

VBA Compliance & Enforcement Report

January – June 2023

Aboriginal Acknowledgement

The VBA respectfully acknowledges the Traditional Owners and custodians of the land and water upon which we rely. We pay our respects to their Elders past and present. We recognise and value the ongoing contribution of Aboriginal peoples and communities to Victorian life.

We embrace the spirit of reconciliation, working towards equality of outcomes and an equal voice.

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Available online at www.vba.vic.gov.au

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About

This Report

The Victorian Building Authority (VBA) is responsible for monitoring and enforcing compliance with the *Building Act 1993* (the Act) and associated regulations and guidelines, including the National Construction Code and Code of Conduct for Building Surveyors in Victoria. The Act provides for plumbing and building work to be carried out so that it meets minimum standards of safety, health and amenity. It requires people and companies undertaking building and plumbing work to be registered or licensed practitioners. It also provides for various enforcement tools to be used where individuals and companies fail to comply with the requirements of the Act. The VBA's compliance and enforcement decisions are made according to the Compliance and Enforcement Policy.

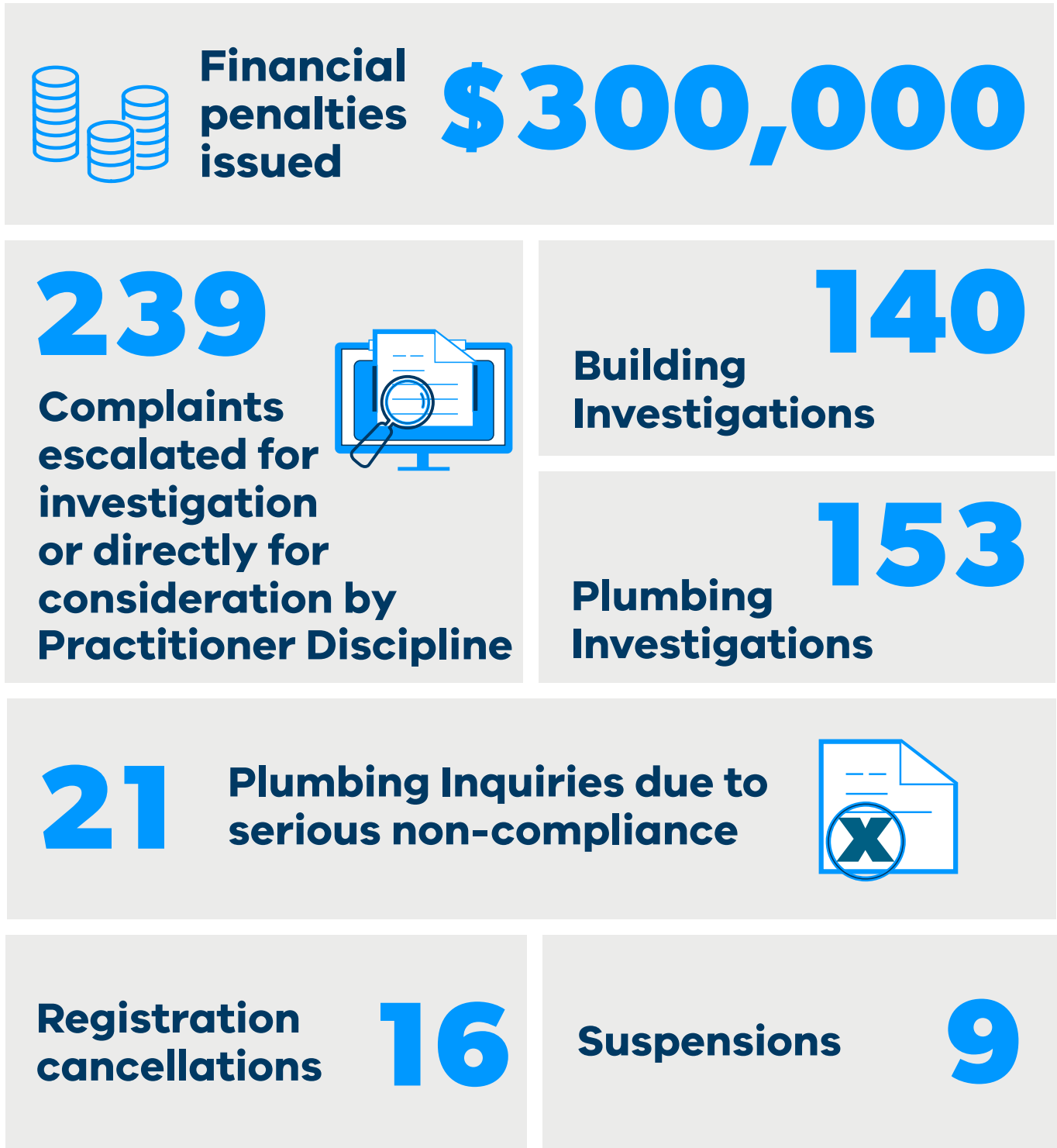
The VBA's Compliance and Enforcement Report is designed to give industry, practitioners and the community an insight into our activities. To safeguard Victoria's future, the VBA is strengthening its capacity to take firm action when needed to keep Victorians safe and hold practitioners to account. As Victoria's building and plumbing regulator, our starting point is that individuals want to do the right thing. That's why we are enhancing our risk-based regulatory model that will encourage and incentivise good behaviour, while discouraging poor performance.

The VBA's Compliance and Enforcement Report includes data and information that is accurate as at 30 June 2023.

Our primary focus is to reduce risk to the Victorian community by prioritising our efforts towards activities that pose a greater threat to their health and safety or which risk economic loss.



Executive Summary



Compliance and Enforcement activities are the key tool for the VBA to showcase its commitment to acting when serious building and plumbing issues arise. Underpinning our work is a focus on ensuring Victoria's built environment is the safest it can be, so that consumers are protected from building and plumbing practitioners who do the wrong thing.

During the report period of January to June 2023, the VBA continued to undertake activities in all Compliance and Enforcement streams. Almost \$300,000 in financial penalties were issued to practitioners found to be contravening the Building Act and associated Regulations, demonstrating the VBA's commitment to holding practitioners who do the wrong thing to account.

Of the complaints received, 239 were escalated for investigation or directly for consideration by Practitioner Discipline, with 85 of these related to building and 154 related to plumbing. The most common complaints related to roofing, failure to receive a compliance certificate, frame or structure and water ingress.

The VBA completed 140 building investigations, with 14 cases referred for practitioner discipline and 19 for prosecution. The VBA issued 58 building disciplinary decisions, which resulted in 16 registration cancellations and nine suspensions. This demonstrates the VBA's commitment to identifying and disciplining practitioners who do the wrong thing, which protects Victorian consumers from poor building and plumbing practices.

The VBA continues to take an educative approach to the resolution of lower risk plumbing non-compliance and introduced a new caution process to ensure licensed plumbers understand their certification obligations, while also returning to remediate defective work. The VBA completed 153 plumbing investigations during the reporting period. The VBA conducted 21 Plumbing Inquiries due to serious non-compliance with plumbing legislation, with most practitioners receiving a monetary penalty.

The VBA continues to refine its intelligence-led approach to compliance and enforcement, noting that regulating tens of thousands of practitioners and their activities is a challenge. The use of established and new sources of data and intelligence to identify practitioners of interest enables us to take a risk-based approach to our activities. These profiling activities lead to increased inspections or audits on work performed by those perceived high-risk practitioners, who may pose a disproportionate risk to consumers.

Compliance monitoring programs

The Compliance and Enforcement Report should be read in conjunction with reports on the VBA's compliance monitoring programs:

- Proactive Inspection Program (PIP) (reported quarterly);
- Building Surveyor Audit Program (BSAP) (reported half-yearly); and
- Plumbing Audit Program (PAP) (reported monthly).

Proactive Inspection Program (PIP)

The PIP monitors the compliance of building and plumbing work under construction. Selection of work for inspection is risk-based and considers factors such as:

- the type of building;
- sites and/or practitioners of interest;
- life and safety risks.

The use of a multi-disciplinary team of subject matter experts from across the VBA was recently piloted. This team included building inspectors, plumbing inspectors, building auditors, investigators, building surveyors and structural and fire safety engineers. The pilot program tested an inspection approach aimed at identifying serious non-compliances at key stages of building on several class 2 building sites, and to ensure those issues were rectified before being transferred to purchasers. The VBA is reviewing the learnings from this work to inform future activities.

Building Surveyor Audit Program (BSAP)

The BSAP aims to identify and reduce non-compliant building work in Victoria. The VBA undertakes a desktop review of building permit and occupancy permit documentation to ensure registered building surveyors are carrying out their functions correctly. The BSAP focuses on education where non-compliance is identified, but serious non-compliances are referred for further investigation.

Plumbing Audit Program (PAP)

The PAP is an on-site audit program of plumbing work at selected sites using a risk-based approach based on compliance certificates lodged.

Information gathered via PIP, BSAP and PAP contributes to the VBA's intelligence holdings. The intelligence informs and prioritises the VBA's education activities, supporting practitioners with the knowledge to comply with standards, as well as the VBA's risk-based compliance and enforcement activities, which continuously strengthen industry and consumer outcomes.

