

# VBA Compliance & Enforcement Report

July – December 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](http://www.vba.vic.gov.au)

# Table of contents

## ABOUT

- This report 4
- Executive Summary 5

## PLUMBING

- Complaints 8
- Investigations 10
- Prosecutions 12
- Plumbing Inquiries 13
- Plumbing Enforcement Case Studies 16

## BUILDING

- Complaints 18
  - Statutory Referrals 21
  - Terminations 23
  - Transfer of Functions 25
  - Investigations 26
  - Building Enforcement Case Studies 29
  - Building Practitioner Discipline 30
  - Prosecutions 39
- 

# 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 (NCC) 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. This biannual report focuses on compliance and enforcement activities achieved by the VBA for the first half of the 2023-24 financial year.

*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



**Financial  
penalties  
issued**

**\$230,000**

## Complaints

**Received**

**Building: 859**

**Plumbing: 943**



**Closed**

**Building: 764**

**Plumbing: 1,000**

## Completed Investigations

**Building: 98**

**Plumbing: 120**



**8** cancellations of registration or licence

**5** prosecutions

**14** suspensions

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 consumers are protected from building and plumbing practitioners who do the wrong thing.

During the reporting period of July to December 2023, the VBA continued to undertake activities in all Compliance and Enforcement streams.

Of the complaints received, 179 (65 building and 114 plumbing) were escalated for Investigation or directly for consideration by Practitioner Discipline. The most common complaints related to roofing, frame or structure, failure to receive a plumbing compliance certificate, and water ingress.

The VBA completed 98 building investigations, with 27 cases referred for Practitioner Discipline and 16 for prosecution. The VBA issued 49 building disciplinary decisions, which resulted in seven building registration cancellations and 13 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 consolidated the caution process to ensure licensed plumbers understand their certification obligations, while also returning to rectify defective work. The VBA completed 120 plumbing investigations and conducted eight 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 Documentation Audit Program (BDAP) - reported half-yearly
- 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.

### Building Documentation Audit Program (BDAP)

The BDAP 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 BDAP 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, BDAP 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:

- source of the complaint
- registration status of the subject
- status of compliance
- availability of evidence
- previous disciplinary action
- breach of legislation or offence
- life safety and financial impacts
- age of the issue.

**Table 1: Plumbing Complaints (July-December 2023)**

<b>943</b>	Plumbing related complaints received.
<b>1,000</b>	Complaints closed.
<b>850</b>	Complaints concluded via liaising with the complainant and/or practitioner.
<b>114</b>	Complaints escalated to an investigation.
<b>74</b>	Cautions issued to plumbing practitioners.
<b>36</b>	Complaints referred to Domestic Building Dispute Resolution Victoria (DBDRV).



**Table 2: Plumbing Complaint comparisons**

COMPLAINTS	2021-22	2022-23	JAN – JUN 2023	JUL – DEC 2023
<b>Number of Complaints received</b>	1,441	1,746	907	943
<b>Number of Complaints closed</b>	1,357	1,768	957	1,000
<b>Outcome actions</b>				
Concluded <sup>1</sup>	1,009	1,406	743	850
Referral of a complaint to DBDRV	22	69	40	36
Practitioner cautions (education and caution)	77	61	20	74
Escalated for investigation	249	232	154	114

Plumbing complaints received decreased by about nine per cent from the same period in 2022. This may be stabilising after a post-COVID spike in complaints in 2022. Referrals for investigation continue to decline due to the placement of an investigator in the frontline Complaints Team to facilitate earlier complaint resolution. For low level matters, practitioners are educated to improve compliance to help prevent future harms from occurring.

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 industry alerts issued to practitioners to help improve plumbing compliance.

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

A gatekeeper function has commenced to advise consumers of an incorrect lodgement of a complaint with the VBA as soon as possible and to provide guidance on alternate organisations more suited to assist with their circumstances.

**Most common plumbing work complaints (July-December 2023)**

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

<sup>1</sup>Concluded means not substantiated/insufficient evidence/resolved/referral to another agency.

## Investigations

The VBA conducts investigations to determine if there is sufficient evidence to prove that a person has contravened the relevant legislation. Referrals for investigation may be received as an escalated complaint, as an internal referral from our Audits and Inspections team, 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 the relevant legislation.
- 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 a range of enforcement actions at its disposal including cautions, 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 plumbing breaches outlined in the Act. The Act informs the number of penalty units that may be issued for identified breaches.

With the VBA’s ability to use other enforcement tools, such as rectification notices, formal warnings and escalation for discipline, only four investigations were recommended for prosecution. The VBA remains committed to prosecuting serious non-compliance and unregistered people where appropriate.

**Table 3: Plumbing Investigations (July-December 2023)**

<b>380</b>	Investigations underway.
<b>120</b>	Investigations completed.
<b>44</b>	Investigations resolved without further enforcement actions (e.g. via rectification of the defective plumbing work).
<b>27</b>	Investigations escalated, with a recommendation to commence disciplinary action through a plumbing inquiry.
<b>44</b>	Investigations escalated, with a recommendation to commence disciplinary action through warnings.
<b>4</b>	Investigations recommended for prosecution.

