

Compliance & Enforcement Report

July - December 2022

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 people 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 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 financial year 2022–23.



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

Eighty-three building complaints were escalated for investigation or practitioner discipline during July to December 2022. While this is a decrease from the previous six months, there was an increase in the total number of cautions given to building practitioners in the first half of 2022-23 compared to same period the previous year. This reflects the VBA's risk-based approach to non-compliance and its use of different enforcement tools to correct practitioner conduct.

Fourteen plumbing inquiries were held between July and December 2022 resulting in 13 plumbing practitioners receiving a monetary penalty. 208 infringement notices were issued across audit and investigations activities.

The VBA continued to take an educative approach to the resolution of lower risk plumbing non-compliance and introduced a new caution process to ensure licensed plumbers understood their certification obligations, while also returning to remediate defective work.

This saw 78 plumbing related complaints being escalated for investigation, which was a slight reduction compared to the previous six months.

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.

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. This 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.



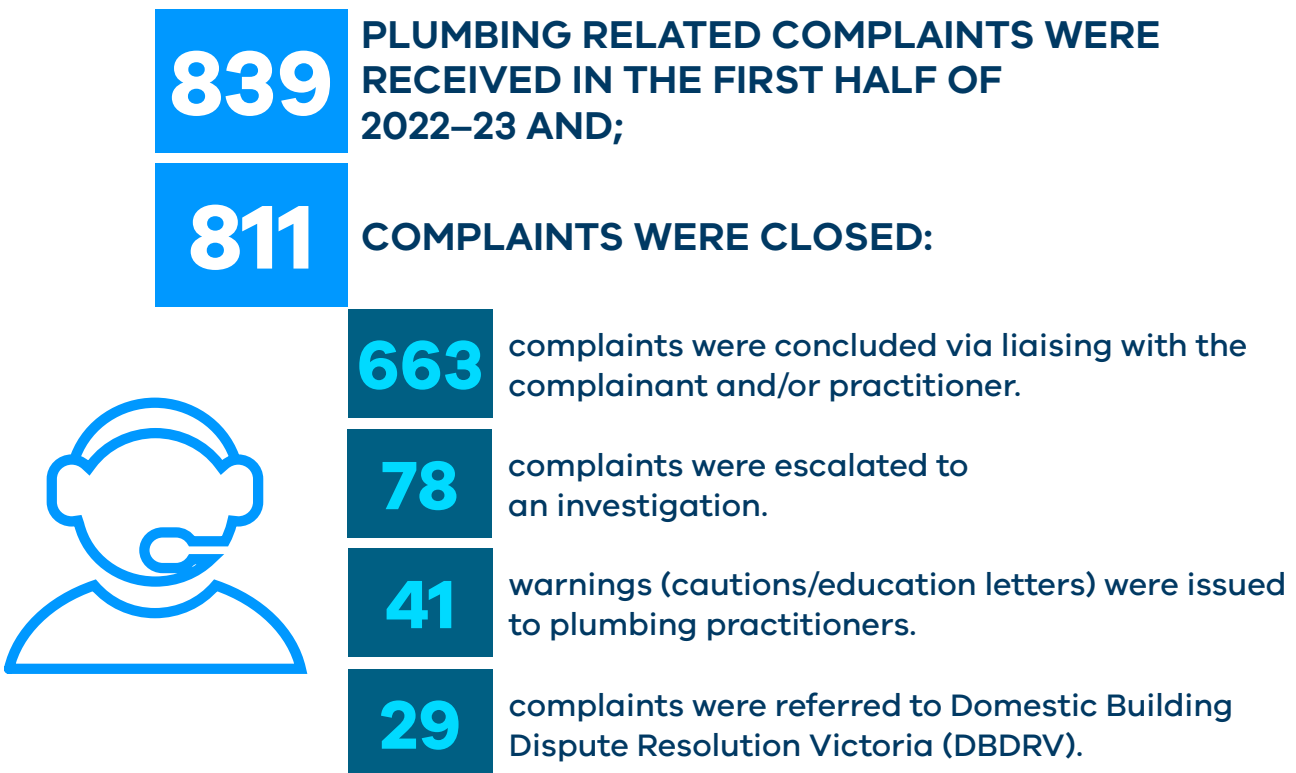
Plumbing

Complaints

The VBA receives complaints relating to alleged 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.

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. Complaints are prioritised based on risk and will be escalated for an 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 systemic offenders are investigated.



COMPLAINTS	2020-21	2021-22	JUL – DEC 2021	JAN – JUN 2022	JUL – DEC 2022
Number of Complaints received	1,722	1,441	692	749	839
Number of Complaints closed	1,708	1,357	661	696	811
Outcome Actions					
Concluded*	1,186	1,009	476	533	663
Referral of a complaint to DBDRV	17	22	4	18	29
Practitioner cautions (Education and Warning)	-	77	36	41	41
Escalated for investigation	505	249	145	104	78

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

Plumbing complaints received increased by approximately 17 per cent over the same period in 2021. This can be explained by plumbing complaints returning to pre-pandemic levels. Referrals for investigation continue to decline due to a pre-investigation process that facilitates earlier complaint resolution. This process sees early intervention by a plumbing investigator and engagement with the practitioner to achieve rectification without the necessity for investigation, to achieve a more timely resolution for consumers. When necessary, 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 industry alerts issued to practitioners to help improve plumbing compliance.

A new process was implemented in 2021-22 where licensed plumbers are cautioned on resolved complaints to remind them of their self-certification obligations, and to assist with identifying systemic offenders.

Most common plumbing work complaints (Jul - Dec)

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

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, 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 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 plumbing breaches outlined in the Act. The Act informs the number of penalty units that may be issued for identified breaches.

INVESTIGATIONS	2020-21	2021-22	JUL – DEC 2021	JAN – JUN 2022	JUL – DEC 2022
Number of Investigations underway*	206	108	186	108	102
Number of Investigations completed	848	573	268	305	188
Outcome Actions					
Resolved**	655	419	212	207	134
Warning	57	55	17	38	21
Referred for inquiry	87	74	27	47	33
Referred for prosecution	49	25	12	13	0
Number of infringement notices issued#	334	520	332	188	208

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

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

#The number of infringement notices issued is cumulative across audit activity and investigations.