Plumbing



Complaints

The VBA receives complaints relating to contraventions of plumbing legislation. In assessing a complaint, the VBA considers:

- Priority for life safety and urgent matters
- Registration status of the subject
- Status of compliance
- Availability of evidence
- Previous disciplinary action
- Seriousness of non-compliance and the impact
- Age of the issue.

The VBA's complaints process aims to assist consumers with the resolution of plumbing complaints through rectification of plumbing work that is not compliant with Australian Standards and lodgement of compliance certificates where required. Complaints are prioritised based on risk and will be escalated for investigation if compliance is not achieved through the complaints process. Complaint resolution takes an educative approach to prevent repetition and a poor compliance history will result in increased monitoring by the VBA and investigation of systemic offenders.

Table 1: Plumbing Complaints January to June 2023

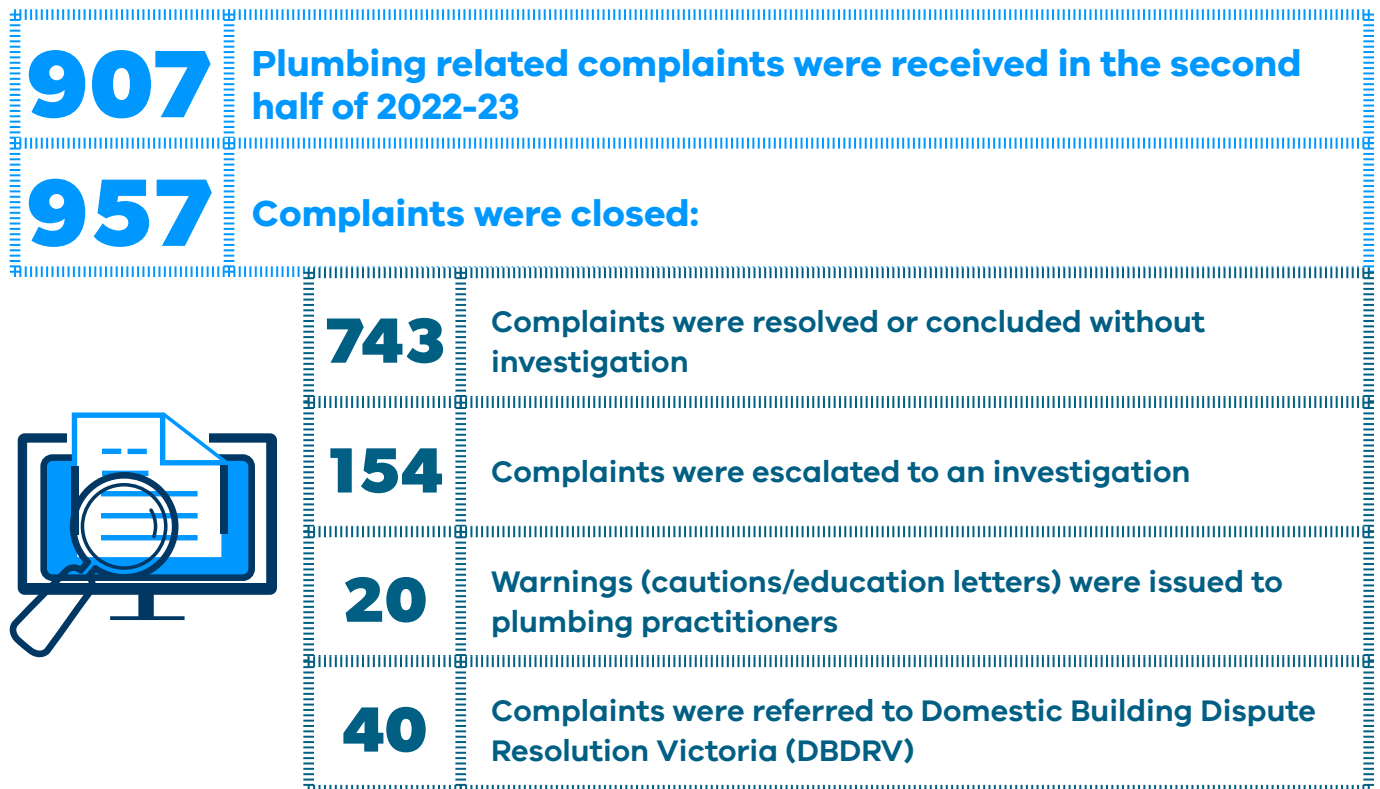


Table 2: Plumbing Complaints FY21-22 & FY22-23

COMPLAINTS	2021-22	2022-23	JUL – DEC 2022	JAN – JUN 2023
Number of Complaints received	1,441	1,746	839	907
Number of Complaints closed	1,357	1,768	811	957
Outcome Actions				
Concluded ¹	1,009	1,406	663	743
Referral of a complaint to DBDRV	22	69	29	40
Practitioner cautions (Education and Warning)	77	61	41	20
Escalated for investigation	249	232	78	154

Plumbing complaints received increased by approximately 21 per cent compared to the same period a year ago. There was an increase in complaints about lodgement of compliance certificates, particularly where plumbing work is incomplete, with a contributing factor being builder insolvencies and the need for consumers to secure plumbing compliance certificates to be eligible for occupancy permits. Referral of complaints for investigation increased for the half-year but remained steady compared to than the previous year.

The VBA closed more plumbing complaints than it received during this period, due to a concerted effort to reduce backlogs and wait times.

Early intervention by a plumbing investigator during the initial complaint stage and engagement with the practitioner to achieve rectification without the necessity for investigation remains a priority, to achieve a timelier resolution for consumers. Practitioners are educated to improve compliance in the future.

Plumbers found to have undertaken non-compliant work are also referred to the PAP for increased monitoring. Data collected on the causes of complaints informs our education strategies including the issues of industry alerts to help improve plumbing compliance.

Licensed plumbers may be cautioned on resolved complaints to remind them of their self-certification obligations, and to assist with identifying systemic offenders.

Most common plumbing work complaints (January – June 2023)

- Failure to receive a compliance certificate
- Roofing
- Storm water drainage
- Sewer/septic plumbing work

¹Concluded means: not substantiated/insufficient evidence/resolved/duplicate/referral to another agency.

Investigations

The VBA conducts investigations to determine if there is sufficient evidence to prove that a person has contravened relevant legislation. Referrals for investigation may be received as an escalated complaint, an internal referral from teams such as Audits and Inspections or Practitioner Intelligence, or from external agencies. Investigations focus on:

- Establishing the facts or otherwise of a complaint, allegation or other information that suggests a non-compliance with relevant legislation; and
- Collection of evidence in an objective and unbiased manner, while observing the requirements of legislation at all times.

Investigations are often complex and require the gathering of significant amounts of evidence from multiple sources, which takes time. This can involve conducting interviews, preparing reports and detailed briefs of evidence, participating in court proceedings and providing advice and information to industry.

The VBA has at its disposal a range of enforcement actions including warnings, issuing rectification notices, referrals for disciplinary inquiry and referral for prosecution. These enforcement actions are selected commensurate to the risk or potential breach identified.

The VBA also has the power to issue infringement notices to licensed plumbers for certain breaches outlined in the Act. The Act informs the number of penalty units that may be issued for identified breaches.

Referrals for prosecution have decreased from 25 in 2021-22 to 10 in 2022-23, due to the greater use of other enforcement tools. The VBA remains committed to prosecuting serious non-compliance and unregistered people where appropriate.

Table 3: Plumbing Investigations January to June 2023



Table 4: Plumbing Investigations FY21-22 & FY22-23

INVESTIGATIONS	2021-22	2022-23	JUL – DEC 2022	JAN – JUN 2023
Number of Investigations underway ²	108	121	102	121
Number of Investigations completed	573	341 ³	188	153
Outcome Actions				
Resolved ⁴	419	231	134	97
Warning	55	45	21	24
Referred for inquiry	74	57	33	24
Referred for prosecution	25	8	0	8
Number of infringement notices issued ⁵	520	408	208	190

Most common plumbing work investigated (January – June 2023)

- Drains not available for inspection at agreed time
- Non-compliant plumbing work
- Plumbing work being undertaken by unregistered or unlicensed people
- Compliance certificates not being issued

A reduction in the number of plumbing investigations closed reflects a change in the workflow definition this financial year, which has increased the point at which a case is deemed as completed. This is also linked to a change in the VBA's case management approach for multiple dwellings on the same site. A corresponding decrease for each outcome category is shown in the table above.

²The number of plumbing investigations underway is expressed as a rolling figure.

³Change in definition for closed plumbing investigation.

⁴Resolved outcomes include investigations where a rectification notice was issued.

⁵The number of infringement notices issued is cumulative across audit/inspection activity and investigations. This figure includes those withdrawn after being issued.

Prosecutions

The VBA may file charges against a person (registered practitioner or unregistered person) or body corporate for breaches of the Act and regulations. A VBA prosecution is a criminal proceeding that is heard in the Magistrates' Court of Victoria.

Once an investigation has been completed, if serious non-compliance such as an unregistered person carrying out regulated plumbing work has been identified, the VBA considers whether to initiate criminal proceedings.

The VBA will only proceed with a prosecution if there is a reasonable prospect of a conviction, and a prosecution is in the public interest.

