Separate and quarantine the functions of the Mediation, Resolution and Review Unit from the QBCC licensing and compliance functions.
- 2.3 Incorporate the existing functions of the Adjudication Registry, Internal Review Unit and mediation services into the independent, quarantined Mediation, Resolution and Review Unit.
- 2.4 The independent, quarantined Mediation, Resolution and Review Unit should have a stretch target of reducing escalation of disputes to QCAT by 90 per cent.

## Recommendation 3 – Reduce the size of the QBC Board and realign measures to demonstrate alignment with continuous improvement practices

### Assessment: where are we now?

The OECD’s Best Practice Principles for Regulatory Policy provide that ‘*how a regulator is established, directed, controlled, resourced and held to account*’<sup>31</sup> is crucial for the overall effectiveness of the regulator. A regulator’s corporate governance arrangements are therefore critical to the successful implementation of government reforms and building confidence and trust in the regulator and its operations.

The QBC Board is the QBCC’s governing body and under the QBCC Act a maximum of 10 QBC Board members can be appointed, which is the current number of appointed QBC Board members.

The composition of the QBC Board is critical to the effective and efficient operation of the QBCC. To effectively undertake its duties, it is important for the board to have deep knowledge of the organisational operating environment. In recent years, there has been a growing focus in both corporate and public sectors on improving board diversity and member independence.<sup>32</sup>

A majority of QBC Board members have experience in ‘issue advocacy’ and the not-for-profit sector, which is a higher proportion of members compared to other jurisdictions (refer table 1 below). It appears that the QBC Board is the only building industry regulator board without a member with public sector experience, which could strengthen the understanding of the executive government and public sector processes and protocols.

The composition of the QBC Board has been topical during the review, both among stakeholders and within the media. It is important to acknowledge that the composition of the former QBSA Board was also a point of contention in previous reviews.

Table 1 below has been prepared by ANZSOG and compares the QBC Board members’ experience across the sector against other jurisdictions.<sup>33</sup>

**Table 1: Composition of construction industry boards, by career background, mentions in member biographies**

Primary career	QBC Board (10 members) <sup>67</sup>	VBA Board (11 members)	SA State Planning Commission (6 members)	Building Technical Panel (SA) (10 members)	Building Services Board (WA) (9 members)
<b>Business</b>	2	3	1	3	5
<b>Law &amp; governance</b>	2	5	1	3	1
<b>Finance &amp; Economics</b>	2	1	0	0	1
<b>Union</b>	2	0	0	0	0
<b>Advocacy &amp; NFP</b>	7	5	0	0	1
<b>Education &amp; skills</b>	4	2	0	3	1
<b>Public sector</b>	0	3	5	7	2
<b>Regulation</b>	1	2	0	1	2
<b>Politics</b>	2	1	1	0	0

**Legend:**

- **Business:** owned or worked in management in a construction business.
- **Law & governance:** worked as a lawyer or in corporate governance, including consultancy.
- **Finance & economics:** worked in a role requiring finance skills or education in economics.
- **Union:** member has worked in a trade union.
- **Advocacy & NFP:** biography includes a role in issue advocacy or work in a not-for-profit.
- **Education & skills:** worked in tertiary education or industry skills provision.
- **Public sector:** worked in government (at any level) in a role not explicitly regulatory.
- **Regulation:** worked in a regulator or in a policy role to do with regulation.
- **Politics:** member has held elected office (at any level).

31. OECD (2014), *The Governance of Regulators*, OECD Best Practice Principles for Regulatory Policy, OECD Publishing: Paris, p 15.

32. Kang, H. et al. (2007). Corporate governance and board composition: diversity and independence in Australian Boards. *Corporate Governance*, 15(2), 194-207.

33. ANZSOG, *Analysis of the governance model, regulatory approach, and capability requirements of the Queensland Building and Construction Commission (QBCC)*, April 2022, pp 31-32.

## Feedback: where do we want to be?

Stakeholders questioned whether the QBC Board fully represented the industry and had the necessary expertise to govern the QBCC. Stakeholders believed the composition of the QBC Board promoted a perception of bias and/or a potential conflict of interest considering individual QBC Board members' businesses. One submitter wrote the QBCC *'needs to be totally independent and have a professional boardroom. Vested interest groups...should have a minimal or no role at all'*.

The lead reviewer's observation was that all board members appeared vigilant in following processes, procedures and protocols.

## What research told us

Extensive corporate governance research over the past two decades has focused on the composition and size of boards of directors and their impact on organisational outcomes such as financial performance and accountability.<sup>34</sup> A recent study conducted with Australian firms has confirmed prior international findings that larger boards are associated with lower organisational operating performance and higher operating costs as well as increased communication difficulties.<sup>35</sup>

With 10-members, the QBC board is larger than the average Australian board, although the size of the QBC Board is not structurally dissimilar to that of comparable building and construction industry regulator governing boards in other Australian states.<sup>36</sup> Nevertheless, research demonstrates that larger boards inhibit corporate restructuring, tend to be more indecisive in crisis situations, and have impaired decision-making because of coordination difficulties and a lack of member participation.

## Concluding comment

Right sizing the QBC Board with reduced membership while retaining gender equality in line with best practice to assist in moving towards an outcomes-focused board.

The skills and expertise of the board members need to be relevant to the functions of the QBCC and members should be able to make timely and effective decisions. It is expected that the board members would have a sharper focus on their role and responsibilities within the Commission and the associated nexus with the QBCC Commissioner. A formal engagement mechanism should be established to provide the board with advice on contemporary industry activities.

### **Recommendation 3: Reduce the size of the QBC Board and realign measures to demonstrate alignment with continuous improvement practices**

#### **Actions for effective implementation of recommendation 3**

- 3.1 In accordance with best practice, right size the QBC Board to seven persons, including the Chair.
- 3.2 The composition of the reformed board must have an appropriate mix of relevant skills and experience.
- 3.3 Apply the principles of gender equality, diversity and inclusiveness in selecting members of the QBC Board.
- 3.4 Establish an industry advisory body to allow the QBC Board to effectively engage with the sector.

34. Subramaniam, N. et al. (2013). Understanding corporate governance in the Australian public sector. *Accounting, Auditing, & Accountability Journal*, 26(6), 946-977.

35. Nguyen, P. et al. (2016). Board size and firm value: Evidence from Australia. *Journal of Managerial Government*, 20, 851-873.

36. ANZSOG 2022, *Analysis of the governance model, regulatory approach, and capability requirements of the Queensland Building and Construction Commission (QBCC)*, April, pp 28-33.

## Recommendation 4 – Realign structure and recognise specialist skills

### Assessment: where are we now?

#### QBCC structure, roles and responsibilities

Successive governments have expanded the QBCC's role and responsibilities business as usual activities and the loss of senior leaders within the QBCC has created a challenging environment for the regulator. This, coupled with the one-stop shop model, has resulted in a need to change the organisational structure to ensure it is contemporary and fit-for-purpose.

The QBCC organisational structure is contained in **Attachment E**.

The QBCC's structure has ten direct reports to the CEO and Commissioner.

*The rule of seven is a basic axiom of management which states that a manager is most effective when the maximum number of people reporting to them doesn't go beyond a handful, the sweet spot being around a ratio of 7:1.<sup>37</sup>*

The higher the number of direct reports, the less time any manager will have to build a strategic, effective and collaborative organisation that focuses on outcomes.

Stakeholders felt the reporting lines within the QBCC could be better defined, empowering staff to communicate more effectively and work collaboratively. Current and former QBCC employees, indicated they were unclear or unsure about either their roles or the team's role. This lack of clarity may have contributed to the stakeholders' comments about lack of understanding of the organisation's vision and priorities.

Stakeholders suggested that some of the QBCC policies and procedures were outdated, not applied consistently, unclear, were Brisbane-centric in nature and not easily found.

#### Specialist skills

The technical knowledge and skills for the scope of work being performed across the building and construction industry is vast. There are currently about 75 contractor licence classes relevant to trades across four licence types (contractor, nominee, site supervisor and occupational).

QBCC employees (past and present) and industry advocated the need for more technical expertise within the QBCC, which would build confidence and trust in the regulation of the industry. The current QBCC structure generally requires team members to be multiskilled and have a broad knowledge base of all sectors of the building and construction industry.

While QBCC employees have demonstrated they have the knowledge, skills and expertise relevant to regulating the industry, an opportunity exists to better understand staff expertise or align their skills with responsibilities, which would strengthen the organisational capability. Participants suggested that the QBCC structure encouraged specialists to move into administrative positions for the purpose of career advancement, resulting in a misalignment of skills.

The online survey showed 78.2 per cent of respondents did not believe the QBCC had the necessary skills, expertise and experience to effectively perform its functions (14.5 per cent were unsure and 7.3 per cent believed it did have the necessary skills, expertise and experience).<sup>38</sup>

Unresolved conflicts within the senior management team have contributed to several experienced senior executives leaving the QBCC, taking with them valuable skills and corporate knowledge. Further, 83.3 per cent of survey respondents indicated the QBCC Board, Commissioner and staff roles were not clearly defined, documented or understood across the organisation.<sup>39</sup>

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37. Rabbolini, O 2019, *Servant Leadership And The Rule Of Seven*, The Startup <https://medium.com/swlh/servant-leadership-and-the-rule-of-seven-27e516017b66#:~:text=What%20is%20the%20rule%20of%20seven%3F&text=The%20rule%20of%20seven%20is>, accessed 17 April 2022.

38. EPW 2022, Question 15 of the QBCC *Governance Review Survey* 2022.

39. EPW 2022, Question 21 of the QBCC *Governance Review Survey* 2022

## Feedback: where do we want to be?

### QBCC structure, roles and responsibilities

As an industry regulator, the QBCC is more effective with a structure that provides clarity of roles and responsibilities of the QBC Board, Commissioner and senior leadership team and develops management and leadership knowledge about industry and technical practices.

The revised structure would enable the development of specialist skills needed to be an effective regulator and promote consistent and contemporary policies, procedures and practices.

### Specialist skills

There was strong support to enhance the specialist skills within the organisation, improve alignment of specialist skills with responsibilities, and enable career progression through the specialist pathways. One stakeholder reflected a view the QBCC required more trade skills, in stating, *‘there are less trades experienced people within the QBCC, particularly at a senior level with white collar professionals common.’*

Half of the respondents to the online survey indicated the single change likely to make the biggest impact within the QBCC would be to realign staff skills with roles.<sup>40</sup>

It appears that policies, procedures and practices could be improved and consolidated through a dedicated unit tasked with, maintaining and storing policies and procedures in a centralised location.

## What research told us

When corporate Boards and their senior leadership teams are unclear about their roles and responsibilities and fail to address relational conflicts effectively, it can slow down decision-making processes, causing inefficiencies, frustration and a lack of trust in leadership.<sup>41</sup>

There is a growing need for public facing organisations’ to better align their operations with their community’s goals. Creating sustainable change that contributes to a better quality of life for individuals and communities is unable to be achieved in isolation or in the short-term.

Previous reports have proposed the QBCC examine how it can best align its functions while providing appropriate career progression and skills development for staff. However, an environment of continuous government reforms, continuing senior leadership changes and limited resources, has hampered efforts to improve structural effectiveness.

## Concluding comment

Realigning the organisational structure, will improve how the QBCC delivers its core business functions and balances the strategic and operational aspects of the organisation. The QBCC can demonstrate independence and objectivity through structural realignment, clear decision-making practices and communication strategies.

Over recent years the QBCC’s functions and responsibilities have expanded, resulting in a need to realign the organisation’s structure and functions. This will help to ensure it remains independent and is a strong effective regulator that delivers enhanced support to the industry and consumers.

### Recommendation 4: Realign structure and recognise specialist skills

#### Actions for effective implementation of recommendation 4

- 4.1 Undertake a structural realignment within the QBCC that supports an outcomes-focused regulator.
- 4.2 Recognise and promote specialist career pathways and attract specialist skills and expertise.
- 4.3 Establish a dedicated unit for developing, maintaining and hosting operational policies and procedures, particularly when implementing new reforms or transitioning to new information technology systems.

40. EPW 2022, Question 22 of the QBCC Governance Review Survey 2022.

41. OECD (2014), *The governance of regulators*, OECD Best Practice Principles for Regulatory Policy, OECD Publishing: Paris available at [The Governance of Regulators | OECD Best Practice Principles for Regulatory Policy | OECD iLibrary \(oecd-ilibrary.org\)](https://www.oecd-ilibrary.org/governance/the-governance-of-regulators)

## Decision-making

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### Recommendation 5 – Enhance the QBCC’s reputation based on consistency, transparency, fair and impartial decision-making

#### Assessment: where are we now?

##### **QBCC – communication, decision-making, and penalties**

The QBCC policies and procedures are published on the QBCC website and are intended to provide information and guidance to staff, industry, and consumers about the organisation’s decision-making processes.

A common theme identified amongst all stakeholders was inconsistency in communication, decision-making, and penalties imposed by the QBCC. Awareness of QBCC policies and procedures was limited amongst stakeholders external to the QBCC, while internally there appeared to be inconsistency in their application, partially attributed to a lack of detail or guidance or because they were no longer considered current or relevant.