**Table 4: Plumbing Investigation comparisons**

INVESTIGATIONS	2021-22	2022-23	JUL – DEC 2022	JAN – JUN 2023
Number of Investigations underway <sup>2</sup>	108	121	121	380 <sup>3</sup>
Number of Investigations completed	573	341 <sup>4</sup>	153	120
<b>Outcome actions</b>				
Resolved <sup>5</sup>	419	231	97	44
Warning	55	45	24	44
Referred for inquiry	74	57	24	27
Referred for prosecution	25	8	8	4
Education	N/A	N/A	N/A	1
Number of infringement notices issued <sup>6</sup>	520	408	190	151

**Most common plumbing work investigated (July-December 2023)**

- Failure to have a drain ready for inspection.
- Non-compliance with a rectification notice.
- Poor workmanship.
- Non-compliant plumbing work.
- Compliance certificates not being issued.

<sup>2</sup>The number of plumbing investigations underway is expressed as a rolling figure.

<sup>3</sup>The number of investigations underway considers those awaiting team leader review to better reflect the overall number of cases currently in progress. The figures reported prior to this period refer only to those currently under investigation.

<sup>4</sup>Change in definition for closed plumbing investigation for 2022-2023 onwards.

<sup>5</sup>Resolved outcomes include investigations where a rectification notice was issued.

<sup>6</sup>The number of infringement notices issued is cumulative across audit activity and investigations. This figure includes those withdrawn after being issued.

## 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.

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 and 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 Prosecution comparisons**

PROSECUTIONS	2021-22	2022-23	JUL – DEC 2022	JUL – DEC 2023
<b>Number of Plumbing Prosecutions completed by VBA</b>	3	4	1	2

In the first half of 2023-24, two prosecutions were completed. 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) (July-December 2023)<sup>7</sup>**

Accused name	Description of matter	Result	Penalty (\$) <sup>8</sup>	Date
BELL, Toby	Carried out plumbing works, namely heating and cooling installations, whilst not licensed (in the appropriate sub-category) to do so and issued invalid compliance certificates.	Proven without conviction. Fine of \$4,000.	\$4,000	03/07/2023
LYSY, Paul	Carried out plumbing work in the prescribed class of ‘Sanitary work’ without being licensed or registered to do so.	Proven with conviction. Fine of \$2,500.	\$2,500	13/11/2023

<sup>7</sup>This list does not include prosecutions commenced by the VBA which were subsequently withdrawn.

<sup>8</sup>Excludes 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 outcome comparisons**

PLUMBING INQUIRY OUTCOMES <sup>9</sup>	2021-22	2022-23	JAN – JUN 2023	JUL – DEC 2023
<b>Number of inquiries held</b>	20	30	21	8
Reprimands issued to practitioners	2	5	5	4
Training required	1	8	5	2
Financial penalties imposed	19	27	20	5
Suspension of licence	1	1	0	1
Suspended suspension of licence <sup>10</sup>	3	1	0	0
Cancellations of licence	0	1	0	1
Disqualification	1	1	0	0
Compliance certificate audits	2	1	1	0

<sup>9</sup>Inquiry outcomes include more than one sanction e.g. reprimand and monetary penalty imposed.

<sup>10</sup>The 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 three Plumbing Inquiry outcomes included a monetary penalty being handed to the practitioner, acting as a significant deterrent to future offending. Those three matters where a monetary penalty was not imposed still required the practitioner to pay the cost of the Inquiry.

**Table 8: Plumbing Inquiries (Individuals) (July-December 2023)**

Accused name	Description of matter	Result	Penalty (\$) <sup>11</sup>	Date
GORDON, Adam	Carried out plumbing works in prescribed class of 'Mechanical services' without being licensed or registered to do so, permitted non-compliant plumbing work (specifically installation of gas ducted unit) to be carried out by another person, signed a compliance certificate which contained a misstatement of fact and failed to provide a compliance certificate and lodge it with the Authority within five days.	Four grounds proven.  Monetary penalty of 50 penalty units (PU) plus costs of \$2,864. Additional penalty of \$3,599 to the homeowner. Require the practitioner to undertake a course <i>CPCPCM4015</i> or equivalent within 18 months. Suspension of the practitioner's licence for 12 months effective 29/08/23, commencement of suspension be deferred for 12 months, provided the practitioner is not found guilty of any other allegations at an inquiry held during that time.	\$11,810	29/08/2023
BRADDING, Graham	Permitted defective plumbing work (specifically refrigerated air-conditioning work) to be carried out under supervision at a site, signed a certificate which contained a misstatement of fact and failed to lodge compliance certificate with the Authority within five days.	Three grounds proven.  Monetary penalty of three PU plus costs of \$4,514.	\$1,110	08/09/2023
ROBERTS, Harry	Carried out plumbing works (specifically water supply and gas fitting) when not licensed or registered to do so. Provided false advertisement as a plumber without the required licence or registration with the Authority.	Three grounds proven.  Monetary penalty of 15 PU plus costs of \$1,037. Cancel the licence and registration immediately.	\$2,885	14/11/2023

<sup>11</sup>Monetary penalties have been rounded to the nearest dollar.