Most common plumbing work investigated (Jul - Dec)

- Poor workmanship
- Non-compliant plumbing work
- Plumbing work being undertaken by unregistered or unlicensed people
- Compliance certificates not being issued

102

INVESTIGATIONS WERE UNDERWAY AT THE END OF THE FIRST HALF OF 2022-23 AND;

188

INVESTIGATIONS WERE COMPLETED:



134

investigations were resolved without further enforcement actions e.g. via rectification of the defective plumbing work.

21

investigations were escalated with a recommendation to commence disciplinary action, via a plumbing inquiry.

33

investigations were escalated with a recommendation to commence disciplinary action, via warnings.

0

investigations were recommended for prosecution.

There have been no referrals for prosecution so far 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.

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 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.

PROSECUTIONS	2020-21	2021-22	JUL – DEC 2021	JAN – JUN 2022	JUL – DEC 2022
Number of Plumbing Prosecutions completed by VBA	6	3	1	2	3

In the first half of 2022–23, three 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.

PLUMBING PROSECUTIONS JULY - DECEMBER# 2022				
Accused name	Description of matter	Result	Penalty (\$)*	Date
IAG Roofing Ltd Pty	Engaged a plumber to undertake plumbing work while unregistered.	Proven without conviction. Fine of \$2,500	\$2,500	06/10/2022
PIGDON, Kris	Engaged a plumber to undertake plumbing work while unregistered.	Proven without conviction. Fine of \$2,500	\$2,500	6/11/2022
GAMBLE, Andrew	Carrying out roofing (stormwater) work without registration.	Proven with conviction. Charge 1: fine of \$7,500 Charge 2: fine of \$6,500	\$14,000	24/11/2022

* Excludes costs.

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

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.

PLUMBING INQUIRY OUTCOMES*	2020-21	2021-22	JUL – DEC 2021	JAN – JUN 2022	JUL – DEC 2022
Number of inquiries held	43	20	6	14	9
Reprimands issued to practitioners	6	2	0	2	0
Training required	8	1	0	1	3
Financial penalties imposed	42	19	6	13	7
Suspension of licence	5	1	1	0	1
Suspended suspension of licence [^]	N/A	3	0	3	1
Cancellations of licence	0	0	0	0	1
Disqualification	1	1	1	0	1
Compliance certificate audits	7	2	2	0	0

*Inquiry outcomes can include more than one sanction e.g. reprimand and monetary penalty imposed.

[^]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 two plumbing inquiry outcomes in the first half of 2022–23 included a monetary penalty being handed to the practitioner, acting as a significant deterrent to future offending. Those two matters where a monetary penalty was not imposed still required the practitioner to pay the cost of the Inquiry. The number of inquiries held during 2021-22 was impacted due to a diversion of resources to areas of priority.

PLUMBING INQUIRIES - INDIVIDUALS				
Accused name	Description of matter	Result	Penalty (\$)*	Date
HAYWARD, Brett	Practitioner failed to comply with three rectification notices.	One ground proven. Penalty of \$4,353 plus of \$1,607.	\$4,352	19/07/2022
MAKDESSI, Andrew	Practitioner carried out plumbing work which required a compliance certificate when he was not licensed to do so; and carried out non-compliant plumbing work. Subject to VCAT Appeal.	Two grounds proven. Practitioner's licence and registrations cancelled, and disqualified from re-applying for a period of three years from 14 days of the date of the order. Pay costs of \$3,266.	-	29/07/2022
GITTINS, James	It was alleged and substantiated that the practitioner carried out gas fitting work and mechanical service work whilst unlicensed or unregistered.	Four grounds proven. Penalty of \$1,983 plus costs of \$1,607.	\$1,983	08/08/2022
JAKUPI, Shaban	Practitioner provided signed compliance certificates with misstatements of fact.	Two grounds proven. Penalty of \$4,353 plus costs of \$1,607.	\$4,353	10/08/2022
RAMADAN, Aied	Practitioner failed to provide the consumer a document setting out their name, license or registration number, and business prior to the commencement of the work; failed to provide a compliance certificate within five days of completing the work; and failed to provide a plan of the sanitary drain to the water authority.	Three grounds proven. Penalty of 25 penalty units equivalent to \$4,544 plus costs of \$1,521. Should the practitioner seek to be licenced or registered again, the practitioner will have successfully completed course <i>CPCM 4015 Access and Interpret Regulatory Requirements for the Service Industry</i> . Ordered by the VBA to pay \$1,000 to the consumer.	\$4,544	07/11/2022

PLUMBING INQUIRIES - INDIVIDUALS				
Accused name	Description of matter	Result	Penalty (\$)*	Date
WILSON, Brenden	Practitioner failed to provide a compliance certificate within five days of completing the work; and installed a continuous flow gas hot water system which did not comply with the Plumbing Code of Australia.	Two grounds proven. Penalty of \$8,861 plus costs of \$1,578. Practitioner to undertake a course - <i>CPCPGS3060A Size consumer gas piping systems.</i>	\$8,861	10/11/2022
JOASS, Trent	Practitioner failed to comply with a rectification notice.	One ground proven. Penalty of \$2,798 plus costs of \$1,427.	\$2,798	29/11/2022
O'BERNE, Clinton	It was alleged and substantiated that the practitioner provided false and misleading information in a material particular.	One ground proven. Penalty of 30 penalty units equivalent to \$5,548 plus costs of \$2,075. Suspension of practitioner's plumbing licence for 12 months, with the suspension deferred for 12 months from 5 December 2022, provided the practitioner is not found guilty of any other allegations at an inquiry held during that time.	\$5,548	05/12/2022
PATEN, Jarred	Practitioner carried out work otherwise than in a good and workmanlike manner in relation to the installation of gas heaters and flues at two properties.	Two grounds proven. Pay costs of \$2,150. Suspension of the practitioner's licence in the class of gas fitting (including any specialized class or restricted class) from 6 December 2022 until two courses are successfully completed: <i>CPCPG3053A - Disconnect and Reconnect Type A gas appliances; and CPCPG3049A - Install Type A appliance flues.</i>	-	6/12/2022

*Note: monetary penalties have been rounded to the nearest dollar.

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

Plumbing Enforcement Case Study

Plumber disqualified and registration cancelled

Victorian plumber, Andrew Makdessi, has had his registration cancelled and been disqualified from re-applying for three years, the statutory maximum, following breaches of the *Building Act 1993*.

