



Report from the BAB's Chair

Financial Year 2024 - 2025

Building Appeals Board

A tribunal established under the
Building Act 1993 (Vic)



Chairperson, Eric Riegler

Chair's Report

About the Building Appeals Board

The Building Appeals Board (**BAB**), established under s 166 of the *Building Act 1993* (**Act**), is an expert and independent tribunal operating since the commencement of that Act in 1993.

Its jurisdiction is set out under Part 10 of the Act. Under that Part it is empowered to consider and determine proceedings. There are three types of proceedings that the BAB deals with. They are appeals, disputes and applications.¹

- 1) Appeals include appeals against decisions:
 - a) concerning building and occupancy permits;
 - b) of a municipal council concerning report and consent of siting matters;
 - c) to serve building notices and the making of building orders;
 - d) to give a written direction to fix;
 - e) as to the appropriateness of proposed protection work; and
 - f) of municipal councils declaring the date of construction of swimming pools;²
- 2) Disputes include disputes over:
 - a) matters in connection with protection work;
 - b) the building permit levy;
 - c) the application and effect of building regulations; and
 - d) the construction of party walls;³
- 3) Applications may be made:
 - a) for compensation arising out of protection work;
 - b) for a determination that a provision of the regulations does not apply or applies with the modifications or variations specified in the application; and
 - c) that a particular design of a building or an element of a building complies with the Building Act, the *Building Regulations*

¹ *Building Act 1993*, s 3(1).

² *Building Act 1993*, ss 138-149 (Divisions 1 & 2).

³ *Building Act 1993*, ss 150-158 (Division 3).

2018, the *Building Code of Australia (BCA)* or the Australian Standards referenced by the BCA.⁴

In the 24-25 financial year (**this period**) the BAB was chaired by Mr Eric Riegler, deputy chaired by Mr Stephen Lodge and comprised 49 members as at 30 June 2025. On 24 June 2025, the Governor in Council pursuant to s 166(2) of the Act, appointed 61 members to the BAB for a period of three years to commence their tenure from 1 July 2025. Apart from the Chairperson, all BAB members are sessional. The membership of the BAB comprises experienced professionals within the building, planning and construction sector and the legal profession. The BAB draws upon the extensive experience of its members to ensure that hearings are empanelled with members experienced in the subject matter of the proceeding and to ensure BAB decisions and the reasons for the decisions are concise, cogent, correct and expeditiously made.

The BAB is supported by a registrar and two deputy registrars. They lead the BAB's registry, which is staffed by experienced case and administration officers.

Access to Justice and Expedition

The BAB continued in this period as a fully digital and paperless tribunal and continues to hear most matters remotely and through online hearings (**eHearings**). Improving access to justice throughout Victoria, eHearings allow parties and witnesses to attend

and give evidence at hearings whilst remaining in their own homes or places of work. Given that many proceedings before the BAB involve persons who reside or work in regional and country Victoria, having the ability to appear remotely obviates the need to travel long distances to a physical hearing room in Melbourne. The BAB also provides interpreter services at no additional charge to the party requesting this service.

Holding eHearings also enhances the agility of BAB members to convene hearings at short notice wherever they may be located. Further, it allows the BAB to list more matters in any given period and increase the number of hearings without the reliance on physical hearing rooms. This aids expedition of BAB proceedings from commencement to finalisation.

Enhancing a paperless operation, the BAB uses an online filing system. Parties to proceedings can view in real time documents filed in their proceeding and can file documents in their proceeding online via this platform. It also provides e-hearing books that are hyperlinked, indexed and paginated.

Transparency

All our hearings are open to the public to attend and observe and as the hearings are held online, observing a hearing can be from the convenience of home or office or wherever an observer may be located anywhere in the world.