Accused name	Description of matter	Result	Penalty (\$) <sup>11</sup>	Date
DEMPSEY Michael	Carried out plumbing work (specially roofing – Stormwater and metal roofing) that was defective and not compliant at three different sites, failed to comply with rectification notices issued by the Authority and signed compliance certificates which contained misstatement of facts.	Seven grounds proven.  Monetary penalty of 30 PU plus costs of \$1,037. Reprimand the practitioner. Require the practitioner to undertake training course <i>CPCPCM4015</i> within 12 months.	\$4,967	22/11/2023
STEFANOUS Matthew	Failed to comply with a rectification notice issued by the Authority.	One ground proven.  Reprimand the practitioner. Pay cost of \$1,037.	-	22/11/2023
MANSON Jared	Failed to advise the Authority regarding the readiness for inspection of repaired boundary trap at two different sites and failed to provide and lodge the compliance certificates within five days.	Four grounds proven. Reprimand the practitioner. Pay cost of \$1,037.	\$2,885	23/11/2023
DWYER Daniel	Carried out or permitted work to be carried out by another person (specially roofing – Stormwater) that was defective and not compliant and failed to comply with a rectification notice issued by the Authority.	Two grounds proven.  Monetary penalty of three PU plus costs of \$1,037.	\$496	23/11/2023
ROGOWSKI David	Permitted work to be carried out by another person (specially roofing – Stormwater) that was defective in workmanship and signed a certificate which contained a misstatement of fact.	Two grounds proven.  Reprimand the practitioner. Pay cost of \$1,037.	-	05/12/2023

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

<sup>11</sup>Monetary penalties have been rounded to the nearest dollar.

## Plumbing Enforcement Case Studies

### Improper installation of a gas ducted heating unit

A Victorian plumber was penalised more than \$14,000 for signing off on the improper installation of a gas ducted heating unit at a home in Elwood.

Following a VBA plumbing inquiry, Adam Gordon was found to have permitted a person to carry out non-compliant plumbing work. Mr Gordon was also found to have signed a compliance certificate which was a misstatement of fact.

The plumbing works in question involved mechanical services, which he was not licensed to certify. The work at the Elwood property was found to be defective, and the heating unit was ultimately decommissioned.

The heating unit was connected to an asbestos flue, which is not an approved flue material, according to the Australian Standards. The re-use of an asbestos product is also in breach of Occupational Health and Safety requirements that apply to all gas appliance installations.

Mr Gordon was penalised a total of \$14,674, with \$3,549 to be paid to the homeowner affected. Mr Gordon has also been ordered to undertake further training and received a deferred 12-month suspension, on the condition that he does not breach any provision of the Act for the next 12 months.

### Defective metal roofing results in fine and further training order

A VBA Plumbing Inquiry was held in November 2023 into the conduct of plumber, Michael Dempsey, regarding plumbing work (specifically roofing - stormwater) carried out at properties in Malvern, Bentleigh and an apartment complex in Brunswick.

The VBA had received separate complaints in relation to the defective workmanship of the metal roofing at those sites. Following an investigation, the Authority issued rectification notices for all sites to the practitioner who had failed to comply with the notices and timeframes.

The grounds for disciplinary action alleged that Mr Dempsey had not complied with requirements made by an inspector (rectification notices), carried out plumbing work or permitted work to be carried out on his behalf that was defective in workmanship and signed compliance certificates that contained misstatements of fact.

The VBA delegate found all grounds proven and was concerned with the number of sites and amount of time and resources used by the VBA in reinspecting sites due to the practitioner's failure to address the Authority's rectification notices.

Mr Dempsey was reprimanded, penalised \$4,957 and required to undertake further training within 12 months.



# 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 practitioner/person and, depending on the severity of the matter and the history of the practitioner, to either:
  - 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.
  - Obtain an Enforceable Undertaking.
  - Escalate a complaint for an investigation.
  - Refer a subject for practitioner discipline.
  - Refer the complainant to DBDRV, or to another agency when the issues are outside of the VBA's jurisdiction.

**Table 9: Building Complaints (July-December 2023)**

<b>859</b>	Building related complaints received.
<b>764</b>	Complaints closed.
<b>406</b>	Complaints concluded via liaising with the complainant and/or practitioner.
<b>182</b>	Complaints referred to DBDRV. <sup>12</sup>
<b>111</b>	Education letters and warnings issued to building practitioners.
<b>65</b>	Complaints escalated to an investigation or directly to Practitioner Discipline for consideration, due to the severity of potential contraventions.