Like other regulators the QBCC has a discretion regarding the appropriate compliance and enforcement action to be taken. QBCC employees (past and present) suggested the policies and procedures could be made clearer and provide greater certainty and guidance about the most appropriate way to apply this discretion consistently, fairly and impartially, for example, in the instances where grounds for disciplinary action have been established.

A shared perception among homeowners and builders was the QBCC decision-making was biased against them namely, *‘clear prejudice at all levels, against the home-owner’* with *‘deliberate bias shown towards the builder, and procedurally unfair towards the consumer.’* The Nous Group have found that *‘while perceptions of bias in decision-making persist, there is no evidence that this translates into actual bias.’*<sup>42</sup>

Factors that may contribute to the perception of bias are the use of technical language during inspections and inspection reports, which may disadvantage homeowners who are unfamiliar with the terms and unclear about what constitutes *‘defective building work’* versus what is a *‘contractual issue.’*<sup>43</sup>

##### **Complaints Process**

The QBCC provides a free and accessible complaints service to consumers and industry. Complaints can be lodged via various channels such as on the website, email, post or in-person. Information about the QBCC complaints service is readily available. The Nous Group found evidence to suggest all complaints are reviewed and progressed as required with clear referral pathways in place where a matter is outside the QBCC’s jurisdiction.<sup>44</sup>

That said, the review found that confusion remains amongst consumers about the role and remit of the QBCC, which is reflected in the types of complaints submitted to the QBCC each year, and that is outside the QBCC’s jurisdiction. For example, complaints about contractual matters.

Accountability for the management of a complaint appears to be unclear to QBCC staff due to the various roles at different stages of processing a complaint, which can lead to the parties involved being frustrated about who to contact.

##### **Disclosure of information**

Currently, the QBCC Act restricts the information that can be provided to a complainant about the outcome of their complaint, which has resulted in frustration and anger about what is being perceived as a lack of transparency and accountability of the complaint management process. This frustration is compounded where the provisions hinder subsequent actions contingent on the outcome of a complaint, such as court action or the need to address an urgent structural or safety concern.

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42. Nous Group, *Review of QBCC’s complaints and decision-making processes*, October 2021, p45.

43. Nous Group, *Review of QBCC’s complaints and decision-making processes*, October 2021, p23.

44. Nous Group, *Review of QBCC’s complaints and decision-making processes*, October 2021, p28.

Currently, consumers must lodge a Right to Information (RTI) application under the *Right to Information Act 2009* to receive information about their complaint. The RTI process is considered a method of last resort and can be costly and difficult for consumers. Accountability for decisions is also hindered if information about how a decision was made is not disclosed.

The Government has identified the issues raised and sought to address the matter through the Building and Other Legislation Amendment Bill 2022 (BOLA Bill), which was introduced into Parliament on 29 March 2022 by the Honourable Mick de Brenni MP, Minister for Energy, Renewables and Hydrogen and Minister for Public Works and Procurement. This Bill includes proposed amendments that, if passed, would enable the QBCC to notify a complainant about the outcome of an investigation and address a common concern raised during the review.

### Information sharing

In Queensland, like other jurisdictions, the building and construction industry is regulated across various agencies and levels of government, making it *'prone to duplication, confusion, unclear lines of responsibility and a lack of information sharing.'*<sup>45</sup> For example, the QBCC Act requires a notifiable incident (incident that causes or poses a risk of death, serious injury or illness to a person) to be reported to the QBCC and under the *Work Health & Safety Act 2011* the same incident needs to be reported to the Office of Industrial Relations (Qld).<sup>46</sup> Industry stakeholders have suggested the duplication in reporting requirements is unnecessary and should be removed. While these provisions were introduced to implement the coroner's recommendation, which aimed to facilitate safety on a building or construction worksite, there remains an opportunity to refine processes to deliver the desired outcomes while establishing more efficient reporting processes for consumers.

### Model litigant principles

The model litigant principles set standards about how the State of Queensland, including state agencies, should behave when acting as a party to legal proceedings.<sup>47</sup> The QBCC, as a state agency, must always conduct itself as a model litigant during legal proceedings. This means the QBCC must follow principles of fairness and firmness, such as acting consistently and promptly in all claims, and keeping litigation costs to a minimum. The QBCC must also consider and participate fully and effectively in alternative dispute resolution (ADR) before commencing court proceedings.

## Feedback: where do we want to be?

### QBCC – communication, decision-making, and penalties

There are significant benefits to developing more transparent, accountable and consistent decision-making by updating and monitoring the application of operational procedures, and through staff training as illustrated in this quote, *'other major issues not displayed by the building regulator are transparency, equal balance of fairness, impartiality and there is a lack of consistency'*.

Communication should be clear, concise and use language easily understood by all parties.

Communication material should clearly communicate the scope of the QBCC's functions, which would assist in managing complainant and respondent expectations regarding the potential actions, remedies and outcomes of an investigation.

Where penalties are imposed, industry and consumers would be more confident that decisions are being made consistently, transparently and impartially through the QBCC's use of a precedent register. The register would record previous decisions in similar circumstances to facilitate consistency in the application of comparative penalties.

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45. Shergold, P & Weir B, 2018, *Building Confidence – Improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia*, p.19 available at [available at building\\_ministers\\_forum\\_expert\\_assessment - building\\_confidence.pdf \(industry.gov.au\)](https://www.industry.gov.au/publications/building_ministers_forum_expert_assessment_-_building_confidence.pdf).

46. Section 54A, *Queensland Building and Construction Commission Act 1991*.

47. Legal Services Coordination Unit, *Model Litigant Principles* available at [www.justice.qld.gov.au](http://www.justice.qld.gov.au).

## Complaints Process

Stakeholders are seeking clarity, transparency, impartiality and accountability with respect to decisions made in response to complaints as *‘the QBCC complaint process is supposed to provide the consumers an economical option to resolve disputes and reduce the number of building dispute applications to QCAT, but in reality, the QBCC complaint process is inefficient, ineffective and solely based around what is considered “fair” for the builder’.*

QBCC customers are seeking greater transparency around investigation timeframes which would *‘consistently and proactively communicate average or expected timeframes to complainants or respondents.’*

The complaint process should encourage and, where possible, facilitate resolution and conciliation before arbitration. This would improve the customer experience. In turn this should improve customer satisfaction with the QBCC and reduce appeals. It should also assist in alleviating a perceived need to pursue other avenues to raise issues and concerns.

## Transparent disclosure of information

Complainants should be provided the outcomes of the investigation into their complaint and the rationale behind it. The proposed amendments introduced through the BOLA Bill would improve consumer rights to the information about their complaint.

## Information sharing

Stakeholders are seeking simplified reporting and information arrangements that streamline processes and reduce duplication, for example the need to report to one government agency and the government departments share the information if required.

## Model litigant principles

Stakeholders want assurance the QBCC is and will follow the model litigant principles<sup>48</sup> in legal processes. One submission stated that, *‘as a ‘model litigant’ QBCC **MUST** provide QCAT all relevant information to best assist the member make the correct decision. By totally excluding us from the matter, QBCC failed to ensure the case they presented was accurate, fair, equitable and balanced.’* Another submitter noted, *‘the QBCC is a far cry from the so-called model litigant it supposedly prides itself to be.’*

## What research told us

Sound governance arrangements enable a regulator to meet its responsibilities and be held accountable for its decisions and actions. They also assist a regulator to meet many of the community’s expectations, which helps build stakeholder and public confidence.<sup>49</sup>

Establishing and publishing standard operating procedures for key regulatory activities, including decision-making, and training staff in their use, enhances:

- operational efficiency
- consistency in the execution of regulatory activities
- stakeholder confidence that regulatory activities are conducted in accordance with legislative requirements and reflect better regulatory practice.

Well-written operating procedures provide clarity and predictability for regulated entities about how regulation can be expected to be administered, without restricting the regulator’s authority to vary procedures when circumstances demand.<sup>50</sup>

Over the 2019-2020 and 2020-2021 financial years, QBCC data showed 432 QBCC matters went to QCAT. Only 29 (6.7 per cent) of these QBCC decisions were overturned by QCAT (including 14 related to a direction to rectify for defective building work).<sup>51</sup>

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48. Legal Services Coordination Unit, *Model Litigant Principles* available at [www.justice.qld.gov.au](http://www.justice.qld.gov.au).

49. *Administering Regulation Better Practice Guide 2007* available at <https://www.industry.gov.au/sites/default/files/montara-exhibits/INQ.0008.0001.0001.pdf>.

50. *Ibid.*

51. Nous Group, *Review of QBCC’s complaints and decision-making processes*, October 2021, p47.

In any litigation (including QCAT proceedings) the QBCC must conduct themselves as model litigants, which includes following the model litigant principles. These principles require the QBCC to assist the tribunal in making the correct and preferable decision, rather than advocating in a litigious way.

Most administrative decisions made by the QBCC are reviewable by QCAT including building work complaints. QBCC matters are heard in the administrative review jurisdiction. Initially this involves a compulsory conference where parties discuss the issues without prejudice.

If a matter does not resolve at a compulsory conference, there may be directions made for parties to file further evidence and submissions and the matter may progress to a final hearing.

## Concluding comment

There is a strong case to incorporate the organisational behaviours, leadership, management and staff development and performance into a document such as the service charter. Updating the service charter would paint a realistic picture of what should happen before, during and after an interaction with stakeholders internally and externally.

### **Recommendation 5: Enhance the QBCC's reputation based on consistency, transparency, fair and impartial decision-making**

#### **Actions for effective implementation of recommendation 5**

- 5.1 Develop and document operational procedures for all key regulatory activities, which provide clear guidance about consistent, fair and impartial decision-making. These procedures should reflect model litigant principles and recognise the importance of reconciliation.
- 5.2 Streamline processes and refocus operational priorities on core business.
- 5.3 Improve the customer experience through responsive and timely investigation, accurate advice and managing expectations through guidance and communication material.
- 5.4 Establish a precedent register to improve consistency of disciplinary action, including fines and education requirements.
- 5.5 Actively report on the outcomes of QBCC decisions.
- 5.6 Implement streamlined processes across regulatory agencies to reduce duplication in reporting and supports a customer focus, e.g. reporting of health and safety risks.
- 5.7 The Transport and Resources Committee support the amendments in the Building and Other Legislative Amendment Bill 2022 (BOLA) that improve consumer rights to information.

# Recommendation 6 – Enhance the transparency and accountability of the conflicts of interest framework

## Assessment: where are we now?

### Conflict of interest policy

The QBCC's *'Conflicts of Interest Policy and Procedure'*<sup>52</sup> document sets out the requirements for identifying, managing, and monitoring conflicts of interest. To comply with the policy, QBCC employees must perform their duties in a fair and impartial manner and make decisions that are in the public interest. The policy applies to the QBC Board, any QBC Board committees and panels, the Commissioner, QBCC employees and contractors.

Despite this existing policy, review stakeholders sought greater transparency around the declaration of conflicts of interest, particularly regarding QBC Board members.

Stakeholders' appeared to be unclear about the processes for identifying, managing, and monitoring conflicts of interest for the QBCC.

The policy does not include information about penalties that could apply in the case of a proven violation of the conflicts of interest policy. However, there is an existing conflict of interest register and it appears the QBCC policy is being applied. The QBCC has advised that penalties do apply where proven violations occur, and for privacy reasons the details of certain actions, including termination of employment, cannot be disclosed.

## Feedback: where do we want to be?

Communication material should be readily available about the processes for identifying, managing, and monitoring conflicts of interest within the QBCC, including information about the penalties that could be imposed when a violation of the policy is proved. This information should be communicated to staff and QBC Board members upon commencing their role at the Commission.

The QBCC's Conflict of Interest policy is consistent with the Queensland Government document *Welcome Aboard: A guide for members of Queensland Government Boards, committees and statutory authorities*.<sup>53</sup>

To improve confidence in the transparency and management of conflicts of interest, it is recommended the QBC Board publicly declare conflicts of interest, noting decisions will also need to be made in order to protect personal and sensitive information.

## What research told us

The Institute of Internal Auditors Australia (IIAA) notes that conflicts of interest are a major threat to governance, compliance, ethical standards and cultures.<sup>54</sup> A conflict of interest can be defined as *'any actual, reasonably anticipated or perceived conflict of interest, whether personal, financial, professional or otherwise.'* Not all conflicts are issues, however conflicts of interest become problematic when they are concealed, partially revealed or mismanaged.<sup>55</sup> All conflicts of interest present a risk to the integrity of an organisation when not managed in the public interest. Perceived or potential conflicts can be controversial and be considered as actual conflicts if not identified, declared, and managed appropriately, to proactively prevent reputational harm.<sup>56</sup>

The Independent broad-based anti-corruption commission in Victoria has observed: *'Risks associated with poorly identified and managed conflicts of interest can be mitigated through strong ethical culture and leadership. This includes leaders clearly communicating how employees are expected to handle conflicts of interest, as well as ensuring robust systems and controls are in place, such as clear and accessible policies and procedures, and regular training.'*<sup>57</sup>

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52. QBCC Conflicts of Interest Policy and Procedure, 2020 available at [Procedure Manual Template \(qbcc.qld.gov.au\)](https://www.qbcc.qld.gov.au/ProcedureManualTemplate).