Andrew Makdessi (105767) declined to appear before a plumbing disciplinary inquiry following a VBA investigation and was dealt with in his absence. The outcome also included more than \$3,200 of penalties.

The inquiry found Mr Makdessi, the owner of Drain Blast Plumbing Service, replaced a 15-metre section of below ground stormwater drain and then removed and reconnected a gas storage hot water heater at an Avondale Heights property, when he wasn't licensed to do so. The inquiry also found Mr Makdessi carried out non-compliant work, by filling the trench dug to replace the 15-metre section of below ground pipework with rocks and pieces of concrete.

A three-year disqualification means Mr Makdessi cannot carry out any plumbing work, or even supervise any plumbing work.



Building



Complaints

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

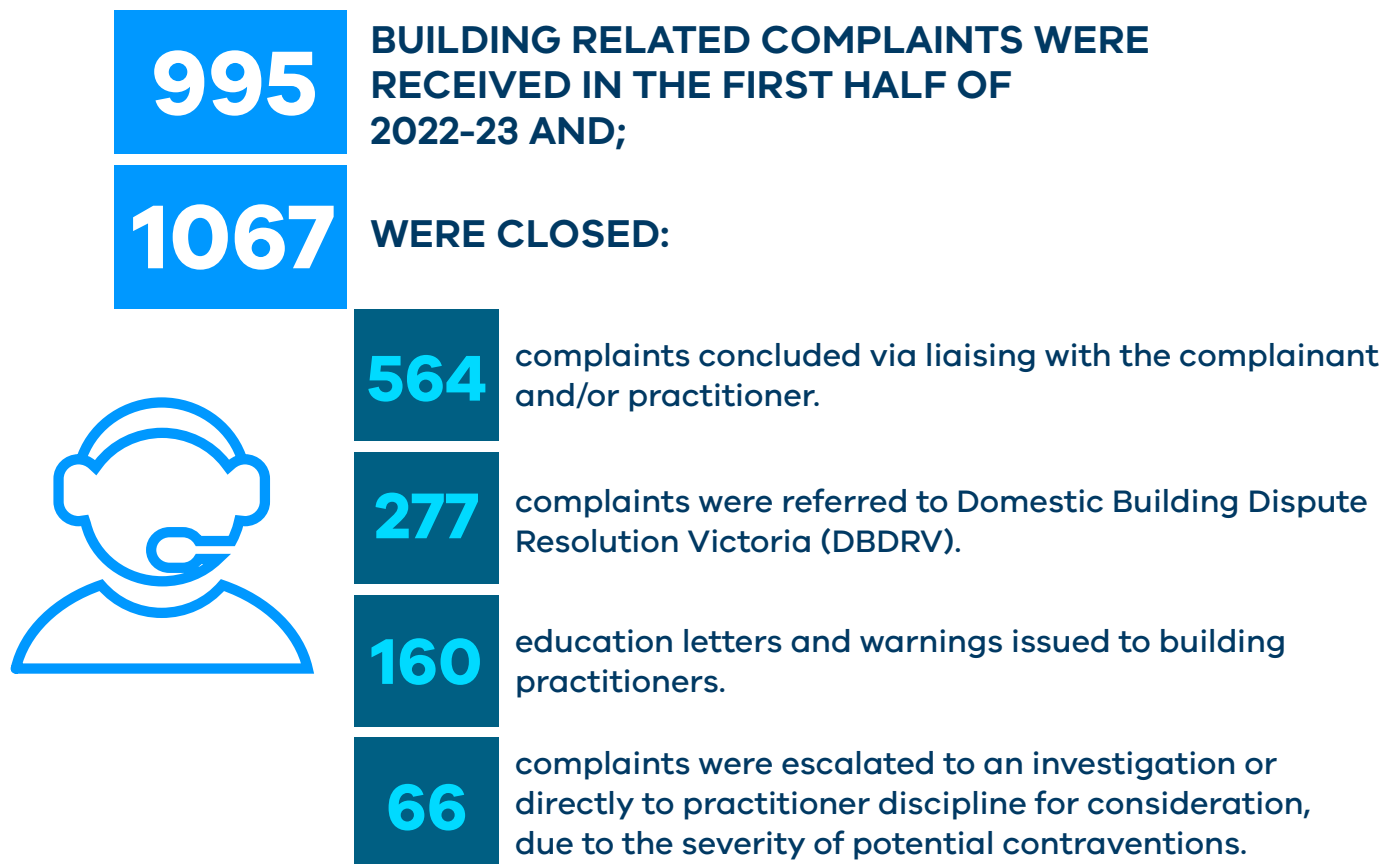
- Non-compliant building work:
 - Building work that is not in accordance with the building permit
 - A building permit that is not in accordance with the relevant legislation
- The professional conduct of building practitioners
- Unregistered persons carrying out building work.

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 a 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 Domestic Building Dispute Resolution Victoria (DBDRV), or to another agency when the issues are outside of the VBA's jurisdiction.

COMPLAINTS	2020-21	2021-22	JUL – DEC 2021	JAN – JUN 2022	JUL – DEC 2022
Number of Complaints received	1,800	1,847	936	911	995
Number of Complaints closed	1,727	1,784	949	835	1067
Outcome Actions					
Concluded*	882	953	520	433	564
Referral of a complaint to DBDRV	297	350	170	180	277
Practitioner cautions (Education and Warning)	188	293	154	139	160
Escalated for investigation	360	188	105	83	66

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



The number of building complaints received increased by about six per cent from the same period last year. Matters escalated for investigation/Practitioner Discipline reduced by about 40 per cent 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 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 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 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.

STATUTORY REFERRALS	2020-21	2021-22	JUL – DEC 2021	JAN – JUN 2022	JUL – JUN 2022
Number of Statutory Referrals received	291	284	155	129	191
Building Order	120	119	58	61	88
Directions to Fix (s37)	76	36	22	14	25
Missed Mandatory inspection (s33)	95	124	70	54	78
Number of Statutory Referrals closed	291	282	149	133	177
Building Order					
Escalated	40	36	11	25	43
Resolved by warning	27	18	14	4	5
Unenforceable instrument	53	53	33	20	19
Withdrawn/insufficient Information	NR	10	NR	10	14
Directions to Fix (s37)					
Escalated	22	12	7	5	10
Resolved by warning	54	25	15	10	11
Withdrawn/insufficient Information	NR	4	NR	4	1

STATUTORY REFERRALS	2020-21	2021-22	JUL – DEC 2021	JAN – JUN 2022	JUL – DEC 2022
Missed Mandatory Inspection (s33)					
Escalated	50	61	36	25	22
Resolved by warning	42	36	24	30	38
Withdrawn/Insufficient information	3	9	9	0	12

NR – not recorded.



