

Report from the Board's Chair

2019-2020 Financial Year

Chairperson's Report



About the Building Appeals Board

The Building Appeals Board ('the Board') is an independent statutory body established under s 166(1) of the *Building Act 1993* ('the Act'). The Board must hear and determine any dispute referred or any application or appeal made to it under the Act or any other Act. This includes Part 14 of the *Residential Tenancies Act 1997*.

The Board is empowered to hear and determine matters including:

- 1) appeals in relation to
 - a) building and occupancy permits;
 - b) decisions of a municipal council concerning report and consent of siting matters;
 - c) building notices and orders;
 - d) directions to fix;
 - e) determinations as to the appropriateness of protection work.
- 2) disputes about matters relating to
 - a) protection work;
 - b) the building permit levy;
 - c) the application and effect of building regulations;
 - d) the construction of party walls;
- 3) applications for compensation arising out of protection work;
- 4) applications that a provision of the regulations does not apply or applies with the modifications or variations specified in the application; and
- 5) applications that a particular design of a building or an element of a building complies with the Act, the *Building Regulations 2018*, the Building Code of Australia or the Australian Standards.

Additionally, the Board recently expanded its jurisdiction to hear appeals of decisions made by municipal councils concerning swimming pools.

The Board is chaired by Mr Eric Riegler and comprises 51 members of varying disciplines and professions, who bring a range of expertise to the BAB. The Board considers a diverse range of increasingly complex matters including combustible cladding related proceedings.

The Board is mandated to proceed with as much expedition as the requirements of the Act and the Regulations and the proper consideration of the matter before it permit.

The past year

The past financial year commenced with a number of initiatives designed to improve how the Board processes applications and how people interact with the Board. Significant improvements have been made to the website, including the introduction of a 'chat' function to help people with queries. The Board has

also published a number of Practice Notes to assist in filing applications and preparing documents and evidence for use in hearings.

As is the case with other jurisdictions, March 2020 proved to be a challenging time for the Board as face-to-face hearings were discontinued with the onset of restrictions to combat the spread of COVID-19 virus. However, the Board continued to deliver on its mandate by rapidly transitioning to remote hearings, e-filing and the provision of registry services remotely. Since early March 2020, all hearings and mediations are conducted either through the Zoom® audio-conferencing platform or ‘on the papers’ if appropriate.

Despite the COVID-19 restrictions, the Board has continued to experience an increase in business this financial year with an almost four percent increase in commencements compared to the previous financial year and the number of finalised proceedings have increased by over 28 percent.

In this context, the Board has improved on its performance of progressing 70 percent of its proceedings in 2018-19 to final determination within six weeks of the final hearing date to over 80 percent of its proceedings in 2019-20.

In April of 2018 the Board began publishing more significant determinations on the Austlii website. Since then over 165 determinations have been published on that site, 70 of which were published in the last financial year. All determinations published on Austlii can be accessed here: <http://www.austlii.edu.au/cgi-bin/viewdb/au/cases/vic/VBAB/>.

Over the last financial year, in addition to reforms rolled out in response to the COVID-19 restrictions, the BAB has introduced several other reforms and enhancements to case management and the Board’s operations. These include:

- 1) Early and intensive case management of more complex matters;

- 2) The establishment of Users’ Group Meetings and ‘Stakeholder’ meetings;
- 3) Piloting of online applications; and
- 4) Further utilising mediation as a form of alternative dispute resolution.

Hearings in the last financial year

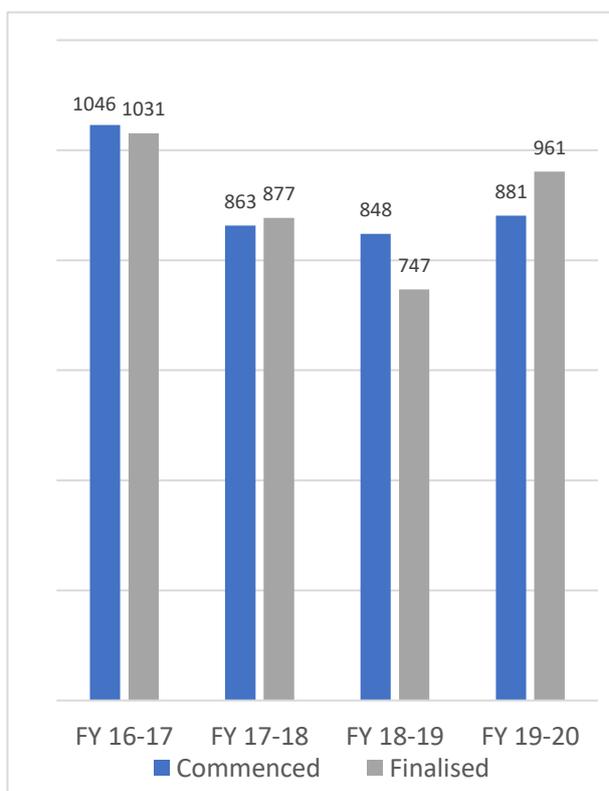
There was a total of 1,305 hearings before the Board in the 2019-20 financial year including oral and paper hearings, directions hearings, hearings in the form of site inspections, administrative mentions and mediations.