53. Department of the Premier and Cabinet, 2010 (4<sup>th</sup> edition), available at [welcome-aboard-handbook.pdf \(premiers.qld.gov.au\)](https://www.premiers.qld.gov.au/welcome-aboard-handbook.pdf).

54. Institute of Internal Auditors Australia, Conflicts of Interest: A Framework, May 2017.

55. Independent broad-based anti-corruption commission, *Managing corruption risks associated with conflicts of interest in the Victorian public sector*, October 2019.

56. Ibid, p7.

57. Ibid, p5.

The IIAA developed the following conflict of interest control framework to identify and control conflicts:

1. Clarify conflicts of interest for everyone at risk so that they can recognise conflict of interest situations and know what they need to do.
2. Help people avoid the conflicts of interest that should be avoided.
3. Require individuals to declare formally and properly identify any conflicts of interest that they may have.
4. Require individuals to manage their conflicts of interest and monitor the situation.
5. Deal with breaches of the rules so that infringements are properly investigated, and remedial action taken.<sup>58</sup>

*Welcome Aboard: A Guide for Members of Queensland Government Boards, Committees and Statutory Authorities* is part of the Governing Queensland suite of handbooks. It outlines the role of government boards and the members. The guide also gives details about how boards are established.

The guide also assists with the:

- establishment and operation of government boards
- members in effective performance of their duties
- officers responsible for appointing members
- chairs and chief executive officers responsible for selection and induction.

Further information about the guide can be found on the Queensland Government Department of the Premier and Cabinet at <https://www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/welcome-aboard.aspx>

## Concluding comment

QBCC Processes are in place for identifying, managing, and monitoring declared conflicts of interest. These could be enhanced through introduction of a public-facing conflict of interest register for the QBC Board. There is an associated need to develop routine, ongoing induction programs that can be readily implemented for all QBCC decision-makers with penalties for a breach of the policy clearly specified. This initiative will assist public confidence in the organisation and enhance its role as an outcomes-focused regulator.

### **Recommendation 6: Enhance the transparency and accountability of the conflicts of interest framework**

#### **Actions for effective implementation of recommendation 6**

- 6.1 Establish a public-facing conflict of interest register for the QBC Board.
- 6.2 Promote and monitor the disclosure of all forms of conflicts of interest including unreasonable and unacceptable forms of private interest for individuals in decision-making. For example, it is important that industry assists to inform decision-making but should not be able to decide a matter likely to impact an industry practitioner or organisation.
- 6.3 Develop and implement a routine ongoing induction program to manage conflicts of interest that are outcomes-focused and reflect best practice, and remind people of these obligations annually.
- 6.4 Incorporate penalties and actions to be taken where a proven violation of the conflict of interest policy occurs.

<sup>58</sup>. Institute of Internal Auditors Australia, *Conflicts of Interest: A Framework*, May 2017, p3.

# Organisational transformation

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## Recommendation 7 – Invest in an integrated information management system that is contemporary, fit-for-purpose and aligns with the organisation’s functions

### Assessment: where are we now?

An insights-driven organisation is one that uses data and analytics to gain insights and improve performance. To be an effective insights-driven regulator, the QBCC must have ready access to information systems and data that provide an in-depth understanding of industry risks and the operating environment. These systems can streamline processes, create efficiencies and support the delivery of effective regulatory outcomes.

#### Information technology systems

There are disparate and outdated information technology systems across the QBCC, which fail to align with its functions.

The licensing processes and systems were consistently raised by stakeholders, including QBCC staff, with a general consensus that the systems were problematic. Currently, three separate systems are used to complete a license assessment, switching between different systems during the assessment process. Stakeholders commented that using separate licensing systems is an inefficient and time-consuming process.

Separate digital systems are also used to store records relating to complaints and decision-making procedures. This presents challenges for an effective complaints management process, as a report must be generated by each system then manually reconciled to determine if certain steps have been completed. This is further complicated by the fact different staff located in separate offices may be involved in carrying out the various steps of the complaints process and inconsistencies in how information is recorded across the systems frequently occurs.<sup>59</sup>

The existing systems, particularly the systems at the end of life, are hindering the QBCC’s ability to transform into a truly insights driven regulator. Some of the many benefits of using enhanced, integrated technology systems include more effective communication, streamlined processes, and innovative workplaces.

### Feedback: where do we want to be?

#### Information technology systems

New digital technologies provide efficient ways for collecting and analysing information and providing ready access for regulators and building owners.<sup>60</sup>

In relation to the management of complaints, a system should be implemented to support an ‘end-to-end’ complaints management process with accountability for a case assigned to a single person to improve efficiency.

QBCC staff have suggested improvements through the provision of an online system for licensing as detailed in this quote, *‘it would make it easier for applicants to complete, improve accuracy, ensure that applications couldn’t be lodged without appropriate payment, reduce the risk of human error when processing applications.’*

To transition into an outcomes-focused insights-driven regulator, the QBCC must urgently implement an integrated information management system that aligns with the organisation’s functions. The IT systems should be contemporary and fit-for-purpose, providing the QBCC with the capability needed to target sectorial and associated stakeholder risk.

The replacement of disparate IT systems, with integrated digital technology, will support information flow across the QBCC and drive organisational improvement.<sup>61</sup> It will also help improve consistency across the organisation as exemplified in this quote, *‘...the QBCC systems should be reviewed as every QBCC officer that I have dealt with have provided conflicting directions.’*

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59. Nous Group, *Review of QBCC’s complaints and decision-making processes*, October 2021, p.40.

60. Shergold, P & Weir, B 2018, *Improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia*, p.28.

61. Nous Group, *Review of QBCC’s complaints and decision-making processes*, October 2021.

The QBCC information management systems must enable monitoring and evaluation of the organisation's outcomes, which would improve accountability, transparency and responsiveness to change. This system should assist with the early detection of businesses unable to meet the minimum financial reporting (MFR) requirements and enable earlier intervention.

A submission to the review highlighted that: *'Through analysis of annual reporting the regulator currently monitors the financial health of contractor licensees'* which allows for the QBCC *'to work collaboratively with a number of struggling companies to introduce additional monitoring (e.g. provision of monthly management accounts) and/or imposing a no new work condition (minimising the risk of further financial harm) rather than immediately suspending or cancelling their licence which may accelerate the organisation entering administration or liquidation.'*

## What research told us

In the 2019-2020 financial year, the QAO identified an issue with the QBCC's separate technology systems which can create, *'inefficiencies, difficulties in data reporting and analytics, and data integrity risks'*.<sup>62</sup> This is problematic for a risk-based regulator that relies on data-driven analysis of the regulatory environment as it places high demands on capabilities.<sup>63</sup> However, opportunities exist to improve and integrate systems across the organisation to enhance efficiency of processes.

During a recent review of the QBCC's decision-making processes, the Nous Group identified the need to invest in technology solutions that effectively integrate *'disparate digital systems'* to support the flow of information across the organisation. There was also an emphasis on better connecting existing systems, where possible, optimising functionality and compatibility.<sup>64</sup>

## Concluding comment

Streamlined IT systems can transform the QBCC into an efficient and effective outcomes-focused, insights-driven regulator. The QBCC should implement as a priority, fit-for-purpose systems that align with the functions of the QBCC and incorporate any artificial intelligence features. Artificial intelligence can offer clear benefits for the regulator but it is critical data input is robust and contestable. It is also important that in designing algorithms across all digital capabilities, including apps, for use by the QBCC particular attention needs to be given to values, principles and ethics and ensuring fairness in decision-making.

### **Recommendation 7: Invest in an integrated information management system that is contemporary, fit-for-purpose and aligns with the organisation's functions**

#### **Actions for effective implementation of recommendation 7**

- 7.1 Develop an organisational transformation strategy to support increased capability in leading change and systems to monitor and evaluate outcomes.
- 7.2 Recruit business transformation skills and expertise to improve the likelihood of success of organisational change.
- 7.3 Replace the existing IT systems with fit-for-purpose systems that align with the QBCC functions and reporting framework.
- 7.4 Develop staff capability to critically analyse data and information to support transitioning to an insight-driven regulator.
- 7.5 Develop QBCC's digital capability using artificial intelligence, e.g. through an app, to support industry and assist the QBCC to be an outcomes and customer-focused organisation.
- 7.6 Ensure the ethical use of data is built into all assumptions across digital capability, to reflect the QBCC's functions, values, principles and ethics.

62. Queensland Audit Office, Licensing builders and building trades (Report 16: 2019–20), p4.

63. ANZSOG, *Analysis of the governance model, regulatory approach, and capability requirements of the Queensland Building and Construction Commission (QBCC)*, April 2022, p52.

64. Nous Group, Review of QBCC's complaints and decision-making processes, October 2021, p61.

## Strategy and Planning

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### Recommendation 8 – Ensure strategic planning reflects government’s expectations of the regulator and supports continuous improvement from the industry

#### Assessment: where are we now?

##### Strategic planning

Strategic and operational planning processes that are aligned and mutually supportive provide assurance that operational priorities and activities are consistent with key regulatory outcomes and strategic risks.<sup>65</sup>

QBCC’s published Strategic Plan 2020-2024 (‘the plan’) is a plan-on-a-page that outlines QBCC’s four strategic objectives, strategies, and performance measures. It also identifies risks and opportunities that could impact on achieving or not achieving the strategic objectives.<sup>66</sup> The plan’s performance measures are currently output-focused, meaning they measure the effort expended to deliver services, but they do not measure the value of the effort. The QBCC needs to transition into an outcomes-focused regulator, setting performance indicators that measure the impacts of its activities and its effectiveness in implementing government reforms. As a consumer and outcomes-focused regulator the QBCC can become more effective and adopt a model of continuous improvement.

This approach is consistent with the QBCC Regulatory Strategy 2020-2024.

Stakeholders, including peak industry associations, felt the QBCC strategic planning process could be enhanced through better industry and QBCC employee engagement as illustrated in this quote, ‘... *the QBCC strategic planning processing would be enhanced if it considered industry views as to the current and forecasted challenges facing the building and construction sector, including its regulatory environment.*’

##### QBCC functions, objectives and values

What was evident through consultation activities is the pride QBCC employees take in their work and the dedication and commitment of all stakeholders in delivering a quality service to the industry. There also appeared to be a genuine desire to be actively involved in improving the image of the QBCC and its strategic direction.

The independent reviewer has been impressed with this commitment.

During consultation the QBCC staff (past and present) suggested they were unclear about the organisations visions, functions and objectives. However, this is not reflective of the working for Queensland survey (2021) results completed annually, which reported 91 per cent of respondents did understand how their work contributed to the organisation. External stakeholders who responded to the reviews online survey generally did not understand the QBCC’s vision (38.2 per cent) or were unsure about its vision (25.5 per cent).

#### Feedback: where do we want to be?

##### Strategic planning

There is a need to reflect an outcomes-based organisation in the QBCC’s Strategic Plan with clearly associated performance measures. This would align with the QBCC Regulatory Strategy 2020-2024 and would result in adopting an outcomes-focused performance and reporting framework that is integrated with other organisational planning and management systems. This performance and reporting framework should be incorporated across the organisation, including employee performance reviews, development plans and operational performance reviews.

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65. *Administering Regulation Better Practice Guide 2007* available at [INQ\\_0008\\_0001\\_0001.pdf \(industry.gov.au\)](https://www.industry.gov.au/publications/inq-0008-0001-0001.pdf).

66. *QBCC (2021), Strategic Plan 2020-2024*, available at [QBCC Strategic plan 2020-2024 | Queensland Building Construction Commission](https://www.qbcc.com.au/strategic-plan-2020-2024).

Engagement with industry stakeholders and consumers requires open and skillful relationships to build and maintain trust.<sup>67</sup> A common theme among industry practitioners was a lack of trust and confidence in the QBCC because of its failure to understand the industry or adopt proactive strategies to address emerging issues. This could be addressed through industry engagement during the strategic planning process, which would assist in ensuring the plan is targeting emerging issues and risk (where appropriate).

An industry stakeholder stated, *‘industry stakeholders should be consulted as part of the QBCC strategic planning process to ensure that its strategic plan targets real industry challenges and is aimed at achieving a financially viable, robust, and best practice industry.’*

### QBCC functions, objectives and values

Stakeholders believe the success of the QBCC’s performance is dependent on the QBC Board, leadership group and all employees having a shared understanding of the organisation’s vision, functions, goals, and values. This can be challenging for a regulator implementing significant industry reforms in a complex environment underpinned by a significant loss of corporate knowledge and senior leaders. However, improved communication and inclusiveness will assist employees, consumers and industry to understand the organisational goals and promote a sense of collaboration, confidence and trust in the QBCC.

## What research told us

An effective performance management framework provides mechanisms that enable:

- regulatory outcomes and administrative priorities to be defined
- integration of strategic and operational planning
- performance to be measured and managed at all levels in the organisation
- operating procedures to be documented
- key regulatory activities to be subjected to systematic quality management processes.<sup>68</sup>

The OECD has identified three possible levels whereby stakeholders can be involved in the governance process including, the provision of information, consultation, and active participation.<sup>69</sup>

The OECD further notes that while the prevalence of information, consultation and feedback has improved in member countries, initiatives for active participation are less visible. To forge stronger and more collaborative relationships it is important that active engagement of stakeholders in the decision-making process is undertaken. Numerous mechanisms exist to involve and engage stakeholders depending upon the purpose, timing, and the group of stakeholders required.