191

177

STATUTORY REFERRALS WERE RECEIVED IN THE FIRST HALF OF 2022–23 AND;

STATUTORY REFERRALS WERE CLOSED.

The number of statutory referrals received in the first half of 2022-23 (191) reflected an increase on the same period in the previous year, largely as a result of more Building Orders being referred to the VBA. The volumes and types of statutory referrals are variable and depend on what is received from building surveyors. However, fewer Building Orders were able to be resolved via a direct warning to property owners than in the same period last year, resulting in an increase in referrals for investigation. There were 38 Cautions issued to building practitioners for failing to call for a mandatory inspection and two Cautions for failing to comply with directions to fix. For the reporting period, 32 section 33 and section 37 matters were referred to Practitioner Discipline.

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. In April 2022 as part of the VBA’s Practitioner Education Series, a Building Enforcement webinar targeted to building surveyors was delivered by the Office of the State Building Surveyor. The webinar included building surveyor enforcement obligations under the legislation and reaffirmed the VBA’s commitment to educating practitioners and preventing harms. .

Terminations

The Act provides that the appointment of a private building surveyor cannot be terminated without the consent of the VBA, except where a transfer of function has occurred under Section 80C. 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.

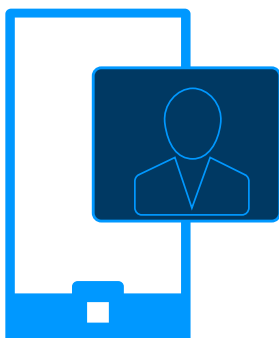
TERMINATIONS	2020-21	2021-22	JUL – DEC 2021	JAN – JUN 2022	JUL – DEC 2022
Number of applications received	559	423	219	204	222
Number of applications closed	602	419	216	203	226
Consent granted	415	171	102	69	62
Incomplete, withdrawn, or incorrect	64	102	49	53	61
Consent declined	37	17	10	7	8
Cancellation of building work	86	129	55	74	95

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.



222 CONSENT TO TERMINATE APPLICATIONS WERE RECEIVED IN THE FIRST HALF OF 2022-23 AND;

226 CONSENT TO TERMINATE APPLICATIONS WERE CLOSED:



62

were granted consent.

95

related to cancelled building work.

8

consent was declined.

61

incomplete, withdrawn, or incorrect.

Applications for consent have been steady compared to the same period in the previous year. There was a 45 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 transfer 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.

The reporting period saw a limited number of bulk transfers being executed, as compared to corresponding periods in both 2020 and 2021.

TRANSFER OF FUNCTIONS	2020-21	2021-22	JUL – DEC 2021	JAN – JUN 2022	JUL – DEC 2022
Number of notifications of transfer of function	3,407	1,725	1,058	667	824

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.

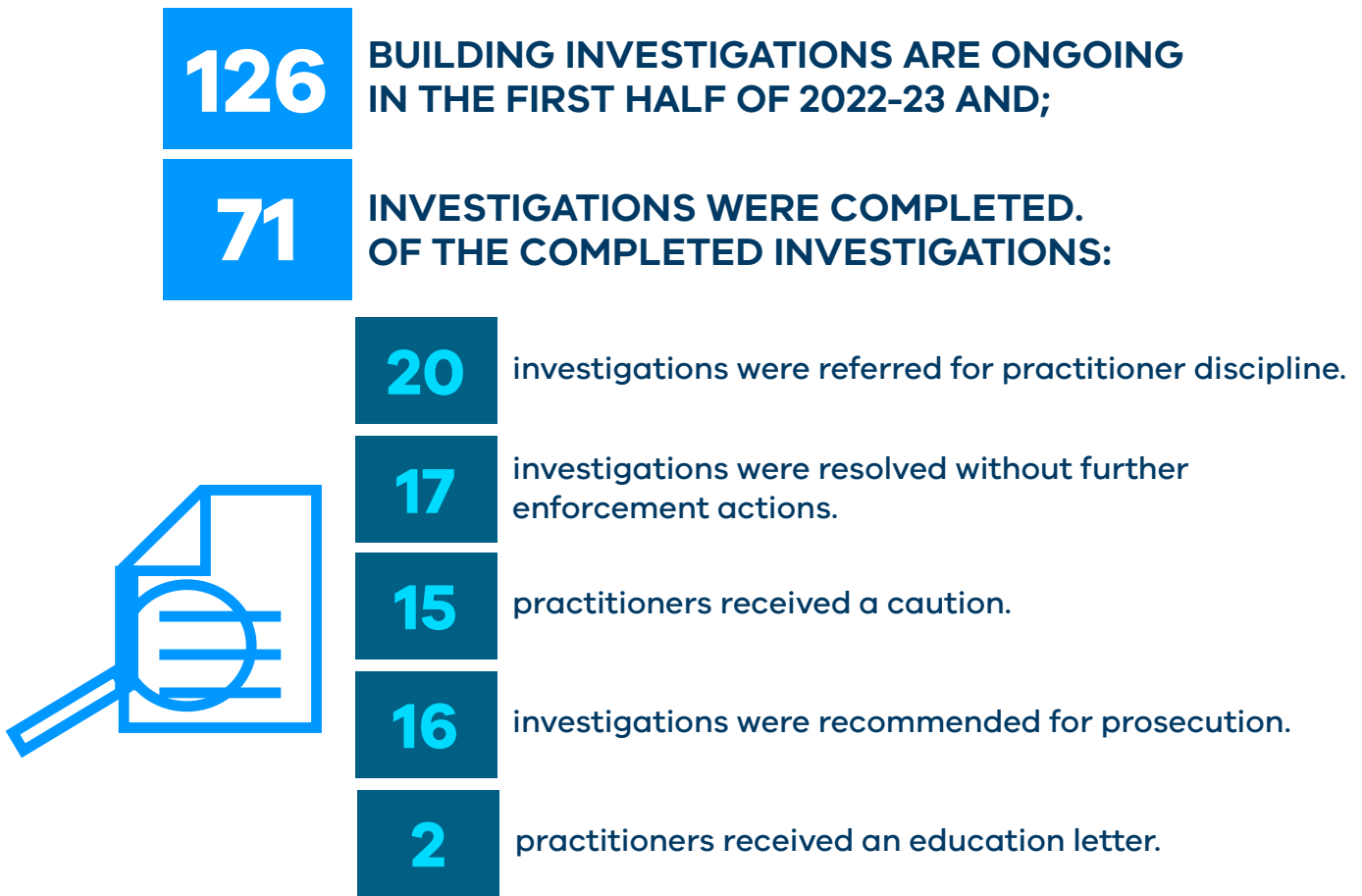
The VBA identify breaches of legislation, regulations and professional standards. This can involve conducting interviews, preparing reports and detailed briefs of evidence, participating in court proceedings, and providing advice and information to the plumbing industry.