Table 5: Plumbing Prosecutions FY21-22 & FY22-23

PROSECUTIONS	2021-22	2022-23	JUL – DEC 2022	JAN – JUN 2023
Number of plumbing prosecutions completed by VBA	3	4	3	1

In the second half of 2022-23, one plumbing prosecution was completed. This decrease is driven by a reduction in referrals for prosecution during the first half of the financial year. Plumbing prosecution matters are actioned in accordance with timeframes determined by the appropriate Court. Recent referrals for prosecution continue to be assessed by the VBA.

Table 6: Plumbing Prosecutions (Individuals) January to June 2023⁶

Accused name	Description of matter	Result	Penalty (\$) ⁷	Date
PELEKIDIS, Christos	Carried out regulated plumbing and building work (roofing) without appropriate licence or registration.	Proven without conviction. Fine of \$1,000	\$1,000	13/04/2023

⁶This list does not include prosecutions commenced by the VBA which were subsequently withdrawn.

⁷Excludes costs.

Plumbing Inquiries

Plumbing Inquiries are disciplinary proceedings into the conduct of plumbing practitioners commenced by the VBA and heard before a VBA delegate. Plumbing Inquiries moved to an online format in 2020-21.

Following a plumbing investigation, if serious non-compliance with plumbing legislation has been identified, such as carrying out plumbing work outside the class of licence/registration held or providing false/misleading information on a compliance certificate, a recommendation may be made to proceed with a disciplinary inquiry.

When considering the outcome and associated penalties of the inquiry, the VBA delegate will consider:

- The severity of the plumber's actions
- The cost of any damage arising from the plumber's actions
- Prior offences
- Level of cooperation with the inquiry process
- Gaps in knowledge/experience that indicate further training may be required.

The delegate also considers the practitioner's personal circumstances and what is appropriate to deter both the individual practitioner and the industry more broadly.

Once a decision is finalised, the practitioner is advised of the disciplinary outcome, which may include: a reprimand, a monetary penalty, further training in a particular class of plumbing, and/or suspension or cancellation of a plumbing licence or registration for up to three years.

Table 7: Plumbing Inquiry Outcomes FY21-22 & FY22-23

PLUMBING INQUIRY OUTCOMES ⁸	2021-22	2022-23	JUL – DEC 2022	JAN – JUN 2023
Number of Inquiries held	20	30	9	21
Reprimands issued to practitioners	2	5	0	5
Training required	1	8	3	5
Financial penalties imposed	19	27	7	20
Suspension of licence	1	1	1	0
Suspended suspension of licence ⁹	3	1	1	0
Cancellations of licence	0	1	1	0
Disqualification	1	1	1	0
Compliance certificate audits	2	1	0	1

⁸Inquiry outcomes often include more than one sanction e.g. reprimand and monetary penalty imposed.

⁹The seriousness of some offending may indicate suspension of licence would be an appropriate disciplinary action, however the VBA delegate has the discretion to suspend the suspension of a licence by applying certain caveats, thus creating an outcome similar to a good behaviour bond.

All but one plumbing inquiry outcome in the second half of 2022-23 included a monetary penalty being handed to the practitioner, acting as a significant deterrent to future offending. There were matters where the monetary penalty was conditional and could be reduced if the practitioner meets the conditions. The number of inquiries held in the second half of 2022-23 has increased compared to previous half year and is returning to pre-pandemic levels.

Table 8: Plumbing Inquiries (Individuals) January to June 2023

Accused name	Description of matter	Result	Penalty (\$) ¹⁰	Date
BOYADJIAN, Mihran	Failed to comply with the rectification notice.	One ground proven. Reprimand. Penalty of \$925 plus costs of \$2,075.	\$925	24/01/2023
ROWE, Norman	Carried out plumbing work in the class of roofing (stormwater) while not licenced or registered to do so.	One ground proven. Reprimand. Penalty of \$13,991 plus costs of \$981.	\$13,991	27/02/2023
ZERMAKI, Youcef	Carried out plumbing work in the class of gas fitting and drainage work while not licenced or registered to do so.	One ground proven. Penalty of \$10,739 plus costs of \$696.	\$10,739	28/02/2023
GILL, Darren	Failed to comply with rectification notice. Failed to provide signed compliance certificate to the person who commissioned the work and notify the Authority within five days of completing the work.	Two grounds proven. Penalty of \$1,157 plus costs of \$696.	\$1,157	28/02/2023
MURPHY, Harley	Carried out plumbing work that was defective in workmanship and did not comply with the relevant standards. Permitted another person to carry out plumbing work that was defective in workmanship and did not comply with relevant standards. Signed a compliance certificate which contained a misstatement of fact.	Three grounds proven. Penalty \$1,849 plus costs of \$1,214. To undertake training course <i>CPCDR3022A</i> by 22 March 2024. Additional penalty of \$3,698 if required training not completed	\$1,849	23/03/2023

¹⁰Monetary penalties have been rounded to the nearest dollar.

Accused name	Description of matter	Result	Penalty (\$) ¹⁰	Date
CALDWELL, Mark	Carried out non-compliant plumbing work relating to fire sprinklers. Signed a compliance certificate which contained a misstatement of fact. Failed to comply with rectification notice within required timeframe.	Four grounds proven. Penalty of \$9,246 OR penalty of \$555 and fulfill the requirements of the second Rectification notice issued within 45 days of receiving the order. Plus, costs of \$696.	\$555	18/04/2023
SICURO, Thomas	Carried out non-compliant roofing work that was defective in workmanship. Was not licenced for that work or able to provide the required compliance certificate.	Two grounds proven. Penalty of \$740 plus cost of \$2,346. Offer up for inspection to the VBA next six compliance certificates that involve roofing installation work.	\$740	18/04/2023
JENKIN, Darran	Carried out non-compliant plumbing work relating to heating and cooling unit installation. Permitted another person to carry out plumbing work that was defective and did not comply with relevant standards. Signed a compliance certificate which contained a misstatement of fact. Not licenced to certify the class of works that were completed.	Four grounds proven. Penalty of \$3,698 plus costs of \$1,214.	\$3,698	19/04/2023
ALDERMAN, Paul	Completed a below ground sanitary drain and covered it when the Authority had not inspected nor authorised the covering of the pipes.	One ground proven. Penalty of \$740 plus cost of \$696.	\$740	20/04/2023
BARCLAY, Joel	Completed below ground sanitary drains at four sites and covered them when the Authority had not inspected nor authorised the covering of the pipes.	One ground proven. Penalty of \$545 plus cost of \$696.	\$545	20/04/2023
KESER, Peter	Failed to lodge compliance certificate within 5 days of the completion of the work. Signed a compliance certificate which contained misstatements of fact.	Two grounds proven. Reprimand. Penalty of \$11,095.	\$11,095	27/04/2023

Accused name	Description of matter	Result	Penalty (\$) ¹⁰	Date
VALLESE, Mario	Failed to make underground drainage work available for inspection as arranged at two sites where drain had been covered when the VBA attended the site.	Two grounds proven. Penalty of \$3,689 plus cost of \$2,314.	\$3,689	28/04/2023
CASABENE, Giuseppe	Permitted another person to carry out plumbing work who was not licenced or registered to do so.	Cost of \$1,733.	-	23/05/2023
MCDONALD, Garratt	Permitted another person to carry out plumbing work relating to roofing, drainage and installation of rainwater tank that was defective in workmanship and did not comply with relevant standards. Signed a compliance certificate which contained a misstatement of fact. Failed to lodge compliance certificate with the Authority within five days of completing the work.	Three grounds proven. Reprimand. Penalty of \$9,246 plus cost of \$1,214. A further amount of \$3,167 to be paid to the consumer. To complete training courses <i>CPCPCM4015</i> - and <i>CPCPRF4011</i> within 18 months.	\$9,246	25/05/2023
SMITH, Warren	Completed or supervised the completion of below ground sanitary drains at six sites without nominating a time at which the Authority could inspect the works. Not providing a signed compliance certificate to the person who commissioned the work and/or notify the Authority within five days of completing the work.	Two grounds proven. Penalty of \$661 plus cost of \$1,214.	\$661	26/05/2023
POLIMENI, Mario	Carried out or supervised the carrying out of non-compliant plumbing work across four different sites. Failed to comply with rectification notices. Issued compliance certificate that contained misstatement of facts.	Twelve grounds proven. Penalty of \$3,698 plus cost of \$2,314.	\$3,698	30/05/2023

Accused name	Description of matter	Result	Penalty (\$) ¹⁰	Date
MAHER, Grant	Provided misstatement of fact on the lodged compliance certificates; Signed compliance certificates which contained misstatements of fact. Lodged compliance certificate when work was non-compliant in relation to downpipe discharge, metal roofing and wall cladding.certificate when work was non-compliant in relation to downpipe discharge, metal roofing and wall cladding.	Four grounds proven; Penalty of \$4,623 plus cost of \$1,214. Prior to being registered or licenced again, must complete course <i>CPCPCM4015</i> or equivalent.	\$4,623	06/06/2023
CATTANACH, Rickie	Carried out plumbing work in the class of roofing (stormwater) while not being licenced or registered to do so.	One ground proven. Penalty of \$925 plus cost of \$980. Penalty is not required provided the practitioner commits no further breaches of the Plumbing Regulations or the Building Act for the next 12 months.	\$925 ¹¹	14/06/2023
PEARSON, Peter	Permitted or direct other person to carry out defective plumbing work. Signed a compliance certificate that contained misstatements of fact.	Three grounds proven. Penalty of \$1,294 plus cost of \$980. To complete course <i>CPCPCM4015</i> or equivalent within next 12 months..	\$1,294	14/06/2023
BUCK, Andrew	Not providing signed compliance certificates to the Authority and not notifying the Authority upon request within 5 days that the compliance certificates have been given for the uncompleted work.	Four grounds proven. Penalty of \$1,157 plus cost of \$1,214.	\$1,157	22/06/2023

¹¹Penalty only applies if the plumber commits further breach in the next 12 months.