**Table 10: Building Complaint comparisons**

COMPLAINTS	2021-22	2022-23	JAN – JUN 2023	JUL – DEC 2023
<b>Number of Complaints received</b>	1,847	1,791	796	859
<b>Number of Complaints closed</b>	1,784	1,914	847	764
<b>Outcome actions</b>				
Concluded <sup>13</sup>	953	993	429	406
Referral of a complaint to DBDRV	350	459	182	182
Practitioner cautions (Education and Warning)	293	311	151	111
Escalated for investigation/practitioner discipline	188	151	85	65

<sup>12</sup>Complaints about building defects or contract issues, incorrectly lodged with the VBA. This figure reflects the number of cases where the primary outcome recorded was referral to DBDRV, although many more complainants are referred to DBDRV for assistance with a dispute.

<sup>13</sup>Concluded means not substantiated/insufficient evidence/resolved/referral to another agency.



The number of building complaints received declined approximately eight per cent from the same period in 2022. Matters escalated for Investigation/Practitioner Discipline continues to decline, as a greater emphasis is placed on early education and warnings to prevent repeat conduct. Serious matters and repeat conduct are referred for investigation or directly to Practitioner Discipline to consider.

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 62 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 18 per cent of complaints were about building work at adjoining properties and 14 per cent to unregistered building work.



## Statutory Referrals

The Act requires that relevant building surveyors (RBS) 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 to Practitioner Discipline to consider.
- 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 (July-December 2023)**

<b>143</b>	Statutory referrals received.
<b>103</b>	Statutory referrals closed.

**Table 12 – Statutory Referrals comparisons**

STATUTORY REFERRALS	2021-22	2022-23	JAN – JUN 2023	JUL – DEC 2023
<b>Number of Statutory Referrals received</b>	284	345	154	143
Building Order	119	140	52	57
Directions to Fix (s37)	36	61	36	32
Missed Mandatory Inspection (s33)	124	144	66	54

STATUTORY REFERRALS	2021-22	2022-23	JAN – JUN 2023	JUL – DEC 2023
<b>Number of statutory referrals closed</b>	282	331	154	103
<b>Building Order</b>				
Escalated to investigations	36	61	18	8
Resolved by caution	18	16	11	0
Unenforceable instrument	53	44	25	21
Withdrawn/insufficient information	10	17	3	7
<b>Directions to Fix (s37)</b>				
Escalated to PDU	12	21	11	9
Unenforceable instrument	25	27	16	23
Resolved by caution	NR	2	0	0
Withdrawn/insufficient information	4	3	2	0
<b>Missed mandatory inspection (s33)</b>				
Escalated to PDU	61	58	36	22
Resolved by caution	54	60	22	7
Withdrawn/insufficient information/unsubstantiated	9	22	10	6

NR – not recorded.

The number of statutory referrals received from July to December 2023 (143) was a 25 per cent decrease on the same period in 2022. This was primarily due to a drop in referred BOs. The volumes and types of statutory referrals are variable and depend on what is received from building surveyors. No BOs were able to be resolved through a direct caution to property owners and, noting 21 received BOs were not deemed to be enforceable, only eight were referred for investigation. There were 31 referrals to Practitioner Discipline (22) for a missed mandatory inspection and nine for failure to comply with a DTF.

Unenforceable BOs and DTF remain an issue the VBA is committed to resolving through collaboration with building surveyors. To foster 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. The VBA's 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, but provides written consent to the applicant, if appropriate, to end an appointment.

**Table 13: Terminations (July-December 2023)**

<b>209</b>	Consent to terminate applications received.
<b>219</b>	Consent to terminate applications closed.
<b>83</b>	Were granted consent.
<b>76</b>	Related to cancelled building work.
<b>7</b>	Consent to terminate requests declined.
<b>53</b>	Incomplete, withdrawn or incorrect applications.



**Table 14 – Terminations comparisons**

TERMINATIONS	2021-22	2022-23	JAN – JUN 2023	JUL – DEC 2023
<b>Number of applications received</b>	423	509	287	209
<b>Number of applications closed</b>	419	506	280	219
Consent granted	171	166	104	83
Incomplete, withdrawn or incorrect	102	134	73	53
Consent declined	17	13	5	7
Cancellation of building work	129	193	98	76

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.

Applications for consent have reduced marginally from the same period the previous year. Cancellation of building work notifications have decreased from 95 notifications during the same period last year to 76 during this reporting period.



## 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, may relate to hundreds (referred to as a 'bulk transfer') due to a specific event, such as a PBS retiring.

During 2022-23, 1,373 transfer of functions notifications were received for 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 employers.

This is a 20 per cent decrease 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 Function comparison**

TRANSFER OF FUNCTIONS	2021-22	2022-23	JAN – JUN 2022	JUL – DEC 2023
<b>Number of notifications of Transfer of Function</b>	1,725	1,373	549	5,070

The significant increase in transfers in the first half of 2023-2024 can be attributed to one large bulk transfer of over 4,000 appointments in September 2023.