INVESTIGATIONS	2020-21	2021-22	JUL – DEC 2021	JAN – JUN 2022	JUL – DEC 2022
Number of Investigations underway*	123	130	198	130	126
Number of Investigations completed	348	362	94	268	71
Outcome Actions					
Resolved without further enforcement action	148	109	45	64	17
Caution	39	89	17	72	15
Referred for practitioner discipline	123	134	24	110	20
Referred for prosecution	38	23	6	17	16
On-notice	0	3	2	1	1
Education letter	0	4	0	4	2

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

Most common building work investigated (Jul – Dec)

- Building without a permit
- Building work not undertaken in accordance with a permit
- Unregistered and uninsured people undertaking building work
- Protection work not being completed as required



During the 2020-21 financial year, the VBA implemented 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 undertaken so far in 2022-23 (71) is a small decrease on the same period last year (94). We have seen a decrease in matters resolved without any further enforcement action, with 17 in July-December 2022 compared to 45 in 2021-22. This is due to the triage process, which ensures only more serious non-compliances are being referred for investigation. This approach is aligned to the VBA’s Trusted Regulator strategic pillar, where the VBA take proportionate regulatory action depending on the seriousness of the risk/harm.

There have been 15 cautions issued in the first six months of this year, compared to 17 in July-December 2021. This number is stable, however we may see an increase as process change sees the Investigations Unit start to issue cautions that would have previously been issued by the Practitioner Discipline Unit (PDU).

There were 20 investigations referred for practitioner discipline and 16 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 Studies

Builder penalised and nominee director ordered to undergo training

In July 2022, a Victorian building company was penalised \$8,000, and its nominee director ordered to undergo training for conducting a partial demolition in Carlton North without a building permit. The VBA took disciplinary action against Better Building & Construction Pty Ltd (CDB-U 50939), formerly Double M Constructions Pty Ltd, for contravening the *Building Act 1993* by starting demolition at the building site prior to a permit being issued.

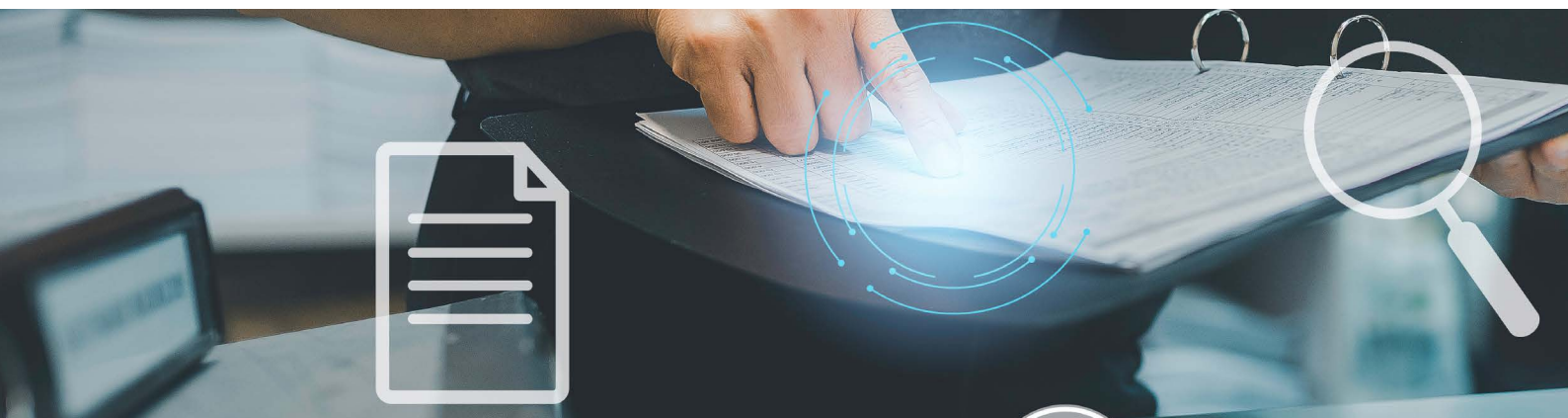
Neighbours in the area of the work made a complaint when they were alerted to the demolition, after they were woken by the sound of jackhammers. Practitioners must follow the rules before they undertake any type of building work. Building permits for demolitions enable inspection, and correction, if necessary, of the precautions and the finished work.

The RBS took appropriate enforcement action, stopping all work until after a building permit was issued. In addition to the financial penalty, the company was issued a reprimand and nominee director Mark Micklethwait (DB-U 16917) was ordered to complete training in arranging building applications and approvals.

Builder fined \$15,000 for breaches across multiple Melbourne sites

In October 2022, a Victorian builder was given \$15,000 in monetary penalties for breaches of the *Building Act 1993* at many sites across Melbourne. Domestic builder Mutlu Alan (DB-U 47148) was reprimanded and penalised by the VBA for work done in Moonee Ponds, Broadford, Preston, Thornbury and Braybrook.

At the Moonee Ponds site, Mr Alan failed to notify the relevant building surveyor (RBS) without delay of the completion of the mandatory notification stage prior to placing footing (underpins), as well as failing to notify at the final completion stage. At the Broadford site, he failed to notify the RBS without delay of the completion of the mandatory notification stage prior to placing footing (stump holes). Mr Alan also failed to comply with written directions to fix building work at the Preston, Thornbury and Braybrook sites.



Building Practitioner Discipline

The VBA takes disciplinary action in relation to investigated complaints, reported non-compliances 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 is subject to both internal review and review in the Victorian Civil and Administrative Tribunal (VCAT).