Where the parties to a proceeding are content to have the matter dealt with 'on the papers' and the BAB is satisfied that

⁴ *Building Act 1993*, ss 159-s160B (Division 5).

the proceeding is amenable to be dealt with 'on the papers' a hearing is dispensed with.⁵

All determinations made in appeal, dispute and compensation proceedings include written reasons for the determination. If a modification application is refused, findings or reasons for the decision are also usually provided. If reasons are not provided with the decision a party may, provided it is within one month after being served with the determination, request reasons and the BAB is required to provide those reasons without delay.

Legislative Amendments

Acting Chair

Assented to on 12 November 2024, the *Building Legislation Amendment and Other Matters Act 2024*, included by amendment to Sch 3 to the Act, the insertion of cl 5A. It provides:

...if the chairperson of the Building Appeals Board is absent or unable to act as chairperson, the deputy chairperson of the Building Appeals Board must carry out all the duties and may exercise all the powers of the chairperson while the chairperson is absent or unable to act as chairperson.

This was inserted to enhance business continuity and the ability of the BAB to deal with proceedings in the absence of the BAB chair.

Fee Reform

In this period, fees to commence a proceeding were increased significantly

following a regulatory impact statement⁶ and stakeholder consultation. The fee increase brought the tribunal more in line with other government entities where fee for service is more closely matched. However, to ensure access to justice is maintained, a new reg 274A of the *Building Regulations 2018* provides for a fee exemption if the person liable to pay the fee can demonstrate financial hardship. It provides:

- (1) A person is exempt from having to pay the whole or part of a fee payable to the building Appeals Board, which is prescribed under this Part, if any of the persons referred to in subregulation (2) is satisfied that payment of the whole or part of the fee will cause the person to suffer financial hardship.
- (2) For the purposes of subregulation (1), any of the following persons may decide that a person will suffer financial hardship if the person is required to pay the whole or part of a fee payable to the Building Appeals Board under this Part –
 - (a) the chairperson of the Building Appeals Board;
 - (b) the deputy chairperson of the Building Appeals Board;
 - (c) the Registrar of the Building Appeals Board.

Whilst achieving significant increased cost recovery, the commencement fees do not fully equate to the BAB's modest operating budget. Therefore, the shortfall in operating costs is drawn from the building account administered

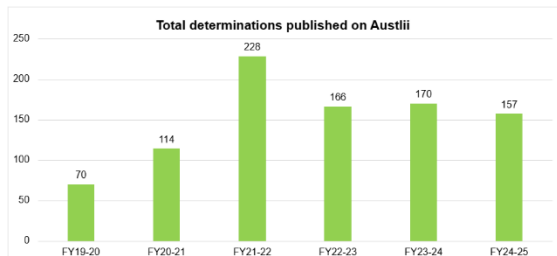
⁵ Building Act 1993, cl 15(1) of Sch 3.

⁶ [Department of Transport and Planning March 2024](#)

by the Building and Plumbing Commission.

The BAB's Determinations and their oversight

The AustLII website, 'Australia's online free-access resource for Australian legal information' has been publishing selected determinations with reasons of the BAB since 2018. There were 157 determinations published on AustLII in this period. Determinations that are published on AustLII are intended to inform Victorians on the BAB's jurisdiction, its decision-making and its reasons for those decisions. All determinations published on AustLII can be accessed [here](#). A determination may also be made available upon a request being made to the registry at no charge. 168 determination requests were actioned in this reporting period.



Determinations of the BAB are final and may be enforced in a court of competent jurisdiction.⁷ They are, however, subject to judicial review in the Supreme Court, which has the power to affirm or quash the determination as well as remit that decision to the BAB for reconsideration before a differently constituted panel. As of 30 June 2025, there was one extant Supreme Court appeal, being an application in the Court of Appeal made

by a party seeking leave to appeal a decision of the trial division which affirmed a determination of the BAB.

Overview – FY24-25

There were a total of 997 proceedings commenced in the BAB in FY24-25 and 1134 proceedings finalised in this period. Commencements were down compared to the more recent previous reporting periods. Part of this may be attributable to the fee increase on new commencements.