The Queensland Regulator Performance Framework outline’s model practices for Queensland regulators to follow and report against annually.<sup>70</sup> There are five model practices which have been identified to support *‘the achievement of policy objectives through better interactions between regulators and their stakeholders, resulting in reduced burden/costs for all parties.’*<sup>71</sup>

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67. Edwards, M. et al. (2012). *Public Sector Governance in Australia*. Australian National University Press. E-Press.

68. *Administering Regulation Better Practice Guide 2007* available at [INQ.0008.0001.0001.pdf \(industry.gov.au\)](#).

69. OECD (2015). *G20/OECD Principles of Corporate Governance*. OECD Publishing: Paris.

70. Queensland Treasury, *The Queensland Government Guide to Better Regulation*, May 2019.

71. *Ibid* p27.

ANZSOG have summarised the model practices in Table 2.<sup>72</sup>

**Table 2: Queensland Regulator Performance Framework, model practices and supporting principles**

<p><b>Model practice 1:</b> Ensure regulatory activity is proportionate to risk and minimises unnecessary burden</p>	<ul style="list-style-type: none"> <li>• a proportionate approach is applied to compliance activities, engagement and regulatory enforcement actions</li> <li>• regulators do not unnecessarily impose on regulated entities</li> <li>• regulatory approaches are updated and informed by intelligence gathering so that effort is focused towards risk</li> </ul>
<p><b>Model practice 2:</b> Consult and engage meaningfully with stakeholders</p>	<ul style="list-style-type: none"> <li>• formal and informal consultation and engagement mechanisms are in place to allow for the full range of stakeholder input and government decision-making circumstances</li> <li>• engagement is undertaken in ways that helps regulators develop a genuine understanding of the operating environment of regulated entities</li> <li>• cooperative and collaborative relationships are established with stakeholders, including other regulators, to promote trust and improve the efficiency and effectiveness of the regulatory framework</li> </ul>
<p><b>Model practice 3:</b> Provide appropriate information and support to assist compliance</p>	<ul style="list-style-type: none"> <li>• clear and timely guidance and support is accessible to stakeholders and tailored to meet the needs of the target audience</li> <li>• advice is consistent and, where appropriate, decisions are communicated in a manner that clearly articulates what is required to achieve compliance</li> <li>• where appropriate, regulatory approaches are tailored to ensure compliance activities do not disproportionately burden particular stakeholders (e.g. small business) or require specialist advice</li> </ul>
<p><b>Model practice 4:</b> Commit to continuous improvement</p>	<ul style="list-style-type: none"> <li>• regular review of the approach to regulatory activities, collaboration with stakeholders and other regulators to ensure it is appropriately risk-based, leverages technological innovation and remains the best approach to achieving policy outcomes</li> <li>• to the extent possible, reform of regulatory activities is prioritised on the basis of impact on stakeholders and the community</li> <li>• staff have the necessary training and support to effectively, efficiently and consistently perform their duties</li> </ul>
<p><b>Model practice 5:</b> Be transparent and accountable in actions</p>	<ul style="list-style-type: none"> <li>• where appropriate, regulatory frameworks and timeframes for making regulatory decisions are published to provide certainty to stakeholders</li> <li>• decisions are provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions</li> <li>• indicators of regulator performance are publicly available</li> </ul>

In relation to model practice 1, ‘Ensure regulatory activity is proportionate to risk and minimises unnecessary burden’ ANZSOG notes that ‘the QBCC has worked, and is working, to implement Government’s intent that regulation should follow a risk-based strategy. In its implementation, the QBCC has placed an emphasis on gathering and analysing data from the regulatory environment.’<sup>73</sup>

72. ANZSOG, *Analysis of the governance model, regulatory approach, and capability requirements of the Queensland Building and Construction Commission (QBCC)*, April 2022, p47.

73. ANZSOG 2022, *Analysis of the governance model, regulatory approach, and capability requirements of the Queensland Building and Construction Commission (QBCC)*, April, pp48-49.

ANZSOG further notes that, *“the QBCC has in recent years committed to becoming an “Insights-Driven Regulator” (IDR). The 2020-21 Annual Report indicates that this means the development of “data architecture and visualisation tools that enable early warning and detection capability” in respect to risks like insolvency, licensee risk, defective work claims, and compliance. This capability is part of a “strategic risk approach” that comprises “regulatory risk (industry non-compliance and insurance fund management issues) and corporate risk (human resources, systems and data, governance, reputation and financial management, and sustainability issues)”*.<sup>74</sup> This appears to be consistent with the Queensland Government’s risk-based approach to better regulation practices. However, the QBCC’s strategic plan does not prescribe clear measurable outcomes which would support a process of continuous improvement.

## Concluding comment

One of the most effective mechanisms to engage with industry and consumers is to bring them together with staff and discuss the expectations they have for an organisation’s products and services. This would be enhanced by involving stakeholders in both the organisational planning processes, and design of service initiatives to ensure the most diverse perspectives are brought to the table.

**Recommendation 8: Ensure strategic planning reflects government’s expectations of the regulator and supports continuous improvements from the industry**

**Actions for effective implementation of recommendation 8**

- 8.1 Realign the QBC Board strategic plan and supporting documents to reflect key outcomes.
- 8.2 Incorporate QBCC employee consultation into the strategic planning process.
- 8.3 Consult with industry to ensure the strategic plan is contemporary and responsive to industry challenges and promotes a financially viable, robust, and best practice industry.
- 8.4 Update the service charter to include an education program about the roles, responsibilities and functions of the QBCC.

74. Ibid.

## Capability and Culture

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### Recommendation 9 – Foster a culture of continuous improvement, respectful engagement, and effective reporting

#### Assessment: where are we now?

##### Commitment to continuous improvement

The demands on the QBCC leadership, management, technical, investigative, and educational skills have increased over time. This has resulted in staff performing more diverse tasks and experiencing increased workloads. There does not appear to be any clear leadership programs in place to facilitate a process of continuous improvement at the QBCC, although strategies have been developed, but not yet implemented, to address this need.<sup>75</sup>

Stakeholders felt staff could not dedicate time to improve skills and capability because of their increased workload and expanded responsibilities in addition to their BAU, as illustrated in this quote, *‘the Commission does not have the staffing capacity to handle the functions of the increased roles...’*. Dedicated staff training and improved procedure manuals could better support to be more the effectiveness in achieving tangible outcomes.

##### Organisational culture

With constant changes in senior management roles, the QBCC culture has suffered. For example, certain stakeholders described the culture as being one of *‘disinterest, distrust, and underhanded’* with a perception of favouritism.

It appears that a small number of employees were negatively impacting the organisational culture, succinctly captured in the comment *‘there are sprinters, stayers and saboteurs’*.

There was a view that the adverse media focus on the minority was undermining the QBCC work, which has adversely impacted staff morale, organisational culture, reputation and detracted from the good work being performed by the QBCC.

#### Feedback: where do we want to be?

##### Commitment to continuous improvement

Rudimentary training and procedure manuals can support the achievement of tangible outcomes. Encouraging and engaging staff in an upskilling program would ensure knowledge and skills remain current and give employees more confidence in the performance of their role.

##### Organisational culture

The organisational culture could be enhanced by stabilising the workforce, particularly the leadership team. Moreover, employees felt a more collaborative and effective team environment would be facilitated by developing terms of engagement for staff with agreed protocols, such as an assessment tool for resolution of matters.

Investment in staff training and development strengthens the organisation’s capability, expertise and relational engagement.

It is also critical the QBCC attract and retain highly-skilled staff with experience and knowledge of the building and construction industry.

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75. QBCC/Deloitte Consulting Pty Ltd, *The Next Normal Strategy*, April 2021.

## What research told us

Many successful corporate boards adopt annual self-assessment processes to measure their performance and demonstrate alignment with continuous improvement practices. Self-assessment of board performance demonstrates a focus on accountability and contributes to generating public trust. This process can be applied to relationship management internally and externally. Further, effective boards are more likely to use several recommended corporate governance practices including regular self-assessment to assist in monitoring their own performance.<sup>76</sup>

Another fundamental board practice adopted by leading organisation's and aimed at enhancing the effectiveness of the board are tailored induction and development programs for directors. New director briefings and induction programs provide an overview of the organisation, identifying the most significant issues, risks, and opportunities the board is likely to consider. Inductions frequently include comprehensive reference material introducing the organisation and may also involve visits to sites with a high degree of strategic or operational value or risk.

Ongoing learning and development programs for directors are also becoming more common across corporate boards.

## Concluding comment

The QBCC culture will be strengthened by facilitating better employee engagement and promoting collaboration, trust, unity, and accountability. There needs to be proactive identification of any relational issues that could adversely impact on the ability of the QBCC to be an insights-driven regulator. Implementation of strategies already developed by the QBCC will assist in transforming the organisation into a contemporary, outcomes-focused insights-driven regulator.

### **Recommendation 9: Foster a culture of continuous improvement, respectful engagement, and effective reporting.**

#### **Actions for effective implementation of recommendation 9**

- 9.1 Adopt staff engagement practices that include clear, purposeful and consistent communication, active listening and are responsive to emerging issues.
- 9.2 Proactively identify and manage relational issues that could adversely impact the culture, effectiveness and reputation of the QBCC.
- 9.3 Develop a collaborative and effective organisational culture through policies and protocols to engage with each other respectfully and provide clear, fair and impartial avenues for resolution of matters.
- 9.4 Communicate and report on the organisation's priorities, ongoing work commitments and emerging issues impacting service delivery, to encourage a collaborative approach to resolving matters and effectively managing resources.
- 9.5 Empower staff to perform their roles and responsibilities with the support of appropriate training.

76. Gill, M. et al. (2005). The governance self-assessment checklist: An instrument for assessing board effectiveness. *Nonprofit Management & Leadership*, 15(3), 271-294.

# Recommendation 10 – Strengthen and enhance management, licensing, investigative and technical staffing capability

## Assessment: where are we now?

### Management and leadership

The departure of several senior leaders over the past 12 months has resulted in a significant loss of corporate knowledge, industry expertise and management experience. While a temporary void may have been left within the QBCC, this has created an opportunity for emerging leaders, who need to have their management and leadership skills enhanced and strengthened to ensure they are adequately equipped to step into a management role.

In 2020-2021 the QBCC introduced a capability development program to support leaders in managing organisational change in the workplace.

Some stakeholders expressed a view that high workloads and expanded responsibilities have contributed to more *'transactional leadership rather than transformational leadership'*. This management style may have hindered the adoption of proactive regulation making the QBCC more *'reactive rather than proactive'*.

### Licensing capability

The QBCC's functions include licensing of individuals and companies and conducting compliance inspections.<sup>77</sup> There are currently over 75 licence classes for individuals and companies, with some trades having an occupational licence and all trades able to apply for a contractor, nominee supervisor and/or site supervisor licence. In 2020-2021 the QBCC licensed 93,147 individuals and companies under the QBCC Act, 31,325 under the PD Act and 1,230 licences under mutual recognition arrangements.

In terms of appropriate training for licensing staff, the QBCC has some processes in place to guide employees. However, there does not appear to be any formal licensing training programs or methods to evaluate whether staff have the skills and knowledge necessary for effective licensing assessment processes.<sup>78</sup>

Each licence has prescribed technical qualifications and enables the QBCC to recognise courses deemed equivalent to the prescribed course. While this framework ensures the people performing the work are suitably qualified and recognises the diversity of qualifications attained over time and around the world, it creates challenges for the QBCC to be able to deem a course equivalent to the prescribed course.

The current licensing framework enables the QBCC, when assessing the technical qualification for licensing of an individual, to deem a course equivalent to the prescribed qualification. However, it appears from consultation that this discretion is not being applied resulting in frustration and demoralisation of applicants. This frustration can be aggravated when applicants feel they have been unnecessarily compelled to apply for recognised prior learning (RPL), which is costly and time consuming. For example, an industry practitioner advised that he had been performing certain work for about 20 years and considered that if the provisions, which allowed for deemed equivalency, were applied it could have saved him about about \$7,000 which is what he paid to have his experience and expertise recognised through the RPL process.

In this context, the specialist skills and expertise of current QBCC Board members relevant to training and education could assist to inform the skills needed to build the QBCC's capability in this area.

### Investigative and technical capability

The QBCC investigates a broad range of complaints and compliance matters under the various Acts, including, plumbing and drainage, pool safety, design, certification, all industry trades, financial requirements, the use of NCBPs and the QHWS.

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77. Queensland Building and Construction Commission Act 1991.

78. Queensland Audit Office, *Licensing builders and building trades* (Report 16: 2019-20) p.11, available at [Licensing builders and building trades](https://www.qao.qld.gov.au/reports/16-2019-20) (Report 16: 2019-20) (qao.qld.gov.au).