BUILDING PRACTITIONER DISCIPLINE	2020-21	2021-22	JUL – DEC 2021	JAN – JUN 2022	JUL – DEC 2022
Number of referrals received	293	359	151	208	118
Investigations	127	150	37	113	32
Direct from Complaints and Statutory Referrals	94	148	83	65	45
Processing services (registration matters)	72	62	32	30	41
Number of show cause notices issued	104	131	78	53	69
Decisions issued*	78	118	55	63	52
Reprimands issued to practitioners	52	91	41	50	42
Cancellations of registration	11	16	8	8	0
Suspensions of registration	14	24	12	12	7
Conditions placed on registration	8	11	6	5	2
Disqualifications	5	7	6	1	0
Training required	6	13	5	8	15
Enforceable undertakings	2	0	0	0	1
Monetary penalties imposed	48	82	38	44	35
Caution after show cause	1	1	1	0	0
No Further Action	5	5	2	3	8
Resolved without further enforcement action	30	38	12	26	29
Caution	0	68	15	53	37

Note: Referrals received, show cause notices issued, decisions issued, No Further Action and Caution does not include cladding matters.

**Decisions often include more than one sanction e.g., reprimand plus monetary penalty.*

These numbers reflect a peaking of the impact of expedited activity to complete long-standing matters under investigation on matters referred for building practitioner discipline. The first half of 2022–23 presents a level of referral consistent with matters now typically escalated for investigation under triage protocols implemented in the previous reporting period.

Although the number of show cause notices issued has increased, Practitioner Discipline has continued to experience capacity constraints related to the pandemic, staff movements and to closing out long-standing referred investigations.

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. Practitioner Discipline monitors compliance with training obligations and, where necessary, follows up with show cause notices proposing suspension of registration until training is completed. These measures have been effective in procuring compliance.

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.

Practitioners who are non-compliant with a direction to fix or in breach of a DBDRV order are suspended until compliance is achieved. The VBA is committed to safeguarding Victoria's future and the construction of safe and resilient buildings is crucial to protect the lives and livelihoods of all Victorians. This is achieved by good practice regulation and consumers having confidence in an accountable and compliant industry that acts with integrity.

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 – Fair, firm, fast.



BUILDING PRACTITIONER DISCIPLINE OUTCOMES

BUILDING—INDIVIDUALS

Practitioner name	Registration Number	Conduct	Result	Penalty (\$)*	Date#
McLACHLAN, Lachlan	CBU 5365; DBU 6842	Performing building work other than in a competent manner and to a professional standard in respect of a factory at Tinanmba, where compliance was ultimately achieved.	Reprimand and a requirement to complete a course of training.	-	01/07/2022
GODLER, Arkadi	DBU 9047; CBU 2730	Building contrary to a building permit, performing building work other than in a competent manner and to a professional standard and engaging in unprofessional conduct when installing combustible cladding without approval on an apartment building at Rippon Lea.	Reprimand, aggregate penalties of \$9,246 and a requirement to complete a course of training.	\$9,246	
HUYSER, Theodorus	DBU 2010	Failing to provide owner with plumbing compliance certificates within 5 days.	Reprimand and a requirement to complete a course of training.	-	15/07/2022
MIDDLEING, Anthony	BSU 1092; INU 1078	Performing building work other than in a competent manner and to a professional standard related to and following the issue and amendment of a building permit for a site at Windsor.	Penalty of \$5,000, and direction to undertake training.	\$5,000	25/07/2022
ALAN, Mutlu	DBU 47148	Procuring a building permit to allow another person to carry out domestic building work (unprofessional conduct—licence lending), performing building work other than in a competent manner and to a professional standard by failed to adequately control the works, allowing building work to be carried out other than in accordance with the Building Act and regulations, and building permit, arranging under a major domestic building contract the carrying out of work not covered by the required domestic building insurance in respect of a 15 unit residential development of which the other person was effectively the developer. Subject to VCAT review.	Reprimand and penalty of \$2,000.	\$2,000	26/07/2022

BUILDING PRACTITIONER DISCIPLINE OUTCOMES

BUILDING—INDIVIDUALS

Practitioner name	Registration Number	Conduct	Result	Penalty (\$)*	Date#
ALAN, Mutlu	DBU 47148	Failing to comply with a direction to fix building work within the specified period in respect of a site at Preston.	Reprimand and penalty of \$4,000.	\$4,000	26/07/2022
ALAN, Mutlu	DBU 47148	Failing to comply with a direction to fix building work within the specified period in respect of a site at Thornbury.	Reprimand and penalty of \$2,500.	\$2,500	26/07/2022
ALAN, Mutlu	DBU 47148	Failing to comply with a direction to fix building work within the specified period in respect of a site at Moonee Ponds.	Reprimand and a penalty of \$4,000.	\$4,000	26/07/2022
ALAN, Mutlu	DBU 47148	Failing to comply with a direction to fix building work within the specified period in respect of a site at Broadford.	Reprimand and penalty of \$2,500.	Reprimand and penalty of \$2,500.	26/07/2022
PANUCCIO, Vince	BSU 1566	Issuing building permits and an occupancy permit without justification, performing building work other than in a competent manner and to a professional standard and engaging in unprofessional conduct in respect of the use of combustible cladding at three sites.	Aggregate penalties of \$16,643.	\$16,643	27/07/2022
NAQEBULLAH, Obaid	CBL 30394; CBU 57999; DBU 29802	Building contrary to a building permit by substituting non-fire rated materials for those specified for both external and internal walls and ceilings, negligence in a particular manner in relation to a complex of 81 sole occupancy units. at Clayton.	Reprimands, aggregate penalties of \$25,000, requirement to successfully complete training and to personally attend for mandatory stage inspections.	\$25,000	05/08/2022