Accused name	Description of matter	Result	Penalty (\$) ¹⁰	Date
COOPER, Darren	Being a person who owns, operates, or manages a business, permitted or directed other person who was not licenced or registered to carry out plumbing work that were defective in workmanship and did not comply with the relevant standards. Signed compliance certificate that contained misstatements of fact.	Four grounds proven. Penalty of \$5,548 plus cost of \$1,214. To complete course <i>CPCPCM4015</i> Assess and Interpret regulatory requirements for plumbing and services industry or equivalent within 9 months.	\$5,548	30/06/2023

Note that the VBA can only publish Inquiry outcomes where the delegate has made a publication order.

Plumbing Enforcement Case Studies

Plumbing practitioner penalised and directed to complete professional development

A plumbing practitioner was penalised and ordered to pay more than \$10,000 after 17 instances of defective workmanship were found at a property in Northcote.

At a Plumbing Inquiry in May 2023, three allegations made against Garratt McDonald were proven. Mr McDonald was found to have contravened the Building Act 1993 (Act), by permitting a person to carry out roofing, drainage and installation of a rainwater tank on his behalf, where the work did not comply with the Act or Regulations and relevant installation codes for metal roofing.

Defective workmanship included roof sheets installed without adequate grade, undersized overflow provision installed on the rainheads, and the box gutter not installed with minimum fall.

Mr McDonald breached requirements in respect of compliance certificates, by certifying work that did not comply and failed to lodge a compliance certificate with the VBA within five days of the completion of work.

A penalty of more than \$9,000 was issued to Mr McDonald for his contraventions and he has been ordered to pay more than \$3,000 to the impacted homeowner, in addition to costs of the disciplinary Inquiry. Mr McDonald is also required to complete two professional development courses within 18 months.

Plumber found to have carried out roofing work when not licensed or registered

In February 2023, a plumber was penalised over \$13,000 for carrying out roofing (stormwater) work when he was not licensed or registered for that class of plumbing work.

The Plumbing Inquiry heard that a Colorbond roof and gutters installed by Mr Norman Rowe at a site in Bell Post Hill, Geelong, had been defective, resulting in leaks. The roof would most likely have had to be replaced again by a licenced plumber.

Given the practitioner was not registered or licensed whilst carrying out the work, no compliance certificate had been issued. This meant that the consumer would have been unable to make a claim and was left unprotected as a result.

The delegate was satisfied that the ground for disciplinary action was substantiated in that Mr Rowe was found to have contravened the Act. Mr Rowe was issued with a penalty of \$13,991 as well as a reprimand and the costs of Inquiry.



Building



Complaints

The VBA receives complaints relating to contraventions of building legislation. In assessing complaints received, we are concerned with:

- Non-compliant building work:
 - Building work that is not in accordance with the building permit
 - A building permit that is not in accordance with the relevant legislation
- The professional conduct of building practitioners
- Unregistered persons carrying out building work.

The complaints management process may involve:

- An assessment of the evidence to substantiate non-compliant building work. This includes a technical assessment if required.
- Identifying any actions required by the relevant building surveyor or municipal building surveyor to bring work into compliance.
- An assessment of the conduct of the relevant building practitioners/persons and, depending on the severity of the matter and the history of the practitioner, a decision to:
 - Issue an Education Letter (which may also include a caution)
 - Issue an Education Letter that places the subject On Notice of a pending investigation if conduct is repeated
 - Issue a Caution
 - Obtain an Enforceable Undertaking
 - Escalate a complaint for an investigation
 - Refer a subject for practitioner discipline
 - Refer the complainant to Domestic Building Dispute Resolution Victoria (DBDRV), or to another agency when the issues are outside of the VBA's jurisdiction.



Table 9: Building Complaints January to June 2023

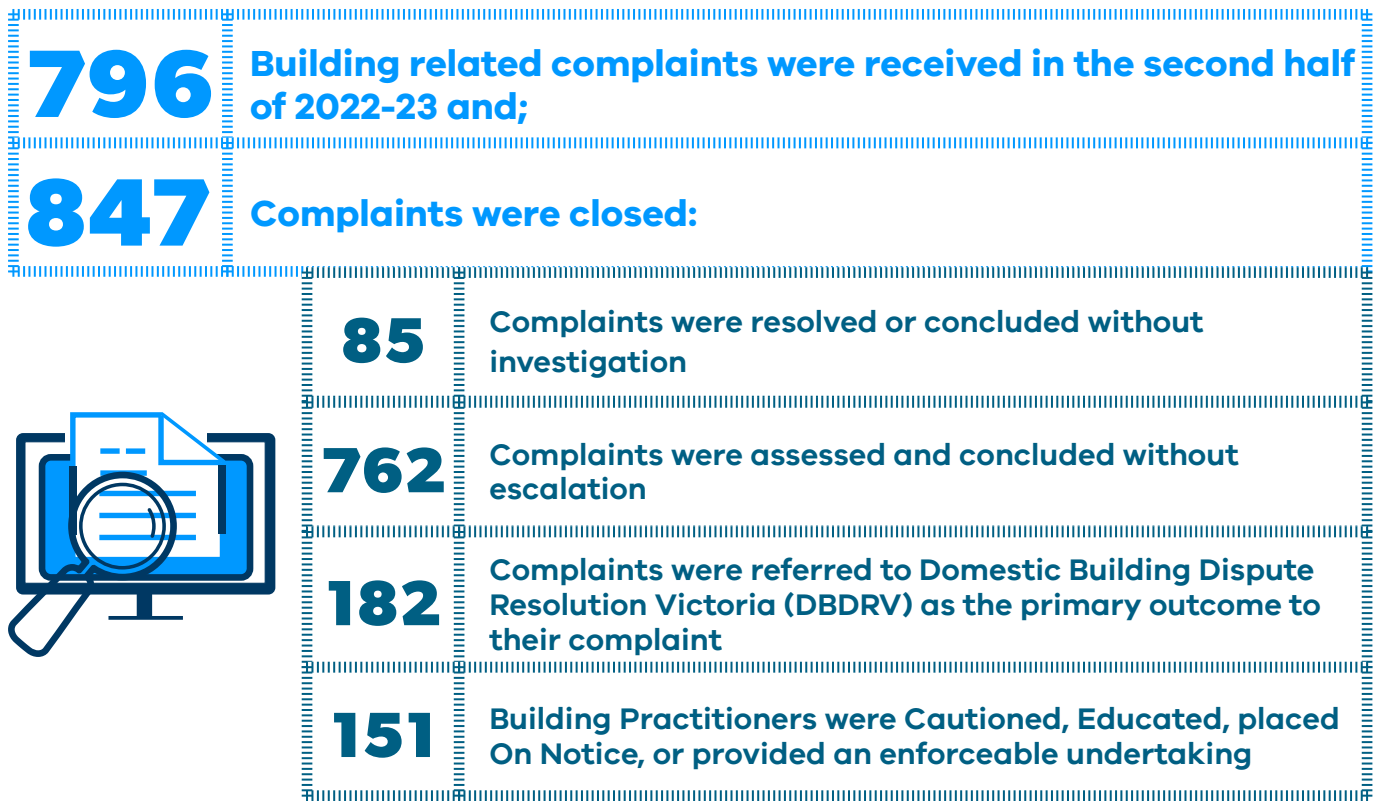


Table 10: Building Complaints FY21-22 & FY22-23

COMPLAINTS	2021-22	2022-23	JUL – DEC 2022	JAN – JUN 2023
Number of Complaints received	1,847	1,791	995	796
Number of Complaints closed	1,784	1,914	1,067	847
Outcome Actions				
Concluded ¹²	953	993	564	429
Referral of a complaint to DBDRV) as the primary outcome to their complaint	350	459	277	182
Practitioner cautions (Education Caution, On Notice)	293	311	160	151
Escalated for investigation/practitioner discipline	188	151	66	85

¹²Concluded means: not substantiated/insufficient evidence/resolved/duplicate/referral to another agency.

The number of building complaints received in January to June 2023 decreased by about three per cent from the same period last year. The number of complaints escalated for Investigation/ Practitioner Discipline remained steady compared with the same period the previous year, as a greater emphasis was placed on early education and warnings to prevent repeat conduct. Serious matters and repeat conduct are referred for Investigation or directly for consideration of Practitioner Discipline.

Practitioners found to have undertaken non-compliant work are referred to the PIP for increased monitoring through scheduled inspections. Data collected on the causes of complaints informs our education strategies including industry alerts issued to practitioners to help improve building work compliance.