Investigations make up a significant portion of the QBCC's workload. Currently technical experts are required to perform the investigative roles and these staff would benefit from additional and ongoing training on current and emerging investigative techniques to support investigators.

Stakeholders believe lost skills and knowledge are not being replaced through recruitment practices, creating a skills gap which may be detrimental to the QBCC reputation. Particular concerns were raised regarding the plumbing and gasfitting sectors, with some stakeholders seeking the re-establishment of the Plumbing Industry Council and others seeking an independent licensing and compliance body for gasfitting.

One submitter commented the QBCC could *'improve skills and expertise of staff through recruitment and ongoing training'*.

### **Regional capability**

The QBCC has eight regional offices, with staff numbers generally ranging between 5-10.

Regional QBCC staff believed an opportunity existed to better resource regional areas by adopting a more collaborative approach across the QBCC. Officers expressed a view that because regional offices are located away from Brisbane, there was a need to ensure regional staff did not feel isolated or unsupported. Without access to specialist staff and senior management, regional areas could experience a backlog of work and cause reputational damage. Stakeholders also felt that the QBCC policies and procedures did not adequately contemplate regional issues.

A regional QBCC officer generally performs a more diverse scope of work and at times may require access to temporary resourcing to assist with workloads. It is critical the Assistant Commissioner (Technical) who is responsible for regional services and based in Brisbane makes the relational connectivity a critical priority.

Stakeholders identified that an aging workforce may further compound any concerns about access to building inspectors, particularly in the regional areas. This could have wide-ranging impacts upon the organisational capability.

## **Feedback: where do we need to be?**

### **Management and leadership**

The QBCC could benefit from promoting transformational leadership as noted by one submitter, *'to effect change the QBCC needs the expertise and skills of transformational change managers and champions.'*

Support for emerging leaders could be strengthened by conducting a skills audit that covers management capability and relational effectiveness. This could be further enhanced by improving accountability, self-awareness, identifying potential relational obstacles, commitment to self-improvement and the senior leadership team undertaking a 360-degree assessment program.

Managers and leaders can build their capability through self-improvement practices, which would enhance the QBCC's effectiveness in regulating the industry.

## Case Study

**A lack of succession planning within an organisation can leave it vulnerable to the impacts of frequent staff departures in leadership roles. Effective succession planning supports emerging leaders be better prepared when management and leadership roles become available.**

The following case study is an example of the transformation which can occur through succession planning.

An incoming acting Manager at a regional office focused their attention on the delivering the objectives of the QBCC's Strategic Plan. They actively sought information from the team about the operational challenges of the smaller regional office. The team raised concerns about delays in service delivery because of unexpected absences or a lack of backfilling during planned leave resulting in a backlog of applications and/or assessments, emails, and tasks to be completed.

Collectively the team agreed that there is benefit in multiskilling in licensing, resolution services and compliance program areas. As a solution, a succession plan to address absences or unexpected increases in workloads was initiated. The plan included milestones, timeframes for implementation and outlined specific activities for the team to achieve.

This initiative commenced on 1 July 2021 and the team meets once a month to identify the learnings and any challenges that may have been experienced. Some training gaps were identified, and strategies adopted to capture and manage training needs and capability. The team involvement was central to the development and implementation of the plan.

Since the implementation of the succession plan initiative the wait time for a licence application has decreased from 11 weeks at the commencement to one week.

This initiative has been very successful and as a result the regional office team has been able to reach out and assist the larger offices with their workloads.

### Licensing capability

Implementation of new licensing requirements needs to be complemented by QBCC staff training and development on the content and application of the new requirements. Further, as a front line service, licensing staff should undertake training in customer service delivery. A submitter to the review commented that, *'QBCC should require compliance and licensing staff to participate in relevant training programs to ensure that they develop and maintain appropriate customer service skills and engage in fair and reasonable investigative practices.'*

### Investigative and technical capability

The QBCC could enhance its capability by recognising the specialist nature of investigative skills which was illustrated in the comment *'it is obvious that expertise is required to undertake compliance and enforcement action...'*. Stakeholders have called for more tradespeople and technical expertise to be recruited into the QBCC and an upskilling of the existing staff. A participant commented that the QBCC *'should engage in a staff upskilling program to ensure that staff at all levels have the necessary knowledge and skills for QBCC to competently perform its legislative functions'* after observing that *'since mid-2021 there has been a noticeable decline in the capability of the QBCC to perform many of its statutory functions and regulatory responsibilities.'*

A skills audit, conducted at all levels within the organisation, will help identify gaps for ongoing training to build staff skills. Training technical staff in leadership skills and public sector management will also ensure the QBCC improves capability across the organisation.

If the recommendations in this report are implemented the concerns raised about a preference for separate licensing authorities are obviated.

### Regional capability

As part of an organisational reset, the QBCC must become whole-of-Queensland-focused and build stronger relationships between the regions and Brisbane.

To help address this issue, the QBCC should allow experts (including past and present employees), who are readily available, to assist the organisation in performing its functions, particularly where there is lack of technical expertise.

Successful relational connections with the QBCC leadership team and access to the specialist expertise of the Brisbane based staff will strengthen the QBCC's capabilities and ability to deliver outcomes.

## What research told us

It has been previously identified that the QBCC contains the building blocks needed to transform however, progress is hampered by *'a lack of data, resources, skills and capability.'*<sup>79</sup>

In response to the review survey question about skills, expertise and experience, around 80 per cent of respondents indicated the QBCC did not have the range of skills, expertise and experience needed to effectively perform its functions.<sup>80</sup> Comments made in response to this question included, *'more technical and trades staff are required,'* a *'greater level of staffing with building and construction industry experience and better systems'* and the QBCC needs, *'experienced, professional and competent, business managers, and trades people.'*

## Concluding comment

The QBC Board, Commissioner and leadership team have demonstrated a commitment, through consultation with the independent lead reviewer, to address the need to recruit specialist skills across the areas of trades, investigation, and management.

A number of industry stakeholders sought recruitment of additional QBCC staff with technical expertise specific to the advocate's trade, while other stakeholders advocated for an independent licensing and compliance body. However, it is considered that implementation of all review recommendations will build and strengthen the QBCC's overall capability, addressing industry concerns without the need to establish an additional industry body.

### **Recommendation 10: Strengthen and enhance management, licensing, investigative and technical staffing capability.**

#### **Actions for effective implementation of recommendation 10**

- 10.1 For the QBC Board:
  - a) review and update the annual self-assessment process of the QBC Board members to include external facilitation, ensuring skills and experience remain relevant and contemporary for a governing board
  - b) adopt continuous improvement strategies that include ongoing and relevant education and development to enable board members to effectively govern the QBCC.
- 10.2 For QBCC's senior management and leadership team:
  - a) undertake a training needs analysis to understand the technical and management expertise of the leadership and management team
  - b) introduce a 360-degree assessment of senior leadership team members.
- 10.3 Implement leadership and staff development programs to ensure the QBCC maintains the capacity and capability to effectively and efficiently perform its functions, including; investigative, technical and educational capabilities to investigate complaints, inspect building work and assess licensing applications.
- 10.4 Establish systems to enable the QBCC to access expertise (e.g. past and present employees, builders, certifiers) to assist in performing its functions.
- 10.5 Enhance practices to boost specialist staff mobility and accessibility to support integrated service delivery across Brisbane and regions.
- 10.6 Develop QBCC staff written and oral communication skills to improve messaging about decisions, including the rationale for making a decision.

79. Queensland Audit Office, *Licensing builders and building trades* (Report 16: 2019-20) p.2, available at [Licensing builders and building trades \(Report 16: 2019-20\) \(qao.qld.gov.au\)](https://www.qao.qld.gov.au).

80. EPW 2022, Question 8 of the *QBCC Governance Review Survey 2022*.

# Performance

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## Recommendation 11 – Implement a comprehensive and public compliance and enforcement strategy

### Assessment: where are we now?

#### Compliance and enforcement strategy

The QBCC has not had a formalised and approved compliance and enforcement strategy since 1 July 2019.<sup>81</sup> This was due to the previous 2018-19 *Compliance and Enforcement Strategy* being considered too operational with activities not well-targeted, and it focused on meeting activity quotas rather than impacts and outcomes. It is acknowledged that without a compliance and enforcement strategy, managerial oversight of performance will be reduced, and effectiveness and overall success of activities will not be clearly measured.<sup>82</sup> A stakeholder commented that *'there is very limited information on the audit and complaints process, the rights and responsibilities of all parties.'*

### Feedback: where do we want to be?

#### Compliance and enforcement strategy

Stakeholders believe that a QBCC compliance and enforcement strategy will help effectively manage resources, while using risk management methodologies to inform compliance activities and mitigate risk.

*'The effectiveness of risk management in a regulatory organisation is enhanced when:*

- *risk management policies and procedures are fully documented and endorsed by the head of the regulatory organisation*
- *a culture of risk-based management and decision-making is encouraged throughout the organisation*
- *responsibility for assessing, reporting and managing regulatory risks is clearly understood by staff, and delegations of responsibility are regularly reviewed to ensure they remain appropriate*
- *staff are knowledgeable about the organisation's risk management policies and procedures and are trained in their application*
- *senior managers encourage and support staff to apply the policies and procedures'.<sup>83</sup>*

It was commonly reported that the QBCC is too reactive when monitoring industry instead of being proactive and is conducting desktop investigations rather than 'get out there and investigate'.

The QBCC needs to refine, develop and implement a public compliance and enforcement strategy which facilitates accountability and transparency. The compliance and enforcement strategy should include targeted outcomes-focused activities and proactive strategies to address risk.

### What research told us

#### Outcomes focus

To achieve an effective regulatory service for the future, outcomes-focused performance is seen as one of the key drivers. Internationally jurisdictions are using outcomes to drive performance and many are seeing tangible improvements with some of the most complex and enduring problems.<sup>84</sup>

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81. Queensland Audit Office, *Licensing builders and building trades* (Report 16: 2019-20) p.12, available at [Licensing builders and building trades \(Report 16: 2019-20\) \(qao.qld.gov.au\)](https://www.qao.qld.gov.au).

82. Ibid.

83. *Administering Regulation Better Practice Guide 2007* available at [INQ.0008.0001.0001.pdf \(industry.gov.au\)](https://www.industry.gov.au).

84. Victorian Government, *Outcomes Reform in Victoria* available at <https://www.vic.gov.au/outcomes-reform-victoria>.

Outcomes are clear statements about what is to be achieved, setting direction, and informing an organisation's focus to ensure the greatest impact. Reporting on outcomes-focused performance measures will clearly demonstrate results, improve transparency and accountability. Organisations can report on outcomes quarterly to their stakeholders and staff and involve them in developing outcomes frameworks.

## Concluding comment

It is important for the QBCC to promote its transition into being an insights-driven and outcomes-focused regulator through transformational roadshows, presentations at industry events, engagement with peak organisations and stakeholder groups. Community and industry engagement is vital to building trust and can help the QBCC to deliver better outcomes based on the values and concerns of community and industry. As an insights-driven regulator the QBCC can use data-driven opportunities to more accurately identify emerging risks to the building industry, improving regulatory outcomes for industry and the community.

### **Recommendation 11: Implement a comprehensive and public compliance and enforcement strategy**

#### **Actions for effective implementation of recommendation 11**

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

# Recommendation 12 – Strengthen and develop the building industry through effective education, support, information and advice

## Assessment: where are we now?

### Education, advice and information

The QBCC is responsible for providing support, education, and advice to consumers and industry as part of its statutory remit.<sup>85</sup> It currently delivers education and a range of information and advice for to these stakeholders using different mechanisms. For example:

- education seminars and webinars to consumers and contractors
- fact sheets
- publications on a range of building industry issues
- published information on the QBCC website
- social media posts
- a call centre
- being accessible by email.<sup>86</sup>

Industry stakeholders believe the QBCC information and education needs to be more targeted towards the industry and are supportive of engaging with the QBCC if it enhances the regulator’s ability to support industry. This sentiment is reflected in the following comment from a stakeholder, *‘workers support a regulator that reflects them. We understand that it is difficult to communicate some issues, but we need to understand that construction workers are the target audience.’*

### Case Study

**The following case study, provided by a non-QBCC employee, demonstrates the benefits of QBCC education, advice and information sharing.**

The QBCC is part of the Safer Buildings Taskforce (SBT), a dedicated taskforce established to ensure the safety of Queensland’s buildings are maintained. One of the taskforce’s purposes is to provide insight, advice and guidance about remediation of private buildings affected by combustible cladding.

The QBCC supports the SBT through its management of the Safer Buildings website, which provides advice and information about the combustible cladding checklist process. This process assists homeowners to understand their legal responsibilities in identifying the presence and mitigating the risk of combustible cladding located on their buildings. The QBCC also shares information across agencies and levels of government to facilitate the work of the taskforce.

The QBCC has been a strong contributor to the SBT, assisting with the development of a combustible cladding checklist for building owners to use in identifying whether their buildings contain combustible cladding and if so, assessing the fire risk. This work has potentially reduced the risk to life and property caused by using combustible cladding.

85. *Queensland Building and Construction Commission Act 1991*, s 3(c).