BUILDING PRACTITIONER DISCIPLINE OUTCOMES

BUILDING—INDIVIDUALS

Practitioner name	Registration Number	Conduct	Result	Penalty (\$)*	Date#
BARAKAT, Mohamad	BDL 37278; DBU 63545	Building without a building permit in respect of the demolition of a garage.	Reprimand and a penalty of \$2,000.	\$2,000	08/08/2022
YOUNG, Matthew	DBU 3644	Performing building work other than in a competent manner and to a professional standard by assigning an unlicensed person to undertake roof plumbing (flashing work), failing to provide owner with plumbing compliance certificates.	Reprimands, aggregate penalties of \$5,000 and a requirement to complete 2 courses of training.	\$5,000	10/08/2022
LEWIS, Richard	BDM 15973	Performing building work other than in a competent manner and to a professional standard by failing to ensure notification to and inspection for the relevant building surveyor of safety precautions for demolition for a site at Ocean Grove.	Reprimand and penalty of \$3,000.	\$3,000	02/09/2022
FRANKS, William	DBU 17985; CBL 18127	Performing building work other than in a competent manner and to a professional standard by substituting materials for those specified in the building permit without first confirming that change with the relevant building surveyor in respect of a site in Bendigo.	Penalty of \$2,773.	\$2,773	07/09/2022
GALANOS, Anastasios	BSU 16541	Issuing building and occupancy permits without justification, performing building work other than in a competent manner and to a professional standard and engaged in unprofessional conduct in relation to the use of combustible cladding at 3 sites.	Reprimands and aggregate penalties of \$27,738.	\$27,738	08/09/2022

BUILDING PRACTITIONER DISCIPLINE OUTCOMES

BUILDING—INDIVIDUALS

Practitioner name	Registration Number	Conduct	Result	Penalty (\$)*	Date#
PACE, Victor	BDM 1027; DBU 4854	Failing to call for a mandatory stage inspection in respect of demolition work at Watsonia North.	Reprimand, penalty of \$2,000 and a requirement to complete a course of training.	\$2,000	13/09/2022
PACE, Victor	BDM 1027; DBU 4854	Failing to call for a mandatory stage inspection in respect of demolition work at Reservoir.	Reprimand, penalty of \$2,000 and a requirement to complete a course of training.	\$2,000	13/09/2022
PACE, Victor	BDM 1027; DBU 4854	Failing to call for mandatory stage inspections (3 stages) in respect of demolition work at Preston.	Reprimands, aggregate penalties of \$5,500 and a requirement to complete a course of training.	\$5,500	13/09/2022
ZOUZOULAS, Jim	DBU 43468	Building contrary to the building permit for work at Camberwell, by failing to construct a retaining wall and constructing a boundary wall higher than permitted.	Reprimand and a penalty of \$1,000.	\$1,000	20/09/2022
CROSBY, Richard	CBL 32832	Failing to call for mandatory stage inspections (2 stages) in respect of a site at Kensington.	Reprimands and aggregate penalties of \$3,000.	\$3,000	30/09/2022
HARRISON, Marc	DBU 17331	Failure to comply with a requirement to undertake training imposed a prior disciplinary action.	Reprimand and partial suspension of registration until compliance achieved.	-	07/10/2022
OSMAN, Ali	DBU 9208	Failure to comply with a requirement to undertake training imposed a prior disciplinary action.	Reprimand and partial suspension of registration until compliance achieved.	-	07/10/2022



BUILDING PRACTITIONER DISCIPLINE OUTCOMES					
BUILDING—INDIVIDUALS					
Practitioner name	Registration Number	Conduct	Result	Penalty (\$)*	Date#
KHADOUR, Ibrahim	DBU 29658; CBL 32199	Failing to comply with a direction to fix building work within the specified period in respect of a site at Gladstone Park.	Reprimand and a penalty of \$1,000.	\$1,000	13/10/2022
MOLINARO, Dino	BSU 14142	Issuing building permits without justification and performing building work other than in a competent manner and to a professional standard as relevant building surveyor in relation to fire performance requirements at 5 sites.	Reprimands, directions to engage independent auditor to audit 10% of approvals over preceding 12 months, 3 month registration condition not to accept appointments for Class 2–9 buildings.	-	14/10/2022
RAMADAN, Adnan	BSU 39024; BSL 38913	Issuing building permits and occupancy permits without justification, performing building work other than in a competent manner and to a professional standard in respect of the use of combustible cladding at 4 sites between 2015 and 2018, being negligent in the particular matter of the use of combustible materials at 1 site, and constituted unprofessional conduct at 2 of the sites.	Reprimands, aggregate penalties of \$22,500 and registration condition for no new permits for Class 2 and Class 3 buildings for 12 months.	\$22,500	07/11/2022
TARABENE, Anthony	DBU 63919	Failing to comply (as a director of NM Constructions Pty Ltd) with a direction to fix building work within the specified period in respect of a site at Diggers Rest.	Reprimand and a penalty of \$10,000.	\$10,000	28/11/2022

BUILDING PRACTITIONER DISCIPLINE OUTCOMES					
BUILDING—INDIVIDUALS					
Practitioner name	Registration Number	Conduct	Result	Penalty (\$)*	Date#
FOWKES, Mark	BDL 23093	Failing to call for mandatory stage inspections (2 stages) in respect of demolition at a site at Lake Wendouree.	Reprimands, aggregate penalties of \$12,000 and a requirement to complete a course of training.	\$12,000	07/12/2022
HUNTER, Howard	DBL 68384	Undertaking domestic building work without the required insurance and failing to contract in accordance with the requirements for a major domestic building contract.	Reprimands, aggregate penalties of \$5,000 and a requirement to complete training.	\$5,000	22/12/2022
MITSAKIS, Andrew	BDM 1058	Failing to call for a mandatory stage inspection in respect of demolition work at Pascoe Vale.	Reprimands, penalty of \$3,500 and a requirement to complete a course of training.	\$3,500	22/12/2022
MITSAKIS, Andrew	BDM 1058	Failing to call for mandatory stage inspections (2 stages) in respect of demolition work at Nerrina.	Reprimand and a penalty of \$5,500.	\$5,500	22/12/2022
SIMPSON, Joseph	CBL 33524	Failing to call for mandatory stage inspections (2 stages) and failing to ensure that work was carried out in accordance with the Building Act and regulations, in respect of a site at Caulfield East.	Reprimands and aggregate penalties of \$8,000.	\$8,000	23/12/2022

#The date of decision shown is the date the decision was made by the VBA's primary delegate or, 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 will not necessarily correspond with the table on page 31.