Building complaints received by the VBA frequently involve multiple issues. Approximately 61 per cent of complaints pertained to compliance issues and building defects over this period. The most frequent compliance issues related to frame or structure, water ingress and roofing. Approximately 19 per cent of complaints were regarding building work at adjoining properties and 12 per cent of complaints related to unregistered building work.



Statutory Referrals

The Act requires relevant building surveyors (RBS) to notify the VBA of specific offences by the builder listed on the permit:

- s33:** failing to call for a mandatory inspection set out in the building permit or failing to stop work at completion of a mandatory notification stage if directed to do so by the RBS. When a s33 notification is received, the VBA considers the severity and the relevant history of the building practitioner in question. The VBA may issue a Caution to the building practitioner or refer the notification for consideration of practitioner discipline.
- s37:** failing to comply with a written Direction to Fix (DTF) in the timeframe provided to do so. When a DTF notification is received and is enforceable, the notification is escalated for practitioner discipline. If it is not enforceable, an Education Letter is sent to the RBS explaining the cause of unenforceability so the RBS can consider the appropriate action to achieve compliance.

The Act also requires RBS' to refer a Building Order (BO) to the VBA for enforcement if the property owner has failed to comply in the timeframe provided.

When a referred BO is received and is enforceable, the VBA will engage with the property owner to advise of potential investigation and provide an opportunity to achieve compliance to the satisfaction of the RBS, without progressing further. If compliance is still not achieved, the matter is escalated for investigation.

Table 11: Statutory Referrals January to June 2023



Table 12: Statutory Referrals FY21-22 & FY22-23

STATUTORY REFERRALS	2021-22	2022-23	JUL – DEC 2022	JAN – JUN 2023
Number of Statutory Referrals received	284	345	191	154
Building Order	119	140	88	52
Directions to Fix (s37)	36	61	25	36
Missed Mandatory inspection (s33)	124	144	78	66

STATUTORY REFERRALS	2021-22	2022-23	JUL – DEC 2022	JAN – JUN 2023
Number of Statutory Referrals closed	282	331	177	154
Building Order				
Escalated for Investigation	36	61	43	18
Resolved by warning	18	16	5	11
Unenforceable instrument	53	44	19	25
Withdrawn/insufficient information	10	17	14	3
Directions to Fix (s37)				
Escalated for Investigation or to PDU	12	21	10	11
Unenforceable instrument	25	27	11	16
Resolved by caution	NR	2	2	0
Withdrawn/insufficient information	4	3	1	2
Missed Mandatory Inspection (s33)				
Escalated for Investigation or to PDU	61	58	22	36
Resolved by caution	54	60	38	22
Withdrawn/unsubstantiated	9	22	12	10

NR – not recorded.

The number of statutory referrals received in the second half of 2022-23 (154) reflected an increase on the same period in the previous year, largely as a result of more Directions to Fix and s33 offences being referred to the VBA. The volumes and types of statutory referrals are variable and depend on what is received from building surveyors. There was an increase in Building Orders resolved via a direct warning to property owners than in the same period last year, and a decrease in referrals for investigation. There were 22 Cautions issued to building practitioners for failing to call for a Mandatory Inspection. For the reporting period, 43 section 33 and section 37 matters were referred to Practitioner Discipline, and 4 escalated for investigation.

Unenforceable Building Orders and Directions to Fix remain an issue the VBA is committed to resolving through collaboration with building surveyors. To enable a confident and thriving industry, the VBA is continually exploring opportunities to create a more effective oversight system and strengthen the building surveying profession.

This includes sending educational letters to building surveyors when the VBA receives unenforceable instruments. These letters detail why the instrument is unenforceable and what to do next, including the option to speak with a VBA Senior Technical Advisor.

Terminations

The Act provides that the appointment of a private building surveyor cannot be terminated without the consent of the VBA. This is because when implementing building standards, a building surveyor may need to make difficult decisions that conflict with the wishes of a builder or owner. The Act ensures that legal requirements cannot be avoided, and consent is provided in limited circumstances in accordance with the Act. VBA consent is also required where a building surveyor is no longer able to carry out their function, to ensure there is an appointed building surveyor for the continuity of building work on any open building permits. The VBA does not terminate the appointment of private building surveyors; it provides written consent to the applicant to end an appointment.

Table 13: Terminations January to June 2023

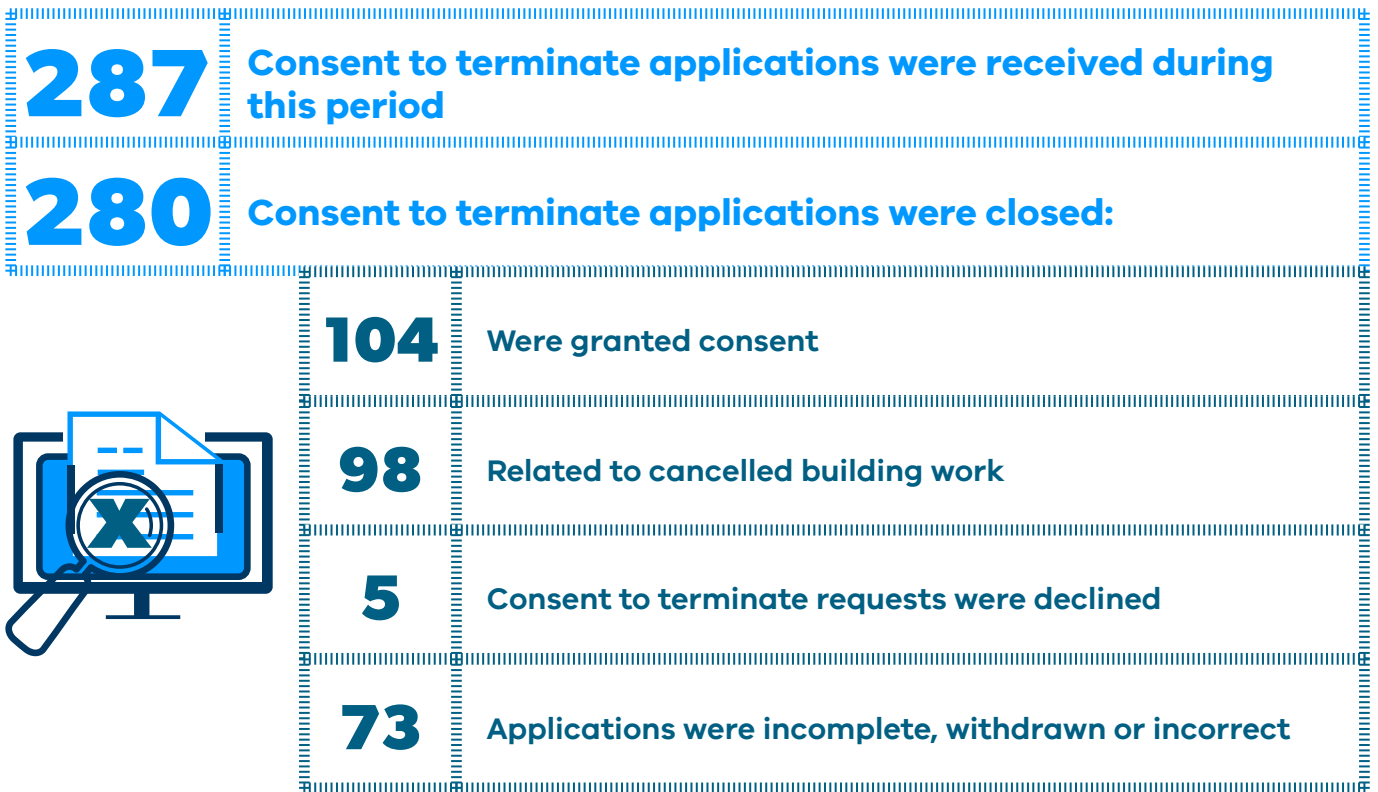




Table 14: Terminations FY21-22 & FY22-23

TERMINATIONS	2021-22	2022-23	JUL – DEC 2022	JAN – JUN 2023
Number of applications received	423	509	222	287
Number of applications closed	419	506	226	280
Consent granted	171	166	62	104
Incomplete, withdrawn, or incorrect	102	134	61	73
Consent declined	17	13	8	5
Cancellation of building work	129	193	95	98

All application outcomes have been reported, including those that were incomplete, withdrawn, or incorrect. Multiple appointments are no longer reported separately and have been included in the consent granted numbers.

There was a spike in applications for consent compared to the same period in the previous year. This pertained to a specific circumstance with an appointed building surveyor and is not anticipated to continue. There was a 25 per cent increase in the number of notifications that building work has been cancelled (will not proceed) compared to the same period last year. Although the volumes are not high, this may be an indicator of more challenging economic conditions.

Transfer of Functions

A private building surveyor (PBS) may transfer their functions to another PBS or a municipal building surveyor (MBS) permanently or for a fixed period under the Act. A PBS may wish to transfer their functions for reasons such as taking extended leave, relocating their business, ill health, retirement or by agreement with their client(s).

The PBS does not require the VBA’s consent to transfer functions; however, they are required under the Act to notify both the VBA and the relevant council that the transfer of functions has taken place for it to take effect.

Each notification is dependent on the personal circumstances of the individual PBS performing the transfer. In some instances, this may only relate to one or two individual building surveyor appointments, but in other instances, transfers may relate to hundreds (referred to as a ‘bulk transfer’) due to a specific event, such as a PBS retiring.

