

**Quarterly report by the
Commonwealth Ombudsman
under s 65(6) of the
*Building and Construction Industry
(Improving Productivity) Act 2016***

FOR THE PERIOD 1 JULY TO 30 SEPTEMBER 2020

Quarterly report by the Commonwealth Ombudsman,
Michael Manthorpe PSM,
under Part 2 of Chapter 7 of the
*Building and Construction Industry
(Improving Productivity) Act 2016*

November 2020

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INTRODUCTION

Under the *Building and Construction Industry (Improving Productivity) Act 2016* (the BCIP Act), the Australian Building and Construction Commissioner (the Commissioner) may inquire into and investigate any act or practice by a building industry participant, which may be contrary to a designated building law, a safety net contractual entitlement or the Building Code. As part of an investigation, the Commissioner may apply to a nominated presidential member of the Administrative Appeals Tribunal (AAT) for an examination notice, under s 61B of the BCIP Act.

An examination notice may require its recipient to:

- a) give information to the Commissioner
- b) produce documents to the Commissioner
- c) attend before the Commissioner to answer questions relevant to an investigation.

Under s 64 of the BCIP Act, the Commissioner is required to notify the Ombudsman as soon as practicable after an examination notice is issued and provide copies of relevant documents. The Commissioner must give the Ombudsman the following as soon as practicable after the examination is completed:

- a) a report about the examination
- b) a video recording of the examination
- c) a transcript of the examination.

Our Office uses these records to review how the Commissioner and any person assisting the Commissioner exercises examination powers under the BCIP Act.

Under s 65(6) of the BCIP Act, the Ombudsman must report to Parliament as soon as practicable after the end of each quarter of each financial year about examinations conducted by the Commissioner and reviews conducted by the Ombudsman during that quarter.

SUMMARY OF REPORTING PERIOD

Between 1 July and 30 September 2020 (the review period), our Office did not complete any reviews of the Australian Building and Construction Commissioner's use of examination powers under the BCIP Act.

The Commissioner's office advised our Office that it conducted 12 examinations during the review period, including one examination rescheduled from the April to June 2020 period. The Office will review these examinations in a subsequent quarter, following receipt of all relevant records, and include the results in the quarterly report for that period.

CORRECTION OF ERROR IN PREVIOUS REPORT

During this period, an error was identified in our *Quarterly report by the Commonwealth Ombudsman under s 65(6) of the Building and Construction Industry (Improving Productivity) Act 2016 for the period 1 January to 31 March 2020*, which was presented to Parliament in July 2020.

In this report, the section heading on page 5 (and replicated in the table of contents) is 'Review results—1 October to 31 December 2019'. This should be 'Review results—1 January to 31 March 2020', reflecting the correct review period as described in the introductory sentence within the section and the remainder of the report.