The number of appeals, disputes and compensation commencements was 310, which is down slightly compared to the previous reporting period of 346 ranked second highest when compared to the six most recent reporting periods. Finalisations of this proceeding grouping numbered 377.

Modification and compliance assessment commencements had decreased in numbers compared to the previous reporting period and finalisations were higher.

In case managing these proceedings, there were 2158 listings compared to 1950 in the previous reporting period. This included 63 mediations (compared to 31 in the previous reporting period); 277 directions hearings (compared to 233 in the previous reporting period); 453 in-person final hearings (compared to 273 in the previous reporting period) and 1132 'on the papers' listings (compared to 1198 in the previous reporting period). As is evident, all listing types trended upwards. Out of the 63 mediations convened, at least 19

⁷ *Building Act 1993*, cl 19 of Sch 3.

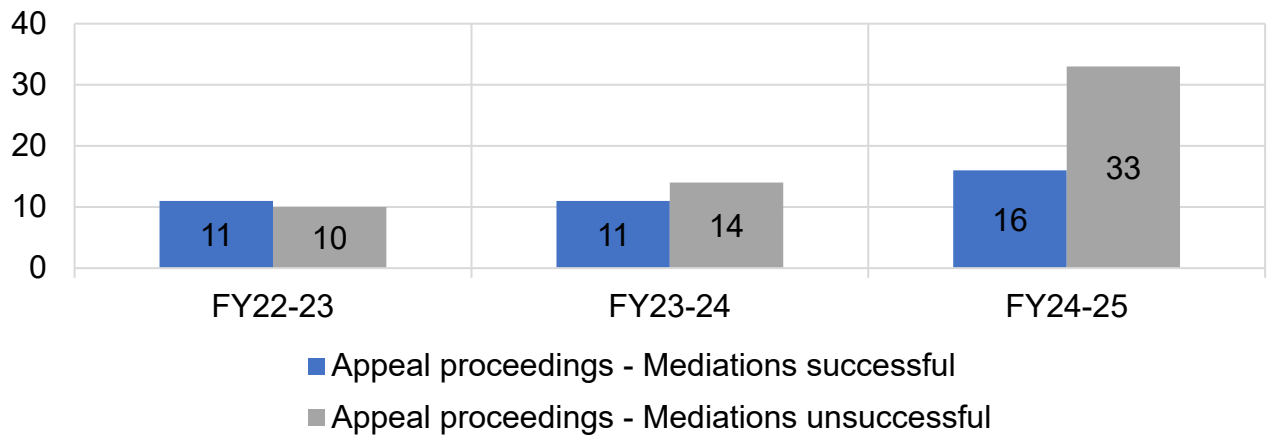
proceedings settled prior to reaching a final hearing.

Charts illustrating these numbers as well as charts illustrating other data sets are annexed to this report in Annexure A.