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

The VBA identifies breaches of legislation, regulations and professional standards. This can involve conducting interviews, preparing reports and detailed briefs of evidence, participating in court proceedings, and providing advice and information to the plumbing industry.

**Table 16 – Building Investigations (July-December 2023)**

<b>147</b>	Investigations underway.
<b>98</b>	Investigations completed.
<b>27</b>	Investigations referred for Practitioner Discipline.
<b>24</b>	Investigations resolved without further enforcement actions.
<b>30</b>	Practitioners received a caution.
<b>16</b>	Investigations referred for Prosecution.
<b>1</b>	Practitioner received an Education Letter.

**Table 17: Building Investigations comparisons**

INVESTIGATIONS	2021-22	2022-23	JUL – DEC 2023	JAN – JUN 2023
<b>Number of Investigations underway<sup>14</sup></b>	130	110	110	147 <sup>15</sup>
<b>Number of Investigations completed</b>	362	212	140	98
<b>Outcome actions</b>				
Referred for Practitioner Discipline	134	60	40	27
Resolved without further enforcement action	109	58	41	24
Caution	89	52	37	30
Referred for prosecution/legal service opinion for prosecution	23	35	19	16
On-notice	3	1	0	0
Education Letter	4	3	1	1
Undertaking	NR	1	1	0

### Most common building work investigated (July-December 2023)

- Building without a permit, with no oversight and the required mandatory inspections.
- Building work undertaken without the required insurance. No consumer protection.
- Unregistered people undertaking building work without any permit, oversight or insurance. Defective/poor quality building work.

<sup>14</sup>The number of building investigations underway is expressed as a rolling figure.

<sup>15</sup>The number of investigations underway considers those awaiting team leader review to better reflect the overall number of cases currently in progress. The figures reported prior to this period refer only to those currently under investigation.

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.

The number of investigations completed (140) is reduced compared to the same period last year (268). The VBA has seen a corresponding decrease in matters resolved without any further enforcement action, compared to the same period in 2022-23. The triage process ensures only more serious non-compliances are being referred for investigation. This approach is aligned to the VBA's Regulatory Policy Statement, where we take proportionate regulatory action depending on the seriousness of the risk/harm.

There were 30 cautions issued by the Investigations Unit in the reporting period, compared to 16 in the corresponding last year. This change reflects an increasing use of cautions as a regulatory tool.

There were 27 Building Investigations referred for Practitioner Discipline. 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 Studies

### Registration cancelled after demolition causes damage to adjoining property

A demolition building practitioner, Mr Anwar Fakhry, was found not to be a fit and proper person to hold registration and had his registration cancelled in November 2023.

The grounds for this finding related to demolition of a dwelling and garage in Preston. The practitioner's demolition work caused brickwork from the garage to fall into an adjoining property's yard and resulted in cracking damage to the garage on that adjoining property. A VBA investigation and show cause process found that Mr Fakhry had failed to carry out his work as a building practitioner in a competent manner and to a professional standard.

Among other things, the practitioner had submitted inadequate allotment plans with the permit application and carried out demolition work in a manner which posed a risk of damage to the adjoining property's garage and to human life and safety. He carried out demolition work after having been verbally instructed by the RBS to stop work and completed the demolition work before all protection work requirements under Part 7 of the Act had been complied with.

The disciplinary action taken in respect of the established grounds was to reprimand the practitioner, impose penalties totalling \$27,000 (capped at \$18,000), to cancel the practitioner's registration and to disqualify the practitioner from being registered in any category or class for a period of 18 months (should he complete three specified courses) or three years (in any other case).

### Building company fined over failure to call for a mandatory building inspection

In November 2023, the VBA reprimanded and fined a building company \$40,000 for failing to call for a mandatory inspection for the structural framework of school and library buildings in Terang, south-western Victoria. The company, AW Nicholson Pty Ltd, is registered as both a commercial and domestic builder and took on the construction of a new specialist school and library hub for Hampden Special School (HSS) in late 2022.

The building permit required mandatory notifications for four stages of the works: foundation inspection to footings, steel reinforcement to footings, inspection at completion of loadbearing framework and final inspection upon completion of building work.

The RBS referred the matter to the VBA when he found that the builder called for inspection of roof trusses for both buildings in February 2023. The building work had already substantially proceeded past the framework mandatory notification stage, as the walls of the HSS had already been plastered.

Following investigation and the show cause process, the practitioner was found to have failed to notify the RBS of the completion of loadbearing framework mandatory notification stage, in contravention of section 33(1) of the Act.

## 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 PIP.

The main statutory referrals are non-compliances with DTF, breaches of 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 sets out the allegations against the practitioner 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 is subject to both internal review by the VBA and review in the Victorian Civil and Administrative Tribunal (VCAT).

