

8 June 2023

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Ms Anissa Levy
CEO and Commissioner
Queensland Building & Construction Commission
299 Montague Road
West End Qld 4101

VIA EMAIL:

Dear Anissa,

USE OF QBCC LICENSING POWERS – LATE LODGEMENT OF ANNUAL REPORTING

Further to our letter of 10 March 2023 and various discussions we have held with the QBCC subsequently, we are seeking an update on licensing actions by the Commission for late lodgement of annual reporting.

As you are aware, in late January 2023, 115 of our members had conditions imposed on their licences for allegedly contravening offence provisions under the QBCC Act, namely provisions in the QBCC (MFR) Regulation. These conditions operated, amongst other things, to prevent the member from taking on new work (which is particularly damaging to a contractor's business).

These conditions were imposed pursuant to section 36 of the QBCC Act, which provides a condition may be imposed on a licence subsequent to issue if:

- the QBCC has reason to believe that a licensee may have insufficient financial resources to meet possible liabilities in relation to building work; or
- there is some other proper ground for imposing a condition on the licence.

To impose a condition the QBCC must also be satisfied the condition is appropriate.

We made various submissions to the Commission to have the imposed conditions lifted and removed from the licensee register on the basis they should not have been imposed.

Following the Commission's decision not to lift the conditions, a number of our members lodged internal review applications in March 2023 challenging the decision to impose the condition. We have been provided with a copy of some of those decisions (which are dated from late April 2023).

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All those decisions we have seen found:

- the proposed notice of condition caused misunderstanding due to the various dates referred to within the notice, making the notice unclear as to when the financial information was required by; and
- the late lodgement of annual reporting was not sufficient for a decision-maker to believe the licensee had insufficient financial resources to meet possible liabilities in relation to building work (and therefore there are not proper grounds to impose the condition).

We're keen to understand the Commission's position in relation to this matter.

Our position continues to be that the Commission should:

1. remove the licence condition from the licence history on the licensee register for all affected licensees who retain a current licence; and
2. amend its internal processes so that available regulatory actions for late lodgement of annual reporting (of itself) do not include imposition of a licence condition of no new work.

We look forward to hearing from you.

Yours sincerely,

Paul Bidwell
CEO