During FY 2022-23, transfer of functions notification was received for 1,373 building surveyor appointments, of which 821 had a building permit in place. The most common reported reasons for transfer were related to service, client preference, and building surveyors leaving their lodging organisations.

This is a 20 per cent lower than compared to last year, which included a higher number of bulk transfers resulting from a number of building surveyors and lodging organisations ceasing operations.

Table 15: Transfer of Functions FY21-22 & FY22-23

TRANSFER OF FUNCTIONS	2021-22	2022-23	JUL – DEC 2022	JAN – JUN 2023
Number of notifications of transfer of function	1,725	1,373	824	549

Investigations

The VBA conducts investigations to determine whether there is sufficient evidence to prove that a person has committed a breach of building legislation. Investigations focus on:

- Establishing the accuracy or otherwise of a complaint, allegation or other information that suggests a breach of relevant legislation, and
- Investigating in an objective and unbiased manner, while always observing the requirements of legislation.

We identify contraventions of legislation, regulations and professional standards. Investigation can involve conducting interviews, preparing reports and detailed briefs of evidence, participating in court proceedings, and providing advice and information to industry.

Table 16: Building Investigations January to June 2023

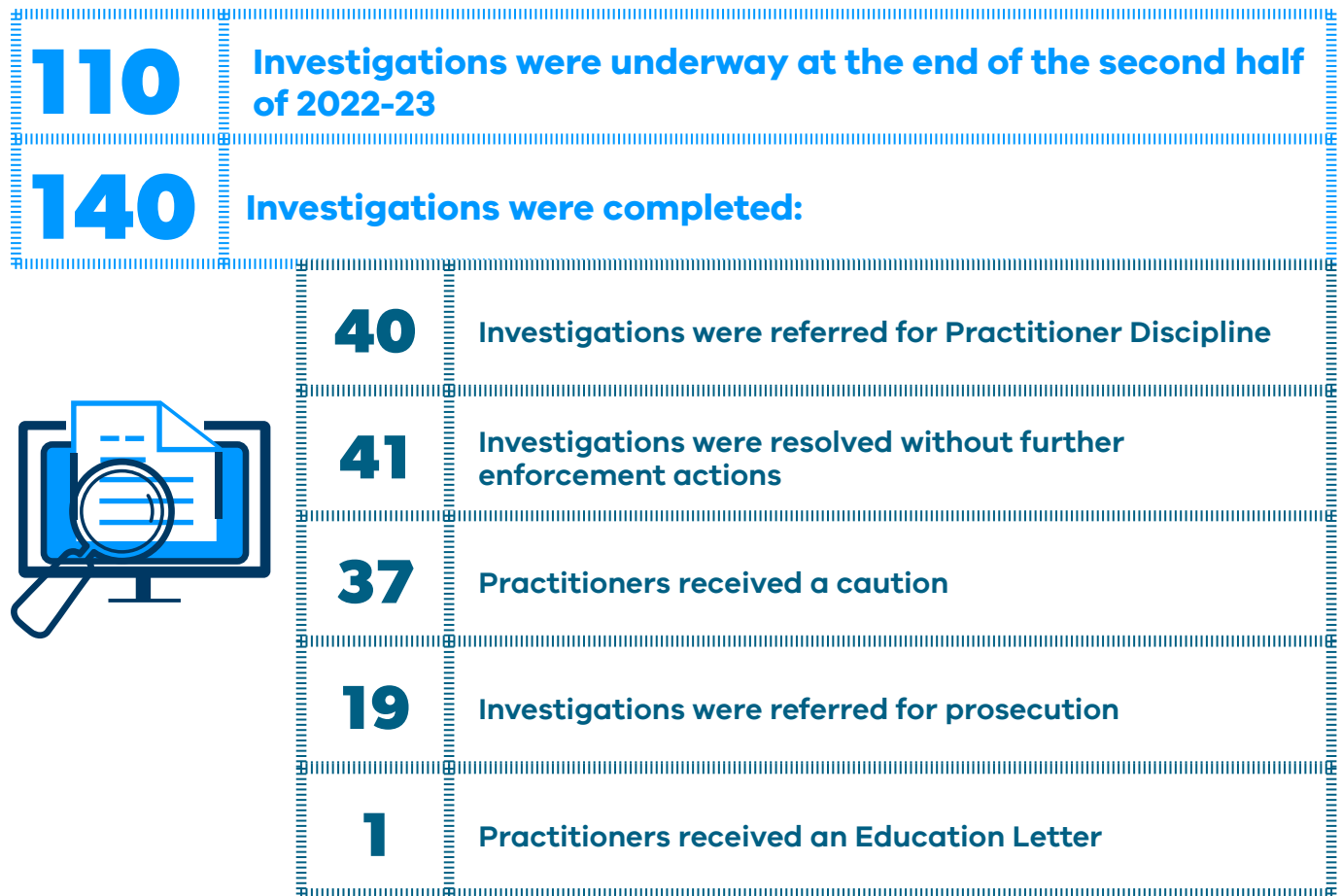


Table 17: Building Investigations FY21-22 & FY22-23

INVESTIGATIONS	2021-22	2022-23	JUL – DEC 2022	JAN – JUN 2023
Number of Investigations underway¹³	130	110	125	110
Number of Investigations completed	362	212	72 ¹⁴	140
Outcome Actions				
Referred for practitioner discipline	134	60	20	40
Resolved without further enforcement action	109	58	17	41
Caution	89	52	15	37
Referred for prosecution/legal service opinion for prosecution	23	35	16	19
On-notice	3	1	1	0
Education letter	4	3	2	1
Undertaking	NR	1	NR	1

NR – not recorded.

Most common building work investigated (January – June 2023)

- Building without a permit
- Building work not undertaken in accordance with a permit
- Unregistered and uninsured people undertaking building work
- 'Licence lending'

The VBA uses a risk-based triage process to help make informed decisions about how to apply our investigative resources most effectively. This approach allows the VBA to regulate more effectively and prioritise serious non-compliance, while handling some issues through low-level enforcement actions, such as issuing cautions and providing education to practitioners.

¹²The number of building investigations underway is expressed as a rolling figure.

¹³The number of building investigations closed was incorrectly reported as 71 in the last report of July and December 2022.

The number of investigations completed in January to June 2023 (140) is reduced compared to the same period last year (268). This was due to significant activity in addressing a backlog of cases last year. The VBA has seen a corresponding decrease in matters resolved without any further enforcement action, compared to the same period in 2021-22. The triage process ensures only more serious non-compliances are being referred for investigation. This approach is aligned to the VBA's Trusted Regulator strategic pillar, where we take proportionate regulatory action depending on the seriousness of the risk/harm.

There have been 40 cautions issued by the Investigations Unit in the second half of this financial year, compared to 74 in the same period last year. The high number last year reflects the effort in addressing backlog matters.

There were 38 building investigations referred for practitioner discipline and 19 matters referred for prosecution. Prosecution and disciplinary action are reserved for more serious contraventions of the Act, including unregistered persons undertaking building work without permits and insurance.



Building Enforcement Case Study

Victorian man fined over \$40,000 for unregistered building work

In March 2023, the Broadmeadows Magistrates' Court ordered Marcus Chronis to pay a penalty of \$40,000 following a VBA investigation. The court heard that Mr Chronis operated ACM Group Commercial Design Builders Pty Ltd but was at no time a registered builder or had a registered building company.

Mr Chronis was hired by a couple in Glenroy, Victoria, to build their home but left it unfinished. During construction of the Glenroy property, Mr Chronis was seen undertaking building work. As the work exceeded \$10,000 and he was not registered as a builder, the work breached the *Building Act 1993* (Act).

Mr Chronis was charged with having held himself out as being qualified to practice as a building practitioner, by making representations to the homeowners that he was a licensed builder, when he was not registered under the Act. He had also carried out domestic building work under a major domestic building contract, whilst not registered.

Both charges were found to be proven and Mr Chronis was convicted, penalised \$40,000 and ordered to pay costs of \$3,128.

Building surveyor prosecuted: convicted and ordered to pay over \$50,000 for issuing illegal permits

Former Victorian building surveyor and Mount Evelyn resident Simon Mattiske was convicted by Ringwood Magistrates Court and was ordered to pay \$51,000 in January 2023. He was found to have unlawfully issued building permits for building work in the suburbs of Launching Place, Kilsyth, Glen Waverley, Healesville, Mount Evelyn and Yarra Junction while his registration was suspended.

The VBA had suspended Mr Mattiske's building surveyor registration in February 2020.

The VBA secured an injunction against Mr Mattiske in October 2020 when it discovered he was still working, despite being suspended. Mr Mattiske's registrations were then cancelled, as is mandatory where a not fit and proper finding is made. Mr Mattiske was also disqualified from registration in any class of building surveyor or building inspector for three years.

Among other contraventions of building legislation, Mr Mattiske was also found guilty of issuing invalid occupancy permits and certificates of final inspection in suburbs including Belgrave, Mount Evelyn, Ringwood North and Lilydale while suspended.



Building Practitioner Discipline

The VBA takes disciplinary action in relation to investigated complaints, reported non-compliance with mandatory requirements of the building regulatory scheme (statutory referrals), and matters identified by the Proactive Inspections Program.