86. Queensland Audit Office, *Licensing builders and building trades*, Report 16: 2019–20.

## Industry capacity

The COVID-19 pandemic, recent natural disasters, low interest rates, government financial support for homeowners low unemployment and the conflict in Ukraine, are some of the factors contributing to a skills and material shortage in the building and construction industry. This has created a competitive environment for enticing new starters into an industry and retaining existing practitioners. This coupled with the changing nature of the workplace, where more people are working from home highlights the need to actively engage school leavers about the industry and promote the benefits of employment in the industry. However, there also appears to be a need to educate apprentices and school leavers about the legislative requirements, particularly the licensing requirements.

## Compulsory continuing professional development (CCPD)

Currently some professions within the industry are required to undergo CCPD, for example building certifiers, however this is not the case for all industry practitioners or licensees.

The BCR recognises the complex and dynamic nature of the building and construction industry environment. It also acknowledged that:

“ regulators need to have mechanisms to identify common non-compliances which may indicate systemic misunderstanding of the requirements of the NCC. Insurers may also have data they would be willing to share. This intelligence should be collected, shared nationally and fed back to the industry promptly. It should also inform compulsory topics for CPD relevant to each category of registration. ”<sup>87</sup>

The BCR recommends CCPD for all practitioners on the National Construction Code (NCC). These are similar sentiments to those expressed throughout the review by industry peak organisations and QBC Board members with one point of difference with the BCR recommendation being the CCPD should not be restricted to the NCC.

In 2020, the Queensland Government made an election commitment to *Consider the Compulsory Continuing Professional Development Framework developed by the Ministerial Construction Council subcommittee without delay and engage with stakeholders on its implementation.*<sup>88</sup>

During 2021, the QBCC ran a targeted CCPD pilot program which included free structured, online professional development courses to a voluntary cohort of licensees.<sup>89</sup> It is understood that the outcomes of this pilot program will help inform EPW policy development regarding a CCPD scheme.

## Feedback: where do we want to be?

### Education, advice and information

Licensees generally wanted more support and education to help them understand their legislative obligations, such as the minimum financial reporting requirements.

It needs to be acknowledged the COVID-19 pandemic has been extremely disruptive to industry and the QBCC, which has impacted the information sessions (roadshows) being delivered and inhibited the QBCC's ability to travel. However, as identified during the review, the building industry needs to feel it is supported by the QBCC with ready access to information and advice when and where they need it.

The QBCC must have the right expertise to support businesses in meeting their legislative obligations and should have dedicated officers who regularly meet with industry to discuss business and technical obligations. Stakeholders saw merit in having QBCC officers meet with businesses to educate licensees and staff as well as providing guidance about a range of matters, including a contractors financial obligation and/or technical requirements.

### Compulsory continuing professional development (CCPD)

A CCPD scheme for all QBCC licensees that will improve standards and compliance with legislative requirements and technical standards.

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87. Shergold, P. and Weir, B. (2018). *Improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia* available at [https://www.industry.gov.au/sites/default/files/july%202018/document/pdf/building\\_ministers\\_forum\\_expert\\_assessment\\_-\\_building\\_confidence.pdf](https://www.industry.gov.au/sites/default/files/july%202018/document/pdf/building_ministers_forum_expert_assessment_-_building_confidence.pdf).

88. *Progress report on 2020 government election commitments Qld Gov 2021.*

89. QBCC 2020-2021 Annual Report viewed 18 April 2022, <https://www.qbcc.qld.gov.au/sites/default/files/2021-10/publication-qbcc-annual-report-2020-2021.pdf>.

## What research told us

Successful engagement with all stakeholders requires open and skillful relationships to build and maintain trust.<sup>90</sup> According to the OECD, regulators should undertake ‘*regular and purposeful engagement*’ with stakeholders ‘*focused on improving the operation and outcomes of the regulatory framework or scheme.*’<sup>91</sup> Effective stakeholder engagement helps to build public confidence in the regulator, including in its decisions and its actions. Engagement should be inclusive, transparent and provide opportunities for active participation of stakeholders in the process.<sup>92</sup>

## Concluding comment

The QBCC should share intelligence data (where appropriate) with industry and relevant government agencies to help support the industry and consumers, through education and information targeting emerging issues, new policy reforms and the development of education programs. The QBCC’s information narrative must be targeted to the audience and easy to understand if it is to improve communication and engagement with industry and the public.

The industry, QBCC and registered training organisations should also assist in providing education to school leavers and apprentices about the construction industry as this will encourage greater awareness of and participation in the building industry.

### **Recommendation 12: Strengthen and develop the building industry through effective education, support, information and advice**

#### **Actions for effective implementation of recommendation 12**

- 12.1 Dedicate officers to meet with and educate businesses and contractors about their legal, financial and technical obligations.
- 12.2 Introduce a compulsory continuing professional development framework for all of industry.
- 12.3 Recruit additional financial and accounting expertise to support businesses to meet the legislative requirements such as the minimum financial reporting requirements.
- 12.4 Implement measures to refer *at risk businesses* to Commonwealth and state agencies that are able to provide information, grants, services and/or support from across government to help sustainable businesses succeed.
- 12.5 Collect and distribute appropriate data to assist government and peak industry associations to design and tailor education programs and services that are responsive to the building industry needs.
- 12.6 Engage with apprentices and school leavers to encourage participation in and promotion of the building and construction industry.
- 12.7 Establish dedicated QBCC extension officers to inform and educate industry/consumers about matters relevant to the QBCC’s regulatory responsibilities.

90. Edwards, M. et al. (2012). *Public Sector Governance in Australia*. Australian National University Press. E-Press.

91. OECD (2014), *The governance of regulators*, OECD Publishing: Paris, p.90 available at [The Governance of Regulators | OECD Best Practice Principles for Regulatory Policy | OECD iLibrary \(oecd-ilibrary.org\)](#).

92. Ibid, p.94.

## Recommendation 13 – Embed cooperative and collaborative relationships with stakeholders that promote trust, improve customer service which leads to a better understanding of the operating environment

### Assessment: where are we now?

#### Customer engagement

From 1 July 2019 the QBCC ceased collecting qualitative data on customer survey forms. This was due to the QBCC moving away from being a customer-centric organisation and back towards being a regulator. However, this removed valuable opportunities for customers to provide comments and feedback on specific issues. Without feedback the QBCC is not able to evaluate how effectively it provides support, education, and advice to consumers nor implement a continuous improvement program.<sup>93</sup>

Both consumers and industry stakeholders have previously found the QBCC website difficult to navigate and not user-friendly. However, while undertaking this review the QBCC launched a new website, which may address concerns about navigation and useability, noting, the independent lead reviewer was not formally advised about this encouraging development.

Some stakeholders felt the language used in the QBCC communication material was not always aligned with the target audience as illustrated in this quote, *'have all information presented to the public, critiqued prior to publication by suitably qualified people... declutter and explain information in the lowest common denominator language understood by all'*.

A number of stakeholders felt unsupported by the QBCC in their matter, while some believed their concerns had not been listened to properly, adding to their overall frustration with the organisation.

The QBCC should work more closely with EPW in preparing and effectively implementing processes, procedures and protocols for engaging with the wider community and stakeholders on the regulatory impact of policy change.

#### Clarity of roles

The QBCC Act prescribes the QBCC's functions, which link back to the broad objects of the Act. For legal professionals this may provide clarity about the QBCC's functions. However, it became clear through conversations with various stakeholders that the industry, consumers and at times staff were unclear about the functions and responsibilities of the QBCC, minister and EPW.

QBCC staff and QBCC Board members have identified the benefits of greater clarity and certainty across Government's expectations regarding the performance of functions, execution of powers and engagement across industry and the community. Understanding these strategic priorities and emerging risks allows for protocols, processes and procedures to be refined across all aspects of the business, including media and communications, operational delivery and planning and policy, to meet Government and community expectations.

#### Policy development

QBCC is responsible for regulation of the building and construction industry, while EPW is responsible for assisting the government to develop and progress the government's policy. However, there appears to be confusion about the government policy-making process, the role of the minister, EPW and the QBCC's regulatory role, including among QBCC staff.

This lack of role clarity has resulted in industry criticisms of government reforms, particularly licensing reforms, being misdirected at the QBCC.

It is critical that the regulator inform policy development, however, there are no existing protocols between EPW and the QBCC about the interaction for the purposes of policy development.

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93. Queensland Audit Office, *Licensing builders and building trades* (Report 16: 2019–20), p.21.

## Feedback: where do we want to be

### Customer engagement

Both internal and external stakeholders believe that improved engagement and inclusion is necessary for stakeholders to feel empowered and have their interests and views considered.

Stakeholders are seeking more holistic support services for customers and improved right to information. An internal stakeholder suggested that the QBCC, *‘engage with industry bodies in an ongoing and productive way rather than focusing on formal consultation.... industry consultation has become increasingly formal and process focused over time. This change has occurred off the back of increased functions within the QBCC as a result of an expanded portfolio.’*

All stakeholders expressed a desire for improvements to customer support services to enable more positive interactions between consumers and the QBCC.

### Clarity of roles

There is a need to educate consumers about the functions, roles and responsibilities of the QBCC including its regulatory performance outcomes.

There is also a benefit to educating consumers about the role and functions of EPW, Office of the Minister, Queensland Ombudsman, QCAT and the Crime and Corruption Commission (CCC).

The QBCC should create extension officer roles to inform and educate industry and consumers about the QBCC’s functions, roles and responsibilities and consumer rights and responsibilities. These officers would need to undertake mandatory customer relations training and become exceptional ambassadors for the QBCC.

A clarification of Government’s forward outlook through, for example, a statement of expectations, would guide how the QBCC contributes to Government’s strategic objectives, carries out its regulatory powers and functions and manages performance. There would be benefit in this being incorporated into business planning processes and reported against regularly by QBCC.

### Policy development

Industry and consumers need a greater understanding of the interaction between the QBCC and EPW. Protocols are established in how the QBCC and EPW interact for policy making purposes.

## What research told us

A recent review of the QBCC’s complaints and decision-making processes highlighted how the process for handling complaints is as important as the outcome, by stating, *‘people want to feel like they have been treated fairly and with respect; they want confidence that their matter is a priority, they know what is going on and that their matter will be dealt with in an efficient way’*.<sup>94</sup> This includes situations where a matter is outside the scope of the QBCC’s functions as providing further assistance to appropriately redirect customers would improve their experience of the QBCC.

Building these strong and effective relationships can promote a shared understanding of the environment, expectations and service delivery.

*Defining the outcomes sought from a relationship, and reaching an understanding with relevant parties about them, assists:*

- *a regulator to implement relationship mechanisms, and develop staff skills and attitudes, that best achieve the outcomes*
- *stakeholders to develop processes for interacting with the regulator.*<sup>95</sup>

It is a principle of the OECD that *‘the responsibility for assisting the executive to develop government policy should sit with the responsible executive agency and the regulator should have a formal advisory role in this task... and there should be specified mechanisms for regulators to contribute to the policy-making process’*.<sup>96</sup>

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94. Nous Group, *Review of QBCC’s complaints and decision-making processes*, 2021.

95. *Administering Regulation Better Practice Guide 2007* available at [INQ.0008.0001.0001.pdf \(industry.gov.au\)](https://www.industry.gov.au/publications/industry-regulation-better-practice-guide-2007).

96. OECD (2014), *The governance of regulators*, OECD Publishing: Paris available at [The Governance of Regulators | OECD Best Practice Principles for Regulatory Policy | OECD iLibrary \(oecd-ilibrary.org\)](https://www.oecd.org/governance/regulators/).

## Concluding comment

By clearly communicating to all stakeholders the QBCC functions and the customers rights, responsibilities, and legal obligations, it will improve service delivery and build trust and confidence in the regulator.

### **Recommendation 13: Embed cooperative and collaborative relationships with stakeholders that promote trust, improve customer service which leads to a better understanding of the operating environment**

#### **Actions for effective implementation of recommendation 13**

- 13.1 Develop and implement educational strategies to better inform consumers about their rights and obligations.
- 13.2 Develop and implement proactive communication material to manage consumer expectations about the QBCC functions and powers.
- 13.3 Take immediate steps to improve clarity and communication about the regulatory role of the QBCC and policy role of EPW.
- 13.4 Adopt a continuous improvement program to improve usability of the QBCC website with a particular focus on consumers.
- 13.5 Establish protocols between the QBCC and EPW regarding the respective roles and responsibilities in policy development.
- 13.6 The government develop a statement of expectations or similar which provides clear guidance to QBCC on the strategic priorities, emerging risks, engagement philosophy, performance and conduct. Consideration should also be given to the incorporation of the statement of expectations into QBCC's existing business planning processes and these processes should include milestones for reporting on progress.

# Recommendation 14 – Implement a contemporary and sustainable funding model to enable the QBCC to effectively regulate the industry

## Assessment: where are we now?

### QBCC current funding status

The QBCC is an independent, self-funded regulator that does not rely on government funding. Most of the QBCC's revenue is collected from a combination of licensing and compliance activities. The QBCC administers two funds under the QBCC Act:

- i. a General Statutory Fund (General Fund)
- ii. an Insurance Fund.<sup>97</sup>

The General Fund primarily consists of revenue raised from licensing and compliance activities while the Insurance Fund consists of revenue received or recovered from the QHWS.