**Table 18 – Building Practitioner Discipline comparison**

BUILDING PRACTITIONER DISCIPLINE	2021-22	2022-23	JAN – JUN 2023	JUL – DEC 2023
<b>Number of referrals received</b>	359	307	189	132
Investigations	150	82	50	32
Direct for complaints and statutory referrals / DBDRV	148	123	78	55
Processing services (registration matters)	62	102	61	45
<b>Number of show cause notices issued</b>	131	125	56	73
<b>Decisions issued<sup>16</sup></b>	118	109	58	49
Reprimands issued to practitioners	91	73	31	33
Cancellation of registration	16	18	16	7
Suspensions of registration	24	16	9	13
Conditions placed on registration	11	7	5	9
Disqualifications	7	0	0	2
Training required	13	17	2	4
Enforceable undertakings	0	1	0	0
Monetary penalties imposed	82	57	19	32

BUILDING PRACTITIONER DISCIPLINE	2021-22	2022-23	JAN – JUN 2023	JUL – DEC 2023
Caution after show cause	1	1	2	3
No further action	5	11	8	4
<b>Resolved without further enforcement action</b>	38	69	40	72
<b>Caution</b>	68	82	45	156

The level of referrals are consistent with matters now typically escalated for investigation under current triage protocols. This reflects the impact of the early-stage, risk-based identification of matters suitable for the issuing of a caution prior to a full investigation. The significant increase in the number of cautions issued reflects allocation of resources to triaging backlog matters which, on a risk-based assessment, do not warrant a show cause notice.

The reprimand remains the most common form of disciplinary action taken by the VBA and is usually 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 reported in 2022-23, 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 DTF building work order 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.

<sup>16</sup>Decisions 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) (July-December 2023)**

Practitioner name	Registration Number	Conduct	Result	Penalty (\$) <sup>17</sup>	Date <sup>18</sup>
LANGFORD-JONES, Bruce	DB-U 2907	Holding office in a company under external administration.	Registration conditions limiting live concurrent building jobs to two, for 18 months.	–	21/07/2023
FEHRING, Campbell	DB-U 46683	Holding office in a company under external administration.	Cancellation of registration.	–	02/08/2023
VAN ZANTEN, Paul Albert	DB-U 25426	Being insolvent under administration.	Cancellation of registration.	–	02/08/2023
KIRBY, David	DB-U 68771 DB-L 26204	Holding office in a company under external administration.	Registration conditions limiting live concurrent building jobs to two, for two years.	–	17/08/2023
JAKUBZIK, Michael	IN-U 41384	Failing to perform work as a building practitioner in a competent manner and to a professional standard by approving a temporary swimming pool barrier which was climbable.	Reprimand and penalty of \$4,000 (VCAT resolution).	\$4,000	23/08/2023
DENNERT, Wayne	DB-U 31703	Being given a breach of dispute resolution order notice in respect of a site at Lovely Banks.	Reprimand, penalty of \$4,000 and suspension of registration for up to three years, until notice cancelled.	\$4,000	24/08/2023
MCBRIDE, George	DB-U 38624	Being given a breach of dispute resolution order notice in respect of a site at Ocean Grove.	Reprimand, penalty of \$4,000 and suspension of registration for up to three years, until notice cancelled.	\$4,000	29/08/2023

<sup>17</sup>Some penalties were originally fixed by reference to penalty units. In those cases, the penalties are rounded to the nearest whole dollar.

<sup>18</sup>The date of decision shown is the date the decision was made by the VBA’s primary delegate or in the event where a practitioner sought review, it’s the date of any subsequent decision by the VBA’s internal reviewer or VCAT. This table does not disclose matters where disciplinary action is still pending internal review or the outcome was to take no disciplinary action. In turn, the matters disclosed here do not necessarily correspond with the figures on table <sup>18</sup>.



Practitioner name	Registration Number	Conduct	Result	Penalty (\$) <sup>17</sup>	Date <sup>18</sup>
MATTHEE, Jensa	DB-L 45056	Director responsible for company (Adalvue Pty Ltd) conduct— building at two sites in Port Melbourne without required domestic building insurance, under non-compliant statutory contract, taking moneys without required insurance in place, taking progress payments before they are due date, building while unregistered and building without permit (one site) - pattern of incompetence.	Reprimands, requirement to complete training, registration suspended for 12 months, registration cancelled and disqualified for at least 12 months and thereafter for the earlier of three years or training being completed.	-	08/09/2023
SAMMUT, Peter	DB-L 45056	Holding office in a company under external administration.	Cancellation of registration.	-	11/09/2023
BRAAKSMA, William	DB-U 44030	Holding office in a company under external administration.	Cancellation of registration.	-	11/09/2023
YE, Jing	DB-U 41269	Holding office in a company under external administration.	Cancellation of registration.	-	11/09/2023
FOY, Daniel	IN-L 41054	Failing to perform work as a building practitioner in a competent manner and to a professional standard in approving swimming pool inspections (precautions, excavations) when at the time there was no barrier erected and the fibreglass pool had already been installed.	Reprimand, suspension for two months and an ongoing condition for no more pool inspections (Subject to VCAT review).	-	13/09/2023
PETRYSHYN, Adam	BS-U 41429	Issuing a building permit without having first obtained a building permit number and contravening code of conduct (communication/ correction of records).	Reprimand and aggregate penalties of \$2,000.	\$2,000	28/09/2023