The main statutory referrals are non-compliances with Directions to Fix, breaches of Domestic Building Dispute Resolution Victoria (DBDRV) orders, missed mandatory inspections and external administration matters affecting the registration status of the practitioner.

The building practitioner discipline process commences following issuance of a show cause notice. The number of show cause notices issued is the key reporting indicator for activity in this area. The show cause notice provides procedural fairness to practitioners and affords them the opportunity to respond in writing or orally (by video conference since March 2020). Following this response, a decision to take disciplinary action can be appealed at internal review and/or the Victorian Civil and Administrative Tribunal (VCAT).

Table 18: Building Practitioner Discipline FY21-22 & FY22-23

BUILDING PRACTITIONER DISCIPLINE	2021-22	2022-23	JUL – DEC 2022	JAN – JUN 2023
Number of referrals received	359	307	118	189
Investigations	150	82	32	50
Direct from Complaints and Statutory Referrals (including DBDRV matters)	148	123	45	78
Processing services (registration matters)	62	102	41	61
Number of show cause notices issued	131	125	69	56
Decisions issued¹⁵	118	109	52	57
Reprimands issued to practitioners	91	73	42	31
Cancellation of registration	16	16	0	16
Suspensions of registration	24	16	7	9
Conditions placed on registration	11	7	2	5
Disqualifications	7	0	0	0
Training required	13	17	15	2
Enforceable undertakings	0	1	1	0
Monetary penalties imposed	82	54	35	19

BUILDING PRACTITIONER DISCIPLINE	2021-22	2022-23	JUL – DEC 2022	JAN – JUN 2023
Caution after show cause	1	2	0	2
No Further Action	5	16	8	8
Resolved without further enforcement action	38	69	29	40
Caution	68	82	37	45

The second half of 2022-23 presents a level of referral consistent with matters now typically escalated for investigation under current triage protocols. During this period, the cladding enforcement function returned to the Practitioner Discipline Unit. Cladding enforcement outcomes will now be included in this report going forward.

The reprimand remains the most common form of disciplinary action taken by the VBA and is generally issued in conjunction with a monetary penalty or a requirement to undertake training. Monetary penalties match the nature of contraventions balanced with practitioners' circumstances. As previously reported for 2021-22, these penalties ranged from \$2,000 to \$4,000 for missed inspections to tens of thousands of dollars for serious misconduct.

Whenever practice failings are associated with genuine gaps in knowledge or expertise, training is required. The Practitioner Discipline Unit monitors compliance with training obligations and, where necessary, follows up with show cause notices proposing suspension of registration until the required training is completed. These measures have been effective.

Practitioners who are non-compliant with a Direction to Fix building work or are in breach of a DBDRV dispute resolution order are suspended until compliance is achieved.

Cancellation and disqualification are reserved for the most serious conduct matters, where the VBA forms the view that the protective purpose of the building regulation scheme requires the removal of the practitioner from practice.

The VBA is committed to equipping everyone who interacts with the building system with the knowledge and pathways they need to get the best outcomes. To keep Victorians safe and hold practitioners to account, our starting point is that individuals want to do the right thing.

As a trusted regulator, we do this through proportional regulatory responses and providing authoritative guidance and advice to inform consumers and help practitioners comply.

¹⁵Decisions often include more than one sanction e.g. reprimand plus monetary penalty. The number of decisions reflects the outcomes where disciplinary action was taken (shown in the tables below) as well as formal decisions that resulted in no further action.

Table 19: Building Practitioner Discipline Outcomes (Individuals) January to June 2023

Practitioner name	Registration Number	Conduct	Result	Penalty (\$) ¹⁶	Date ¹⁷
EDWARDS, Kerry	DB-U 30175	Holding office in a company under external administration.	Cancellation of registration.	-	27/01/2023
SIMS, David	DB-U 11311	Holding office in a company under external administration.	Cancellation of registration.	-	27/01/2023
MARAIS, Stephanus	DB-U 64556; CB-U 44134	Holding office in a company under external administration.	Cancellation of registration.	-	27/01/2023
THOMAS, Andrew	DB-U 44453	Holding office in a company under external administration.	Cancellation of registration.	-	27/01/2023
LYNCH, Alan	DB-U 8642	Holding office in a company under external administration.	Cancellation of registration.	-	31/01/2023
RYAN, Xavier	DB-U 36965	Holding office in a company under external administration.	Cancellation of registration.	-	31/01/2023
NGUYEN, Dang	DB-U 10247; CB-U 2689	Holding office in a company under external administration.	Cancellation of registration.	-	31/01/2023
HALL, Alexander	DB-U 22118	Holding office in a company under external administration.	Cancellation of registration.	-	16/02/2023
ALIFERIS, Christopher	DB-U 41160	Failing to comply with a direction to fix building work within the specified period, in respect of a site at Watsonia.	Reprimand and a requirement to complete a course of training.	-	20/02/2023
GLEESON, David	DB-U 27382; CB-L 67107	Failing to call for mandatory stage inspections (precautions and final) without delay, in respect of a site at Redan.	Reprimand and aggregate penalties of \$4,250.	\$4,250	06/03/2023
HASIM, Mohammed	DB-U 58907	Failing, as the nominee director of AAA Rapid Homes Pty Ltd, to ensure that the company complied with a direction to fix building work within the specified period, in respect of a site at Winter Valley.	Reprimand.	-	10/03/2023

¹⁶Some penalties were originally fixed by reference to penalty units. In those cases, the penalties are rounded to the nearest whole dollar.

¹⁷The date of decision show is the date the decision was made by the VBA's primary delegate; where the practitioner sought review, the date of any subsequent decision by the VBA's internal reviewer or VCAT. This table does not disclose matters where disciplinary action is stayed pending internal review and so the matters disclosed here do not necessarily correspond to Table 18.

Practitioner name	Registration Number	Conduct	Result	Penalty (\$) ¹⁶	Date ¹⁷
SANDNER, Christopher	DB-U 40130	Holding office in a company under external administration.	Cancellation of registration.	-	17/03/2023
MCLAUGHLIN, Phillip	BD-L 36805	Failure to call for mandatory stage inspection (completion of safety precautions prior to demolition) without delay, in respect of a site at Parkdale.	Reprimand and penalty of \$2,500.	\$2,500	22/03/2023
IOVINO, Stefano	DB-U 43960; CB-L 44151	Holding office in a company under external administration.	Cancellation of registration.	-	24/03/2023
HENNEMAN, Adrian	DB-U 3797; CB-U 3023	Holding office in a company under external administration.	Cancellation of registration.	-	24/03/2023
AIELLO, Raffaele	DB-U 13475; CB-L 19255	Holding office in a company under external administration.	Cancellation of registration.	-	24/03/2023
ROBERTS, Digby	DB-L 24167	Holding office in a company under external administration.	Cancellation of registration.	-	24/03/2023
MARKOU, Eleftherious	DB-U 11953	Holding office in a company under external administration.	Reprimand and registration condition to notify Authority of appointment as officer of body corporate and to inform himself of obligations of office—condition for 2 years.	-	30/03/2023
SWAN, Geoffrey	DB-U 1678	Holding office in a company under external administration.	Cancellation of registration.	-	31/03/2023
WILLIAMS, Rodney	CB-L 21733	Failing to perform building work in a competent manner and to a professional standard at Tarneit—combustible cladding—in respect of a site at Tarneit.	Reprimand.	-	05/04/2023

Practitioner name	Registration Number	Conduct	Result	Penalty (\$) ¹⁶	Date ¹⁷
OZDUZENCILE, Onur	DB-U 73896	Non-compliance with dispute resolution order made by Domestic Building Dispute Resolution Victoria.	Reprimand, partial suspension of registration until compliance achieved.	-	11/04/2023
LUCAS, Ronald	DB-U 37940	Holding office in a company under external administration.	Reprimand, registration condition limiting practitioner to 2 live concurrent building permits for 2 years.	-	26/04/2023
ANTONIO, Luke	DB-U 26944	Failing to call for mandatory stage inspection (precautions prior to demolition) without delay, in respect of a site at Ballarat East.	Reprimand and penalty of \$2,500.	\$2,500	09/05/2023
ANTHONY, Philip	BD-L 1031	Failing to call for mandatory stage inspection (precautions prior to demolition) without delay, in respect of a site at Numurkah.	Reprimand and penalty of \$2,500.	\$2,500	09/05/2023
RIFAT, Musa	CB-L 66837	Holding office in a company under external administration.	Reprimand, registration condition to disclose external administration, requirement to complete training in business management.	-	18/05/2023
NELSON, Leonard	BS-U 1330	Issuing building permits and occupancy permits without justification in respect of 4 buildings on 2 sites (at Tarneit and Dandenong) between 2013 and 2016 in respect of the use of combustible cladding in external walls.	Reprimands, aggregate penalties of \$22,000, registration condition for no new work on class 2, 3, 4 or 9 buildings of Type A construction for 6 months.	\$22,000	19/05/2023