Under the legislation, money collected under the Insurance Fund can only be used to administer the scheme and pay out claims to policy holders. The General Fund is used to fund licensing and compliance activities and all other operational activities of the QBCC.

Annual financial reporting indicates the QBCC has been operating at a deficit since its inception in 2013. At the same time the QBCC has seen its role as the building industry regulator continue to expand. As one submission noted, *'one of the greatest challenges for the QBC Board and the QBCC has been the pace and scale of change. The functions and powers of the QBCC has increased substantially since the current regulator was established. Most recently the reform agenda, as outlined in the Queensland Building Plan 2017 has significantly expanded the QBCC's functions and strength.'*

Financial modelling undertaken in 2019 indicates the QBCC's revenue base has failed to keep pace with the regulator's expanding responsibilities and is no longer sustainable. The government has continued to financially support the QBCC while considering the best way to address the funding deficit long-term.

Stakeholders noted it is critical that the QBCC is adequately funded to be an effective regulator. A number of stakeholders maintained that the QBCC is not properly funded to enable *'adequate staff on the ground, management and resources'* and there is *'a lack of knowledge, that is a result...of necessary funding.'* Many stakeholders felt insufficient resourcing is impacting the QBCC's ability to deliver its regulatory functions and hindering implementation of transformational change across the organisation. One submission strongly agreed that *'...a sustainable approach to funding the industry regulator is urgently required, as well as one off investment by Government, to fund replacement of core legacy information and communication technology systems.'*

## Feedback: where do we want to be?

### Funding concerns

The QBCC must be given an immediate cash injection to enable it to implement the recommendations in this report, including training programs and a purpose built integrated IT system.

Medium to long-term the QBCC needs a sustainable funding model to be developed and implemented to enable it to be the regulator that Queenslanders expect and deserve.

The QBCC requires an immediate increase in revenue and should create a productivity dividend that justifies the cash injection over a period of time.

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97. Sections (25)-(26), Queensland Building and Construction Commission Act 1991.

## What research told us

ANZSOG research into the funding models of other Australian building regulators, identified that Queensland is the only mainland state that does not charge a building levy. In other states, levies imposed on builders' fund different parts of the regulatory system. A comparable regulator to Queensland is Victoria which uses the building levy as the primary source of funding for the Victorian Building Authority (VBA).

ANZSOG noted that Queensland is the only state with a building regulator that also administers an insurance scheme. In Victoria for example, there is a government scheme for home warranty insurance, but it is administered separately from the VBA and the government allows competition from private insurers.

According to the OECD, *'funding levels should be adequate to enable the regulator, operating efficiently, to effectively fulfil the objectives set by government'* with transparent, efficient, and simple funding processes.<sup>98</sup> However, in relation to the QBCC, ANZSOG research has highlighted that *'to meet requirements of recent reform of the sector, operational funding for non-insurance activities and derived from fees and levies is insufficient'*.<sup>99</sup>

## Concluding comment

The QBCC needs to have a sustainable and contemporary funding model that includes revenue from a range of sources. An expanded funding base will help drive the organisation's transformational change as new systems and processes can be implemented and the QBCC can lead the nation as a best practice, insights-driven building regulator.

### **Recommendation 14: Implement a contemporary and sustainable funding model to enable the QBCC to effectively regulate the industry**

#### **Actions for effective implementation of recommendation 14**

- 14.1 Priority be given to establishing a sustainable funding model, that includes activity-based funding and fixed revenue base e.g. levy and licensing fees.
- 14.2 Provide the QBCC with funding to establish a new integrated platform, and address gaps in identified organisational skills and expertise.
- 14.3 The QBCC commit to providing an efficiency dividend over time in return for additional funding.

98. OECD (2014), *The governance of regulators*, OECD Publishing: Paris, p.98 available at [The Governance of Regulators | OECD Best Practice Principles for Regulatory Policy | OECD iLibrary \(oecd-ilibrary.org\)](#).

99. ANZSOG 2022, *Analysis of the governance model, regulatory approach, and capability requirements of the Queensland Building and Construction Commission (QBCC)*, April, p6.

# Recommendation 15 – Support the independent review of the role of developers within the Queensland building and construction industry

## Assessment: where are we now?

On 13 November 2021, the Queensland Government announced an independent panel to review the role of developers in building and construction. This followed a recommendation by the Parliamentary Transport and Public Works Committee that consideration be given to the impact of developers' financial and operational capacity, ethical behaviour and work practices.

By its terms of reference, the panel's work will include:

- advancing the work already done by the Queensland Government to support security of payment in the building and construction industry
- considering the impact developers have on the quality and safety of design, construction and certification of buildings and other work practices.

The panel's work will be informed by consultation with industry and the community and a report detailing findings, including any relevant recommendations for consideration, will be delivered by mid-November 2022.

Stakeholders raised the role and regulatory oversight of developers in the building and construction industry.

## Feedback: where do we want to be?

The current review into the role that developers play in the industry should explore the need and potential mechanisms for regulatory oversight.

## What research told us

A review of the role of developers in the building and construction industry is required to be undertaken by an independent panel under the QBCC Act.<sup>100</sup>

## Concluding comment

There are synergies between the Governance Review and the Developer Review. Collaborative action provides a mechanism to drive change and deliver ongoing improvements to the building and construction industry.

### **Recommendation 15: Support the independent review of the role of developers within the Queensland building and construction industry**

#### **Actions for effective implementation of recommendation 15**

- 15.1 Inform the independent review panel of the findings of this review, the unique identity of developers and liaise as appropriate with the proposed review implementation working group.

100. Section 115D, Queensland Building and Construction Act 1991.

## Recommendation 16 – Improve building resilience to the impacts of natural disasters

### Assessment: where are we now?

Climate change has increased the frequency and severity of weather events globally. These natural disasters can have devastating consequences emotionally, mentally and financially.

The NCC is a performance-based code, containing the Performance Requirements for the construction of buildings. This enables flexibility in design and product, provided they perform in the manner prescribed.

Currently the use of resilient building products and resilience to natural disasters is promoted but not mandated. Contemporary guidance is available for Queenslanders for building, repairing, and retrofitting storm tide, cyclone, bushfire, and flood resilient homes.

The QBCC assists Queensland communities in recovering from natural disasters such as a bushfire, flood, cyclone or severe storm by providing technical and general advice on a wide range of rebuilding issues. This provides an opportunity for homeowners to be informed about the benefits of building resilience.

### Feedback: where do we want to be?

One submitter stated there is a need to educate builders on *‘how to make homes be resilient to the increasing intensity and frequency of natural disasters. Existing QBCC documents cover risks associated with building structure and risk to life. They do not, however, cover resilient design or construction and have limited information on non- structural materials – a key driver of costs when recovering from a flood event.’*

### What research told us

*‘Rebuilding, recovering and reconnecting disaster affected communities’* is one of the three organisational objectives in the Queensland Reconstruction Authority (QRA) Strategic Plan 2021-25.<sup>101</sup>

There is a comprehensive suite of existing guidance material and information available to support industry and consumers with the design and construction of buildings to increase resilience to the impacts of natural disasters. However, there appears to be a lack of understanding and/or awareness of the material.

Existing material includes both voluntary measures, that encourage the construction of more flood resilient buildings, and mandatory regulatory requirements made through legislative frameworks.

### Concluding comment

While building resilience is topical and being discussed at all levels of government, there are actions that can be taken to support homeowners and the community to become more resilient to natural disasters.

## Recommendation 16: Improve building resilience to the impacts of natural disasters

### Actions for effective implementation of recommendation 16

- 16.1 Develop a communication strategy to inform building owners about building resilience through design and construction practices.
- 16.2 Reinforce best practice building industry regulation through contemporary building guidelines and collaboration with industry.

101. Queensland Reconstruction Authority, *Rebuilding, recovering and reconnecting disaster affected communities* viewed 18 April 2022 available at <https://www.qra.qld.gov.au/about-us/strategic-plan/rebuilding-recovering-reconnecting>.

# Recommendation 17 – Establish an implementation group to monitor and report on the progress of the QBCC Review recommendations

## Assessment: where are we now?

### Implementation

This review and report considers the findings and recommendations of previous reviews and reports into the QBCC and former QBSA, particularly in the context of a rapidly changing and increasingly complex environment. This review has found that some of the previous recommendations had not been fully implemented and a number of the same concerns raised in previous reviews were reinforced through this review (refer to **Attachment C** for a full list of reports and reviews considered).

In relation to the 2012 review, one submission stated, ‘...most recommendations were not implemented by government at that time. Unfortunately, many of the concerns raised continue to present as issues ten years on, albeit under the QBCC banner.’ While not most, some key recommendations identified by the independent lead reviewer are sections 3.3 and 4 of the 2012 review into the QBSA. Section 3.3 notes concerns raised about the representative make-up and membership of the board. This sentiment has been raised consistently throughout this review. Section 4 discusses a strong perception by both consumers and builders that the QBSA was biased in one way or another, which also remains a concern for stakeholders.

## Feedback: where do we want to be?

### Implementation

As an immediate priority, establish a steering committee to monitor and report on progress of the *QBCC Governance Review 2022* recommendations. As one submitter noted, ‘appropriate oversight of implementation activities is required to ensure required changes occur in a timely manner.’

Membership of the committee should include the Director-General of EPW (Chair), a QBCC Board member, the QBCC Commissioner and representatives from the Department of Premier and Cabinet, Queensland Treasury and any other person or agency deemed necessary by the Chair, with the group meeting on a regular basis to keep the momentum of change. As its first action, the committee will develop an implementation plan which is published, along with regular progress updates, to ensure transparency and accountability. Through collaborative effort, all review recommendations can be successfully implemented to ensure the QBCC transforms into an insights-driven, outcomes-focused regulator.

After a period of two-years, the steering committee will undertake an assessment to consider whether implementation of the recommendations is continuing to deliver desired outcomes. As part of the assessment, the committee would review the interaction between peak industry bodies and policy advisory bodies that are assisting the QBCC, to determine if any efficiencies can be achieved.

## What research told us

There have been many reports and reviews into the QBCC and former QBSA, but the necessary focus on implementation has waned over time. It has been noted through consultation that a lack of resources within the organisation has hindered efforts to implement many of the earlier recommendations made in other reports.

## Concluding comment

There have been many reports and reviews undertaken into the QBCC. It is now time for effective action to implement the changes needed to transform the QBCC into the strong effective outcomes-focused regulator that industry and the community expect and deserve. It is important that there is effective collaboration between EPW and the QBCC in the oversight of implementation arrangements.

The Transport and Resources Parliamentary Committee and members of the Opposition were consulted during this review and the independent reviewer believes it is worthwhile pursuing bi-partisan support in implementing the review recommendations.

As the regulator of the Building and Construction industry, which is the third largest contributor to the state's economy, the QBCC's role is difficult at the best of times. Through bi-partisan support, all Queenslanders will benefit from a stronger building and construction industry which is the third largest sector of the Queensland economy and the third largest employer.

## **Recommendation 17: Establish an implementation group to monitor and report on the progress of the QBCC review recommendations**

### **Actions for effective implementation of recommendation 17**

- 17.1 Establish a steering committee comprising the Director-General of EPW (Chair), a QBC Board member, the QBCC Commissioner and representatives from the Department of Premier and Cabinet, Queensland Treasury and any other person or agency deemed necessary by the Chair, to oversee implementation of the recommendations.
- 17.2 The steering committee will ensure regular reports are published on the progress of the implementation, and upon request give the Parliamentary Transport and Resources Committee information about the implementation process to ensure transparency and accountability.
- 17.3 The Director-General of EPW and the QBCC Commissioner monitor and foster a shared understanding of how recommendations are being implemented.
- 17.4 After two years, conduct an assessment of implementation to evaluate the efficiency and effectiveness of the recommendations in transforming the QBCC into a financially sustainable, outcomes-focused independent regulator that promotes confidence in the industry and strong economic growth.
- 17.5 Evaluate the integration, effectiveness and potential efficiencies in the governance arrangements of the ministerial, QBCC and EPW committees and the Service Trades Council, to ensure all building and construction industry sectors are adequately represented in the government's building, plumbing and drainage reform agenda.

# Attachment A: QBCC Governance Review ToRs

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The ToRs for the QBCC Governance Review are detailed below.

The scope, advice and recommendations will be provided in relation to:

1. The QBCC's structure and governance arrangements reflect best practice for similar regulatory bodies in Queensland or other jurisdictions, including whether all current functions should continue, or continue in their current form, in particular dispute resolution, and any proposed adjustments to ensure best practice
2. The roles and responsibilities of the QBCC and the QBC Board are sufficiently clear and support good governance
3. Any legislative amendments or administrative changes required to give effect to any potential improvements identified from 1 and 2
4. Any other relevant matters exist that should be further examined to ensure the QBCC is well positioned to deliver on government commitments and reforms.