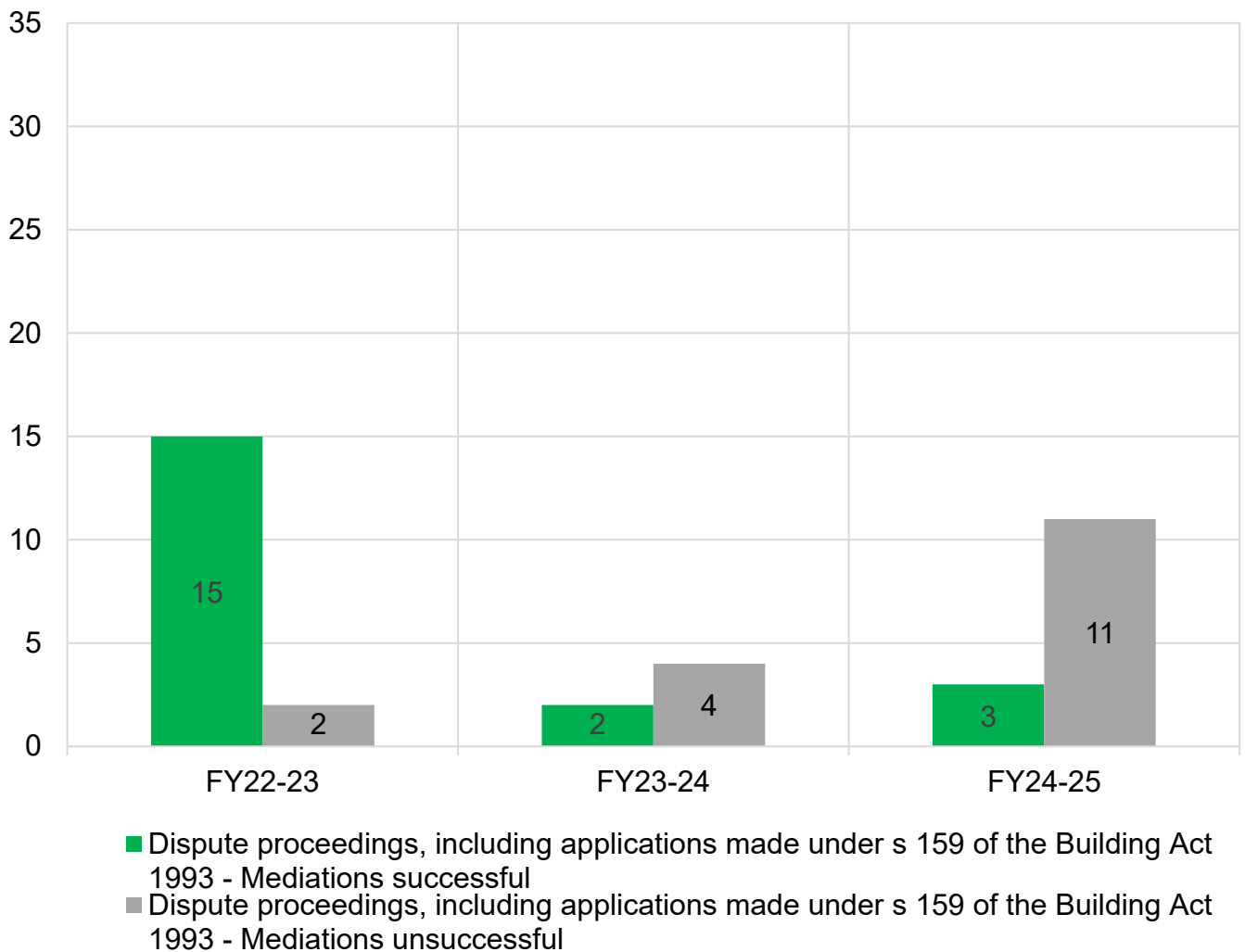
Chairperson of the BAB
Eric Riegler

ANNEXURE A