Practitioner name	Registration Number	Conduct	Result	Penalty (\$) <sup>17</sup>	Date <sup>18</sup>
DOWELL, Leonard	BS-U 1112 IN-U 1096	Issuing a building permit without regard to ministerial guideline (prohibited combustible cladding) and failing to ensure sufficient information to show compliance of combustible cladding material for use on Class 2 building.	Reprimand, penalty of \$13,869 and registration condition for no new appointments or permits for new buildings in classes 2 to 9 for 18 months (VCAT resolution).	\$13,869	30/10/2023
FAKHRY, Anwar	BD-L 28905	Failing to build (demolish) in accordance with the building permit, failing to call for two mandatory stage inspections and failing to perform work as a building practitioner in a competent manner and to a professional standard - not a fit and proper person.	Reprimands, penalties of \$27,000 capped at \$18,000, requirement for training, suspension of registration for 12 months, cancellation of registrations and disqualified for at least 18 months and thereafter the earlier of three years or training being completed.	\$27,000	27/11/2023
ARNOT, James	CB-L 39943	Failing to call for a mandatory stage inspection for a site at Footscray.	Reprimand and penalty of \$3,000.	\$3,000	18/12/2023

**Table 20 – Building Practitioner Discipline Outcomes (Companies) (July-December 2023)**

Practitioner name	Registration Number	Conduct	Result	Penalty (\$) <sup>19</sup>	Date <sup>20</sup>
Watkins Building Group Pty Ltd	CDB-U 61757	Being given a breach of dispute resolution order notice in respect of a site at Hadfield.	Reprimand, penalty of \$4,000 and suspension of registration for up to three years until notice cancelled.	\$4,000	06/07/2023
A I Projects Pty Ltd	CDB-U 54569	Failing to perform work as a building practitioner in a competent manner and to a professional standard in failing to call for a mandatory stage inspection and progressing work substantially beyond the stage, in respect of a site at Craigieburn.	Reprimand and penalty of \$6,000.	\$6,000	18/07/2023
Geelong Sheds Pty Ltd	CDB-U 59673	Being given a breach of dispute resolution order notice in respect of a site at Geelong West.	Reprimand, penalty of \$4,000 and suspension of registration for up to three years until notice cancelled.	\$4,000	17/08/2023
Bahl Enterprises Pty Ltd	CDB-U 50418	Being given a breach of dispute resolution order notice, in respect of a site at Aberfeldie.	Reprimand, penalty of \$4,000 and suspension of registration for up to three years until notice cancelled.	\$4,000	24/08/2023

<sup>19</sup>Some penalties were originally fixed by reference to penalty units. In those cases, the penalties are rounded to the nearest whole dollar.

<sup>20</sup>The date of decision show is the date the decision was made by the VBA's primary delegate or in the event where a practitioner sought review, it's 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 or the outcome was to take no disciplinary action. In turn, the matters disclosed here do not necessarily correspond to the figures on Table 18.

Practitioner name	Registration Number	Conduct	Result	Penalty (\$) <sup>19</sup>	Date <sup>20</sup>
Black & White Building Surveying Services Pty Ltd	CBS-U 61050	Issuing a building permit (swimming pool and barrier) without justification (barrier not identified) and failing to perform work as a building practitioner in a competent manner and to a professional standard in accepting inspection certificates for two mandatory stages where accompanying photographs showed non-compliance and no enforcement action taken.	Reprimand, aggregate penalties of \$8,000, registration condition for initialling of inspection certificates.	\$8,000	21/09/2023
Vaastu Homes Pty Ltd	CDB-U 65147	Given a breach of dispute resolution order notice, in respect of a site at Rockbank.	Reprimand and suspension of registration for up to three years, until notice cancelled.	–	30/10/2023
Bryce Parker Homes Pty Ltd	CDB-U 54134	Failing to comply with a written DTF building work, in respect of a site at Armstrong Creek.	Reprimand.	–	08/11/2023
PH Homes Pty Ltd	CDB-U 58550	Given a breach of dispute resolution order notice, in respect of a site at Melton South.	Reprimand, penalty of \$4,000 and suspension of registration for up to three years, until notice cancelled.	\$4,000	09/11/2023
Makal Constructions Pty Ltd	CDB-U 61768	Given a breach of dispute resolution order notice, in relation to a site in Pakenham.	Reprimand, penalty of \$4,000 and suspension of registration for up to three years, until notice cancelled.	\$4,000	09/11/2023
C.A. Property Group Pty Ltd	CCB-L 54317 CDB-U 59035	Failing to notify a mandatory stage inspection, in respect of a site at Broadmeadows.	Reprimand and penalty of \$3,000.	\$3,000	17/11/2023
Huon Homes Pty Ltd	CDB-U 53693	Failing to notify a mandatory stage inspection, in respect of a site at Wodonga.	Reprimand and penalty of \$2,000.	\$2,000	21/11/2023