533 proceedings were heard and determined following one paper hearing only.

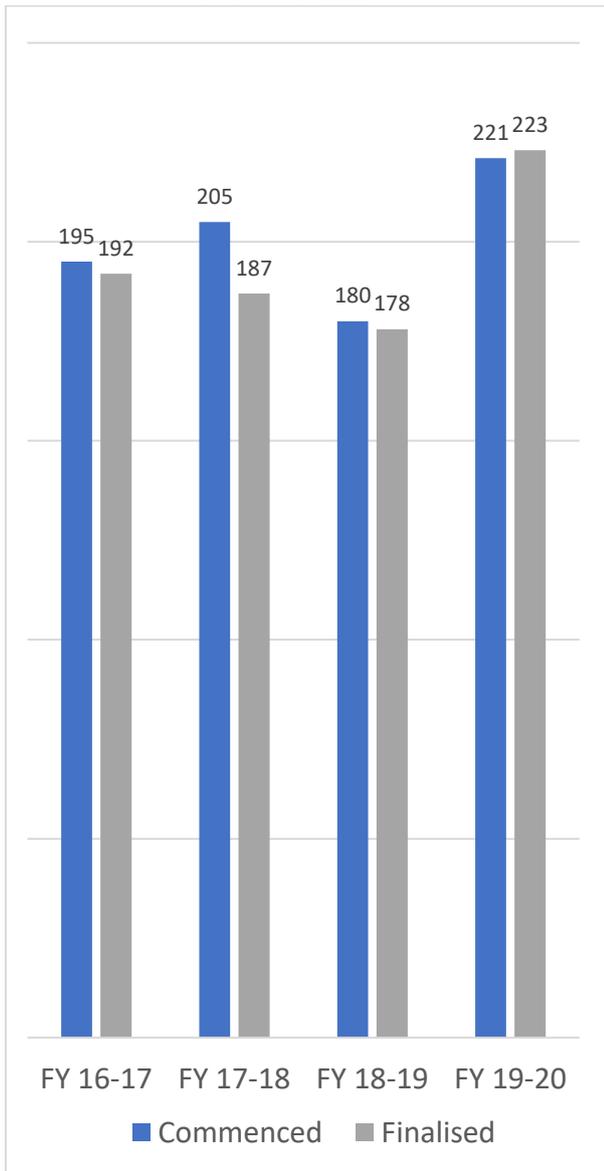
186 oral hearings were listed in 178 proceedings. A small number of proceedings had multiple oral hearings to enable the parties to file further material.

In addition to oral hearings there were 100 proceedings in which at least one directions hearing was listed.

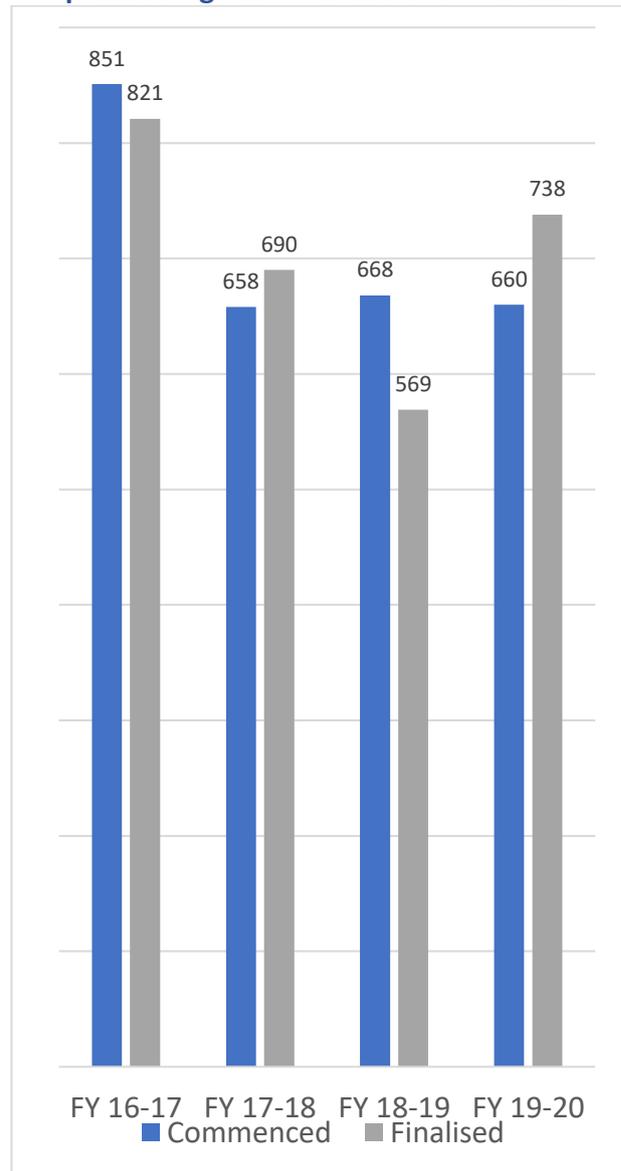
Proceedings - Commenced and finalised Total Proceedings commenced and finalised



Appeal and dispute proceedings commenced and finalised



Modification and compliance assessment proceedings commenced and finalised



Building
Appeals Board