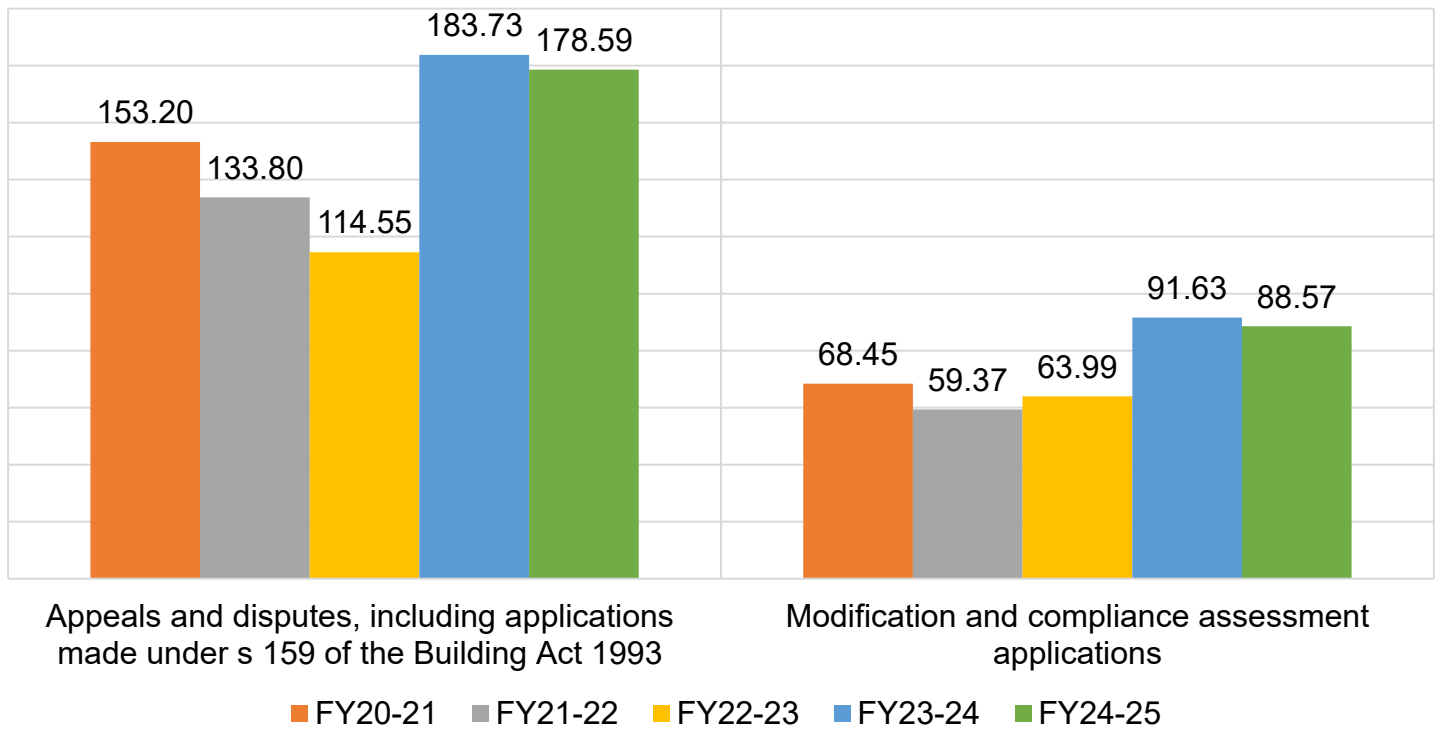
Mediations outcomes by type Appeals proceedings