In making recommendations, the report should:

- clearly identify what elements of the QBCC's work were considered, findings, and the reasoning behind recommendations
- clearly identify whether each of the recommendations can be implemented immediately, or requires longer term consideration, with a focus on workable and pragmatic solutions
- if recommending changes in structures or functions, outline the changes proposed, with reference to legislative schemes in Queensland and other jurisdictions
- if relevant, recommend what alternatives to legislative change could be considered by government, for example, administrative options
- if relevant, recommend a combination of legislative and administrative change and detail how these might interact
- what further action may be necessary to implement a recommendation
- if no further action is required, specify why.

## Attachment B: Consultation Details

Stakeholder Consultation		
<b>Interviews</b>	Current QBCC Staff	<b>Total Number</b>
	Past QBCC Staff	
	Interim Commissioner	
	Current Commissioner	
	Burleigh MP	
	Everton MP	
	Previous SLT members	
	QBC Board members	
	Previous QBCC staff	
	Consumers	
	Critics	
	Industry Peak Bodies	
	Consumer advocacy group	
	Licensees	
	BLP staff	
	EPW Minister	
	EPW DG	
	Transport and Resources Committee	
<b>Workshops</b>	BLP Staff (17 attendees) 24 February 2022 – 11.00am-12.30pm online and in-person	
	QBCC staff Brisbane: 14 March 2022 – 5.30pm-7.00pm in person at 111 George Street, Brisbane 7 attendees	
	QBCC staff Maroochydore: 15 March 2022 5.15pm-6.15pm online 1 attendee	
	ALL QBCC Staff: 16 March 2022 5.30pm-7.00pm online 24 attendees	
	QBCC staff Currumbin: 17 March 2022 5.00pm-6.00pm online 3 attendees	
	ALL QBCC staff: 18 March 2022 5.30pm-7.00pm online 3 attendees	
<b>QUT hosted discussion forum</b>	Open from 26 January 2022* – 18 February 2022 *due to technical issues on first day forum was extended 393 comments received	
<b>EPW sponsored survey</b>	Open from 16 February 2022 – 09 March 2022 61 participants	
<b>Written submissions</b>	43 submissions	

Interview	Date/Time of Interview	Location
1.	13 January 2022 – 10.00 – 12.00pm	Online
2.	21 January 2022 – 10.00 – 11.00am	Online
3.	28 January 2022 – 10.00 – 11.15am	Online
4.	28 January 2022 – 2.00 – 3.12pm	Online
5.	31 January 2022 – 11.00 – 12.15pm	Online
6.	2 February 2022 – 12.45 – 2.00pm	Online
7.	3 February 2022 – 9.30 – 10.45am	Online
8.	3 February 2022 – 11.00 – 12.15pm	Online
9.	3 February 2022 – 1.00 – 2.15pm	Online
10.	3 February 2022 – 3.00 – 4.15pm	Online
11.	4 February 2022 – 2.15 – 3.30pm	Online
12.	10 February 2022 – 9.30 – 10.30am	In-person
13.	10 February 2022 – 11.00 – 12.15pm	Online
14.	11 February 2022 – 2.30 – 3.30pm	Online
15.	20 February 2022 – 3.00 – 4.00pm	Online
16.	24 February 2022 – 2.30 – 3.30pm	In-person
17.	25 February 2022 – 2.00 – 3.00pm	Online
18.	3 March 2022 – 5.15pm – 6.00pm	Online
19.	4 March 2022 – 11.00 – 12.00pm	Online
20.	4 March 2022 – 2.00 – 3.00 pm	Online
21.	10 March 2022 – 10.00 – 11.30pm	In-person
22.	10 March 2022 – 12.15 – 1.15pm	Online
23.	10 March 2022 – 1.30 – 2.30pm	Online
24.	10 March 2022 – 2.45 – 4.00pm	In-person
25.	11 March 2022 – 11.00 – 12.00pm	Online
26.	11 March 2022 – 1.00 – 2.00pm	Online
27.	17 March 2022 – 9.00am – 10.00am	In-person
28.	17 March 2022 – 1.45 – 2.30pm	In-person
29.	17 March 2022 – 6.00 – 7.00pm	Online
30.	18 March 2022 – 11.00am – 12.00pm	Online
31.	18 March 2022 – 1.00 – 2.00pm	Online
32.	18 March 2022 – 3.00 – 4.00pm	Online
33.	21 March 2022 – 10.00 – 11.00am	Online
34.	23 March 2022 – 4.00 – 5.00pm	Online
35.	24 March 2022 – 1.00 – 2.00pm	Online
36.	24 March 2022 – 2.00 – 3.00pm	Online
37.	24 March 2022 – 4.00 – 5.00pm	Online
38.	25 March 2022 – 10.00 – 11.00am	Online
39.	25 March 2022 – 12.00 – 1.00pm	Online
40.	25 March 2022 – 2.00 – 6.00pm	In-person
41.	1 April 2022 – 10.00 – 11.00am	Online
42.	1 April 2022 – 1.30 – 2.00pm	Online

## Attachment C: List of Reports and Reviews

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1	Deloitte Consulting Pty Ltd, <i>QBCC Capability and Functional Alignment Review</i> , March 2017.
2	Nous Group, <i>Review of QBCC's complaints and decision-making processes</i> , 27 October 2021.
3	Nous Group, <i>Possible alternative model for dispute resolution in the Queensland building sector</i> , n.d.
4	Peter Shergold and Bronwyn Weir (2018), <i>Building confidence: improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia</i> , Australian Government.
5	Queensland Audit Office, <i>Licensing builders and building trades</i> (Report 16: 2019–20).
6	QBCC, <i>Future Blueprint – Foundational Program and Case for Investment</i> , October 2021
7	QBCC, <i>Minimum Financial Requirements</i> (Annual Reporting) Regulatory Guide, December 2019.
8	QBCC <i>Regulatory Strategy 2020-2024</i>
9	QBCC/Deloitte Consulting Pty Ltd, <i>The Next Normal Strategy</i> , April 2021.
10	Transport, Housing and Local Government Committee, Report No. 14, <i>Inquiry into the Operation and Performance of the Queensland Building Services Authority</i> , November 2012.

# Attachment D: QBCC Strategic Plan 2020-2024



## STRATEGIC PLAN 2020-2024

(Revised for 2021-22)

**MANDATE** To independently regulate the building and construction sector, and efficiently manage the insurance fund

**PURPOSE** For peace of mind

**VISION** To build trust and confidence in all we do

**Our people matter because we can only achieve what we set out to do through our people**

**We will respect, protect and promote human rights in our decision-making and actions**

OBJECTIVES	1. Promote quality, safety, security of payment and licensee sustainability	2. Deliver regulatory and insurance services that are timely, accurate, fair and transparent	3. Put our people first, and support and value them	4. Be efficient and financially sustainable
STRATEGIES	<p><b>Early detection</b> – we use insights and risk-based regulatory models to focus on the greatest risk areas for the sector</p> <p><b>Responding effectively</b> – we will mobilise our resources to respond appropriately</p> <p><b>Work collaboratively</b> – we work with other regulators and agencies to help maintain the probity and integrity of the sector</p> <p><b>Industry awareness</b> – we deliver sector-wide education and engagement activities</p>	<p><b>Engagement</b> – we engage with stakeholders and consumers in an open and transparent manner</p> <p><b>Service excellence</b> – we ensure regulatory and insurance systems, policies and procedures enable timely, accurate, consistent, fair and transparent service delivery</p>	<p><b>Recruit and develop great people</b> – we attract and retain a diverse workforce with the right skills to deliver our mandate</p> <p><b>Performance matters</b> – we recognise and reward high performance and seek continuous improvement</p> <p><b>Culture</b> – we celebrate shared values that promote a positive and productive working environment</p> <p><b>Wellness</b> – we support and mentor our staff</p>	<p><b>Financial management</b> – we manage our finances responsibly</p> <p><b>Operational excellence</b> – we are efficient with our governance controls</p> <p><b>Information and technology enabled</b> – we use information and technology to improve everything we do</p>
PERFORMANCE MEASURES	<ul style="list-style-type: none"> <li>Percentage of compliant pools with valid pool certificates across residential, rental and short-stay properties</li> <li>Percentage year-on-year decrease in NCBP that have potential to cause significant risk and harm being used on active building sites</li> <li>Reduction in non-compliance evidenced by approved audit programs</li> <li>Year-on-year increase in compliance with minimum financial requirements</li> </ul>	<ul style="list-style-type: none"> <li>Percentage of claims fully compensated under the Queensland Home Warranty Scheme</li> <li>Performance of SDS service standards</li> <li>Strength of stakeholder engagement</li> </ul>	<ul style="list-style-type: none"> <li>Agency engagement score from the Working for Queensland survey</li> <li>Agency participation rate in the Working for Queensland survey</li> <li>Percentage of staff turnover</li> <li>Overall QBCC gender diversity</li> <li>Gender Parity – SLT and Directors</li> <li>Gender pay gap</li> <li>Loss time injury frequency rate</li> <li>Average days lost due to absenteeism</li> </ul>	<ul style="list-style-type: none"> <li>Financial management – Achieve budget +/- 5%</li> <li>Divisions to identify annual budget efficiency savings of 5%</li> <li>IT services – post release satisfaction</li> <li>IT services – Help Desk satisfaction</li> </ul>

RISKS	OPPORTUNITIES
<p><b>A. Industry non-compliance</b> – Failure to instill a respect for regulation and compliance, caused by ineffective and/or misguided regulatory actions resulting in adverse impacts to the sustainability of licensees, the sector and compromising the safety of community (Obj 1)</p>	<p>• Long-term sustainability of the sector to continue to contribute significantly to the Queensland economy</p> <p>• Materially change and enhance the QBCC's impact and reach on the sector</p>
<p><b>B. Insurance fund management</b> – Failure to effectively administer the Home Warranty Scheme, caused by mismanagement against actuarially sustainable principles resulting in loss of protection to the homeowner (Obj 2,4)</p>	<p>• Management of reinsurance arrangements ensuring the scheme provides home owners with cover for loss where the licensed contractor does not complete the contracted works or fails to rectify defective work</p>
<p><b>C. Employee wellbeing</b> – Failure to ensure a positive work environment where our people feel safe and valued, caused by inadequate leadership, development opportunities and communication resulting in a disengaged workforce (Obj 3)</p>	<p>• More engaged workforce leading to higher performance</p>
<p><b>D. Employee psychological safety</b> – Failure to implement systems of work that, so far as reasonably practicable, minimise or prevent (where possible) exposure to workplace hazards or risk factors that may lead to employee psychological injury, and failure to provide all reasonable support to employees with mental health issues (Obj 3)</p>	<p>• Integrated and proactive approach to health and wellbeing of our workforce and a focus on individual wellbeing</p>
<p><b>E. Employee physical safety</b> – Failure to ensure so far as reasonably practicable a safe work environment both internally and externally caused by inadequate safety procedures and safety education and awareness resulting in harm to employees (Obj 3)</p>	<p>• Continual improvement in safety practices</p>
<p><b>F. Financial management</b> – Failure to be financially sustainable, caused by irresponsible resource management resulting in the non-provision of legislated functions (Obj 2, 4)</p>	<p>• Effective internal resource management leading to an efficient and financially sustainable organisation</p>
<p><b>G. Fraud and corruption</b> – Failure to prevent incidents of fraud and corruption, caused by a lack of awareness and prevention activities resulting in a negative impact on the QBCC's reputation (Obj 2, 4)</p>	<p>• Education and communication of fraud and corruption to improve awareness and strengthen controls</p>
<p><b>H. Reputational damage</b> – Failure to protect the QBCC's reputation, caused by the activities or the lack of activities resulting in the loss of trust and confidence in the organisation (Obj 1, 2, 3, 4)</p>	<p>• Influence behaviour and the future of the industry through strong relationships</p> <p>• Better regulation of Queensland's service trades through a closer working relationship with the Service Trades Council</p>
<p><b>I. Business continuity</b> – Failure to manage internal and/or external impact during disruptive events at a local, state, national or global level caused by inadequate business continuity, disaster recovery plans or external factors resulting in potential harm, interruption to delivery of our services and financial and reputational damage (Obj 1, 2, 3, 4)</p>	<p>• Confidently responsive to business disruptive events to ensure operational impact is minimal</p>
<p><b>J. Data governance and the use of data</b> – Failure to yield accurate data caused by poor data governance and quality resulting in an inability to make informed decisions impacting the effectiveness of the QBCC and its reputation (Obj 1, 2, 3, 4)</p>	<p>• Effective use of information and technology to inform decision-making</p>

**The QBCC contributes to *Unite and Recover*, the Queensland Government's objectives of:**

- Supporting jobs – we do this through licensing and compliance that enables fully qualified and competent contractors and tradespeople to become employed or start their own businesses
- Building Queensland – we regulate the building and construction industry to maintain proper building standards
- Backing small business – we implement security of payment reforms that require payment in full and on time to small business subcontractors and suppliers for the work that they do.

**OUR BEHAVIOURS:**



**PROFESSIONALISM**



**INTEGRITY**



**ACCOUNTABILITY**



**TEAMWORK**



**CUSTOMER FOCUS**

QBCC Strategic Plan 2020-2024, C04, PL 14

# Attachment E: QBCC Organisational Structure



## OUR STRUCTURE

EFFECTIVE 14 FEBRUARY 2022