Practitioner name	Registration Number	Conduct	Result	Penalty (\$) <sup>19</sup>	Date <sup>20</sup>
MD Demolitions Pty Ltd	CBD-L 74203	Failing to notify a mandatory stage inspection, in respect of a site at Brighton.	Reprimand and penalty of \$4,000.	\$4,000	21/11/2023
AW Nicholson Pty Ltd	CCB-U 57975; CDB-U 48936	Failing to call for a mandatory stage inspection, of loadbearing framework for the construction of buildings at Hampden Special School at Terang.	Reprimand and penalty of \$40,000.	\$40,000	27/11/2023
Vicbuild Developments Pty Ltd	CCB-L 59082	Failing to perform building work in a competent manner and to a professional standard at Broadmeadows by failing to call for mandatory stage inspections (frame) without delay and progressing works beyond frame when no inspections had been undertaken or approved.	Reprimand and penalty of \$7,000.	\$7,000	28/11/2023
Virgon Constructions Pty Ltd	CDB-U 50090	Failing to call for a mandatory stage inspection for a site at Blairgowrie.	Reprimand penalty of \$2,000.	\$2,000	05/12/2023
Wave Demolition Pty Ltd	CBD-L 71690	Failing to notify a mandatory stage inspection, in respect of a site at Clyde North.	Reprimand and penalty of \$2,500.	\$2,500	05/12/2023
Wave Demolition Pty Ltd	CBD-L 71690	Failing to notify a mandatory stage inspection, in respect of a site at Blairgowrie.	Reprimand and penalty of \$2,500.	\$2,500	05/12/2023
Wave Demolition Pty Ltd	CBD-L 71690	Failing to notify a mandatory stage inspection, in respect of a site at Capel Sound.	Reprimand and penalty of \$2,500.	\$2,500	05/12/2023
Eastern Victoria Construction Group	CDB-U 64603; CCB-U 60791	Failing to comply with a DTF building work within the period specified, in respect of a site at Bairnsdale.	Reprimand and requirement for training.	-	11/12/2023

Practitioner name	Registration Number	Conduct	Result	Penalty (\$) <sup>19</sup>	Date <sup>20</sup>
Watkins Building Group Pty Ltd	CDB-U 61757	Given a breach of dispute resolution order notice, in respect of a site at Deanside.	Reprimand, penalty of \$4,000 and suspension of registration	\$4,000	18/12/2023
Makal Constructions Pty Ltd	CDB-U 61768	Being given a breach of dispute resolution order notice, in respect of a site in Beaconsfield.	Reprimand, penalty of \$4,000 and suspension of registration	\$4,000	18/12/2023
Custombuild Group Pty Ltd	CDB-U 58789	Failing to call for a multiple mandatory stage inspections for a site at Brighton.	Reprimand and penalty of \$8,000.	\$8,000	19/12/2023
Merima Building Solutions Pty Ltd	CDB-U 51455	Failing to call for a mandatory stage inspection and failure to comply with the building permit in respect of a site at Emerald.	Reprimand and penalty of \$7,000 (VCAT resolution).	\$7,000	20/12/2023
Selective Demolitions Pty Ltd	CBD-M 56498	Failing to call for two mandatory stage inspections, in respect of a site at Shepparton.	Reprimand and penalty of \$6,000.	\$6,000	21/12/2023
Charles Bros Building Contractors Pty Ltd	CDB-U 61910 CCB-L 69286	Failing to comply with a DTF building work within the period specified, in respect of a site at North Melbourne.	Reprimand and penalty of \$8,000.	\$8,000	22/12/2023

## 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 whether a prosecution is in the public interest.

**Table 21 – Building Prosecutions comparisons**

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

In the first half of 2023-24, three building prosecutions were completed. Fewer prosecutions were completed by the VBA in 2022-23 and in the first half of this year, compared to previous years. This is a result of ongoing COVID impacts allowing a number of matters to pass statutory limits. 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) July to December 2023<sup>21</sup>**

Accused name	Description of matter	Result	Penalty (\$) <sup>22</sup>	Date
PHAM, Dinh	Carried out extension and alteration work under the major domestic building contract whilst not registered, without providing a formal contract, meeting appropriate requirement and obtaining the required insurance cover. Requested a deposit exceeding the set limit, also provided false information regarding the actual work performed.	Proven without conviction. Fine of \$4,000.	\$4,000	05/09/2023
BEACHEY, Jonathan	Carried out work under a major domestic building contract whilst not registered.	Diversion Plan – be of good behaviour until 18/12/2023.	-	18/09/2023
Insta Plumba Pty Ltd	Arranged for the carrying out of the domestic building work under a major domestic building contract without obtaining the required insurance.	Diversion Plan – pay \$3,700 compensation to the homeowner and be of good behaviour until 22/05/2024.	-	23/11/2023

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

<sup>22</sup>Excludes costs.



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