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



BUILDING PRACTITIONER DISCIPLINE OUTCOMES					
BUILDING—COMPANIES					
Practitioner name	Registration Numr	Conduct	Result	Penalty (\$)*	Date#
Fernebuilt Pty Ltd	CDBU 51820	Failing to call for mandatory stage inspections (2 stages) in respect of a site at Glen Iris.	Reprimands and penalties of \$2,000.	\$2,000	21/07/2022
Balla Constructions Pty Ltd	CDBU 61210	Being in receipt of breach of dispute resolution order notice.	Reprimand and partial suspension of registration until compliance achieved.	–	11/08/2022
Dwell Group Pty Ltd	CDBU 52440	Building without a building permit in respect of timber and steel frames, etc, at a site in Malvern.	Reprimands, a penalty of \$5,000 and a requirement to complete a course of training.	\$5,000	17/08/2022
Central Steel Build Pty Ltd	CDBU 52836	Failing to call for mandatory stage inspections (3 stages) in respect of building work at Glenalbyn.	Reprimands and aggregate penalties of \$4,000.	\$4,000	23/08/2022
Watkins Building Group Pty Ltd	CDBU 61757	Being in receipt of breach of dispute resolution order notice.	Reprimand and partial suspension of registration until compliance achieved.	–	12/09/2022
A & M Family Homes Pty Ltd	CDBU 65514	Failing to call for a mandatory stage inspection in respect of a site at Epping.	Reprimand and a penalty of \$2,000.	\$2,000	27/09/2022
Fairbrother Pty Ltd	CCBU 57436; CBDL 57437; CDBU 57435	Failing to call for a mandatory stage inspection in respect of demolition at a site in Werribee.	Reprimand and penalty of \$2,000.	\$2,000	27/09/2022
Babo The Builder Pty Ltd	CDBU 63705	Failing to call for a mandatory stage inspection in respect of a site Noble Park.	Reprimand and a penalty of \$2,000.	\$2,000	29/09/2022
Gallery Homes Pty Ltd	CDBU 53131	Performing building work other than in a competent manner and to a professional standard, in relation to a site at Curlewis, by failing to call for a re-inspection of non-compliant framework and by continuing to progress construction substantially beyond frame stage.	Reprimand and a penalty of \$4,000.	\$4,000	18/10/2022



BUILDING PRACTITIONER DISCIPLINE OUTCOMES

BUILDING—COMPANIES

Practitioner name	Registration Number	Conduct	Result	Penalty (\$)*	Date
Concept Design Format Pty Ltd	CDBU 67131	Performing building work other than in a competent manner and to a professional standard, in respect of a site at Hadfield, by failing to call for a re-inspection of the frame and by progressing the works beyond the frame stage when directed not to do so by the relevant building surveyor and while directions to fix remained unfulfilled in respect of frame non-compliances.	Reprimands, aggregate penalties of \$5,000 and a requirement to complete a course of training.	\$5,000	04/11/2022
DBG Projects Pty Ltd	CCBL 57805; CDBU 67078	Failing to call for mandatory stage inspections (2 stages) in respect of a site at Caulfield.	Reprimands and aggregate penalties of \$3,000.	\$3,000	17/11/2022
City Central Homes Pty Ltd	CDBU 58347	Failing to call for mandatory stage inspections (2 stages) in respect of a site at St Albans.	Reprimands and aggregate penalties of \$3,000.	\$3,000	18/11/2022
Melway Bin Hire And Demolition Pty Ltd	CBDM 67569; CBDL 53662	Failing to call for a mandatory stage inspection in respect of demolition at a site in Richmond.	Reprimands, aggregate penalties of \$10,000, conditions on registration that nominee director complete a course of training and that the practitioner not have any new building permits for one month.	\$10,000	23/11/2022
Hallbuild Pty Ltd	CDBU 48690	Failing to call for a mandatory stage inspection in respect of demolition work at Balwyn North.	Reprimand and a penalty of \$2,000.	\$2,000	25/11/2022
Zoo Demolition Pty Ltd	CBDL 57147	Failing to call for mandatory stage inspections in respect of demolition work at sites at Ross Creek and Wendouree North (2 inspections at each site).	Reprimands, aggregate penalties of \$5,000 and a requirement to complete training.	\$2,500	05/12/2022



BUILDING PRACTITIONER DISCIPLINE OUTCOMES					
BUILDING—COMPANIES					
Practitioner name	Registration Number	Conduct	Result	Penalty (\$)*	Date
Hamlan Homes Pty Ltd	CDBU 52938	Failing to call for a mandatory stage inspection in respect of building work at a site in Ocean Grove.	Reprimand and a penalty of \$2,000.	\$2,000	13/12/2022
MM Built Group Pty Ltd	CDBU 63254	Failing to call for a mandatory stage inspection in respect of building work at a site in Greensborough.	Reprimand and a penalty of \$3,000.	\$3,000	14/12/2022
Borik Investments Pty Ltd	CDBU 48608	Failing to call for a mandatory stage inspection in respect of building work at a site in Ocean Grove.	Reprimand and a penalty of \$2,000.	\$2,000	19/12/2022
Phillips Constructions Pty Ltd	CDBU 50153	Failing to call for mandatory stage inspections (2 stages) in respect of a site at Noble Park.	Reprimand and a penalty of \$3,000.	\$3,000	19/12/2022
Independent Demolition Pty Ltd	CBDM 60974	Failing to call for a mandatory stage inspection in respect of demolition work at Pascoe Vale.	Reprimand and a penalty of \$2,500.	\$2,500	20/12/2022
Myers Construction Co Pty Ltd	CDBU 53893	Failing to call for a mandatory stage inspection and performing building work other than in a competent manner and to a professional standard, in respect of a site at Warragul.	Reprimands, aggregate penalties of \$4,500 and a direction to rectify building work.	\$4,500	22/12/2022

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 including 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

PROSECUTIONS	2020-21	2021-22	JUL – DEC 2021	JAN – JUN 2022	JUL – DEC 2022
Number of Building Prosecutions completed by VBA	22	11	2	9	3

In the first half of 2022–23, three building prosecutions were completed. Fewer prosecutions were completed by the VBA in 2021-22 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.

BUILDING PROSECUTION OUTCOMES JULY - DECEMBER- 2022

BUILDING—INDIVIDUALS

Accused name	Description of matter	Result	Penalty (\$)*	Date
TUITUPOU, Maria	Carried out building work when no building permit issued or in force; and, Carried out domestic building work under a major domestic building contract while unregistered.	Guilty plea, with conviction. Fined \$5,000.	\$5,000	15/08/2022
YANG, Dan	Carried out building work without a building permit relating to the construction of a deck at a commercial property.	Guilty plea, with conviction. Fined \$1,500.	\$1,500	22/08/2022

*Excludes costs.

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

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