Practitioner name	Registration Number	Conduct	Result	Penalty (\$) ¹⁶	Date ¹⁷
WILKINSON, Shane	DB-U 18079; CB-U 38165	Failing to build to permit, failing to perform building work in a competent manner and to a professional standard, unprofessional conduct —substitution of cladding materials (combustible) to external walls—in respect of a sites at Windsor and South Yarra.	Reprimand and aggregate penalties of \$23,115.	\$23,115	24/05/2023
FALK, John	DB-L 20059	Failing to ensure that Summertime Pools (Vic) Pty Ltd called for mandatory stages inspections (pool excavation, public safety) without delay, in respect of a site at Macedon.	Reprimand and penalty of \$5,000.	\$5,000	09/06/2023
FALK, John	DB-L 20059	Failure to call for mandatory stage inspections (prior to pouring in-site concrete member—bond beam and temporary barrier) without delay, in respect of a site at Coburg.	Reprimand and penalty of \$4,000.	\$4,000	09/06/2023
ENNIS, Stephen	DB-U 65765; CB-U 65765	Failing, as the nominee director of Review Construction Pty Ltd, to ensure that the company complied with a direction to fix building work within the specified period, in respect of a site at Brunswick.	Reprimand and penalty of \$10,000.	\$10,000	13/06/2023
KHATTAR, Tony	DB-U 28964	Holding office in a company under external administration.	Registration condition for 2 years limiting concurrent building permit jobs to two.	-	21/06/2023
TSEBERG, Alex	DB-U 15603; CB-U 16553	Holding office in a company under external administration.	Cancellation of registration.	-	22/06/2023
HATZIS, Con	DB-U 9580; CB-L 41545	Holding office in a company under external administration.	Registration condition limiting practitioner, for 2 years, to 3 live concurrent building permits.	-	22/06/2023



Practitioner name	Registration Number	Conduct	Result	Penalty (\$) ¹⁶	Date ¹⁷
TSEBERG, Alex	DB-U 15603; CB-U 16553	Holding office in a company under external administration.	Cancellation of registration.	-	22/06/2023
HATZIS, Con	DB-U 9580; CB-L 41545	Holding office in a company under external administration.	Registration condition limiting practitioner, for 2 years, to 3 live concurrent building permits.	-	22/06/2023

Table 20: Building Practitioner Discipline Outcomes (Companies) January to June 2023

Practitioner name	Registration Number	Conduct	Result	Penalty (\$) ¹⁸	Date ¹⁹
Makal Constructions Pty Ltd	CDB-U 61768	Being given a breach of dispute resolution order notice.	Reprimand and partial suspension of registration until compliance achieved.	-	12/01/2023
Hallbuild Pty Ltd	CDB-U 48690	Failing to comply with a direction to fix building work within the specified period, failing to perform building work in a competent manner and to a professional standard in continuing to work past mandatory stage inspection, in respect of a site at Harkaway.	Reprimands and partial suspension of registration until compliance achieved.	-	20/01/2023
Hallbuild Pty Ltd	CDB-U 48690	Failing to comply with two directions to fix building work within the specified period, in respect of a site at Blackburn.	Reprimands and partial suspension of registration until compliance achieved.	-	20/01/2023
Watkins Building Group Pty Ltd	CDB-U 61757	Failing to comply with a direction to fix building work within the specified period, failing to perform building work in a competent manner and to professional standard in substantially progressing building work beyond a mandatory inspection stage without calling for reinspection of non-compliant work previously identified, in respect of a site at Werribee.	Reprimands, aggregate penalties of \$12,500 and partial suspension of registration until compliance achieved.	\$12,500	06/02/2023
AAA Rapid Homes Pty Ltd	CDB-U 60918	Failing to comply with a direction to fix building work within the specified period, in respect of a site at Winter Valley.	Reprimand and penalty of \$1,000.	\$1,000	10/03/2023

¹⁸Some penalties were originally fixed by reference to penalty units. In those cases, the penalties are rounded to the nearest whole dollar.

¹⁹The date of decision show is the date the decision was made by the VBA's primary delegate; where the practitioner sought review, the date of any subsequent decision by the VBA's internal reviewer or VCAT. This table does not disclose matters where disciplinary action is stayed pending internal review and so the matters disclosed here do not necessarily correspond to Table 18.

Practitioner name	Registration Number	Conduct	Result	Penalty (\$) ¹⁸	Date ¹⁹
MPR Design and Build Pty Ltd	CDB-U 59801	Failing to comply with a direction to fix building work within the specified period, in respect of a site at Carnegie.	Reprimand and penalty of \$2,000.	\$2,000	16/03/2023
CustomBuild Group Pty Ltd	CDB-U 58789	Failing to call for mandatory stage inspections (pool excavation, pool steel) without delay, in respect of a site at Lower Plenty.	Reprimands and aggregate penalties of \$6,000.	\$6,000	17/03/2023
Brunton Engineering and Construction Pty Ltd	CCB-U 54133	Failing to call for a mandatory stage inspection (before pouring in-situ concrete member) without delay, in respect of a site at Coolaroo.	Reprimand and penalty of \$2,500.	\$2,500	21/03/2023
Anakor Pty Ltd	CDB-U 53286	Failing to comply with a direction to fix building work within the specified period, failing to perform building work in a competent manner and to a professional standard in continuing to work past mandatory stage inspection, in respect of a site at Winchelsea.	Reprimands, suspension of registration until compliance achieved and requirement that nominee director complete training on resolution of business disputes.	-	04/04/2023
Momo Building Pty Ltd	CDB-U 48968	Failing to call for mandatory stage inspections (prior to placing a footing—retaining wall holes, completion of sub-floor frame) without delay, in respect of a site at Hampton Park.	Reprimands and aggregate penalties of \$3,000.	\$3,000	22/05/2023
Mass Constructions & Developments Pty Ltd	CDB-U 49658	Failing to call for mandatory stage inspections (prior to placing a footing—concrete pads, frame) without delay, in respect of a site at Elsternwick.	Reprimands and penalty of \$3000.	\$3,000	22/05/2023
ORB Developments Pty Ltd	CDB-U 53257	Failing to comply with a direction to fix building work within the specified period, in respect of a site at Flemington.	Reprimand and penalty of \$4,000.	\$4,000	13/06/2023

Practitioner name	Registration Number	Conduct	Result	Penalty (\$) ¹⁸	Date ¹⁹
Wam Homes Pty Ltd	CDB-U 54593	Being given a breach of dispute resolution order notice.	Reprimand, penalty of \$4,000 and partial suspension until compliance achieved.	\$4,000	28/06/2023
Dhuri Homes Pty Ltd	CDB-U 74072	Being given a breach of dispute resolution order notice.	Reprimand, penalty of \$4,000 and partial suspension until compliance achieved.	\$4,000	28/06/2023

Prosecutions

The VBA may file charges against a person (registered practitioner or other unregistered person) or body corporate for breaches of the Act and regulations. A VBA prosecution is a criminal proceeding that is heard in the Magistrates' Court of Victoria but may be heard in the County Court of Victoria depending on the offence(s) and circumstances.

The ability to issue criminal charges is an important regulatory tool for the VBA. Once an investigation has been completed, if serious non-compliance has been identified, we consider whether to initiate criminal proceedings. Examples of these serious non-compliances include carrying out building work without a building permit or unregistered persons carrying out building work.

The VBA will only proceed with a prosecution if there is a reasonable prospect of a conviction, and a prosecution is in the public interest.

Table 21: Building Prosecutions FY21-22 & 22-23

PROSECUTIONS	2021-22	2022-23	JUL – DEC 2022	JAN – JUN 2023
Number of Building Prosecutions completed by VBA	11	9	3	6

In the second half of 2022-23, six building prosecutions were completed. Fewer prosecutions were completed by the VBA in 2021-22 and 2022-23 compared to previous pre-pandemic years. The timing of building prosecution matters is determined by the appropriate Court. Recent referrals for prosecution continue to be assessed by the VBA.

Table 22: Building Prosecutions (Individuals) January to June 2023²⁰

Accused name	Description of matter	Result	Penalty (\$) ²¹	Date
MATTISKE, Simon	Accepted appointment as a private building surveyor when unregistered. Carried out work as a building surveyor when unregistered and issued building permits without permit number from the Authority.	40 charges proven. Fine of \$44,500, plus costs of \$5,500.	\$44,500	23/01/2023
CHRONIS, Marcus	Unregistered person who held himself out as being registered to practice. Carried out regulated building work without a building permit.	Two charges proven with conviction. Fine of \$40,000 plus costs of \$3,128.	\$40,000	01/03/2023
GOODES, Nathan	Carried out work under a major domestic building contract without registration and required insurance. Carried out building work without a building permit in place.	Three charges proven without conviction. Fine of \$3,000.	\$3,000	04/04/2023
Up N At Em Pergolas and Decking	Carried out work under a major domestic building contract without registration and required insurance. Carried out building work without a building permit in place.	Three charges proven without conviction. Fine of \$5,000.	\$5,000	04/04/23
BYPOST, Calvin	Carried out work under a major domestic building contract without registration and required insurance. Carried out building work without a building permit in place.	Two charges proven without conviction. Fine of \$3,000.	\$3,000	20/06/2023
DATTA, Ashwin	Carried out work under a major domestic building contract without registration. Carried out building work without a building permit in place. Knowingly provided false information.	Three charges proven with conviction. Fine of \$55,000 plus compensation to owner of \$61,737. Costs of \$330.	\$55,000	20/06/2023

²⁰Excludes costs.

²¹This list does not include prosecutions commenced by the VBA which were subsequently withdrawn.

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