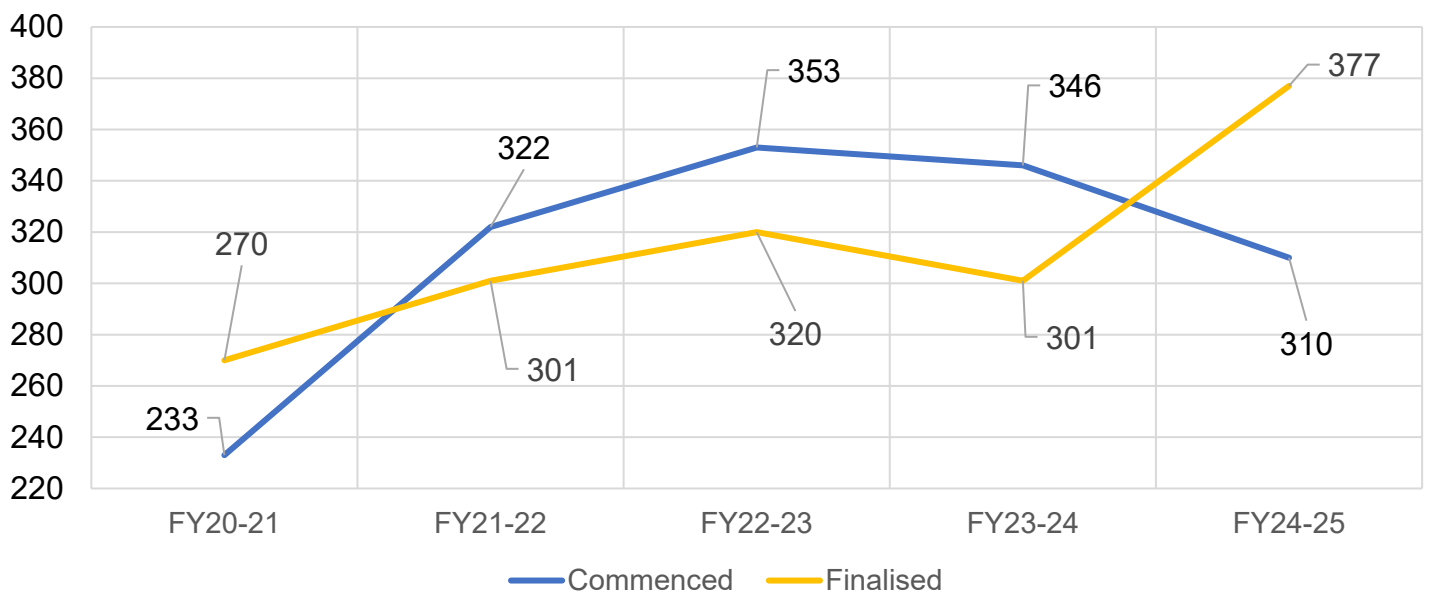
Mediations outcomes by type Dispute proceedings (incl. s159)



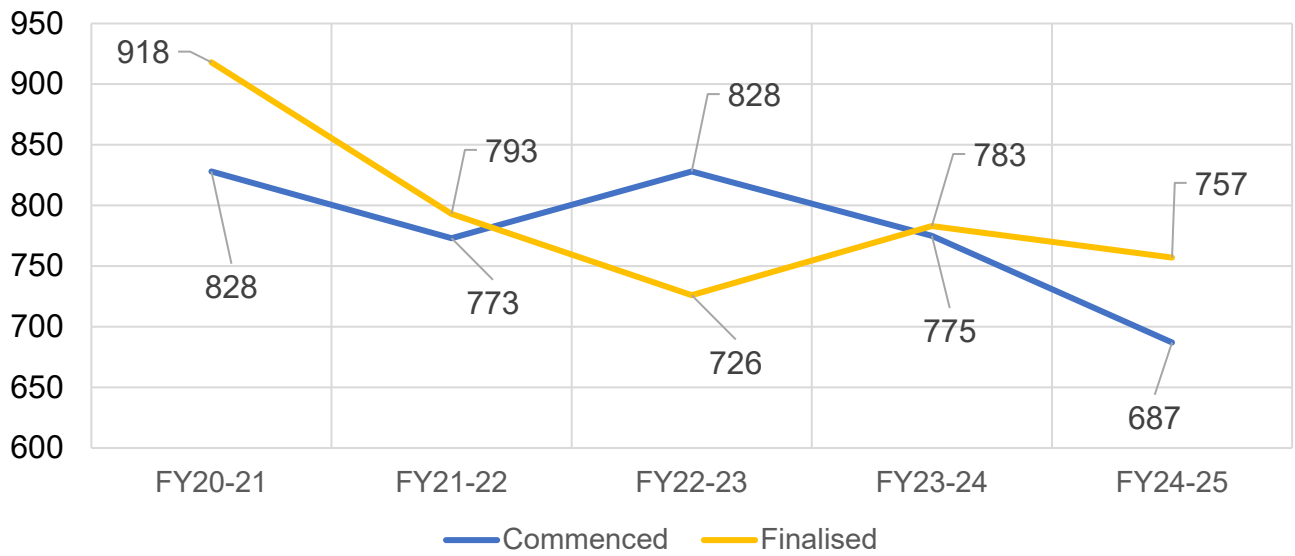
Average lifespan of proceedings from commencement to finalisation in days



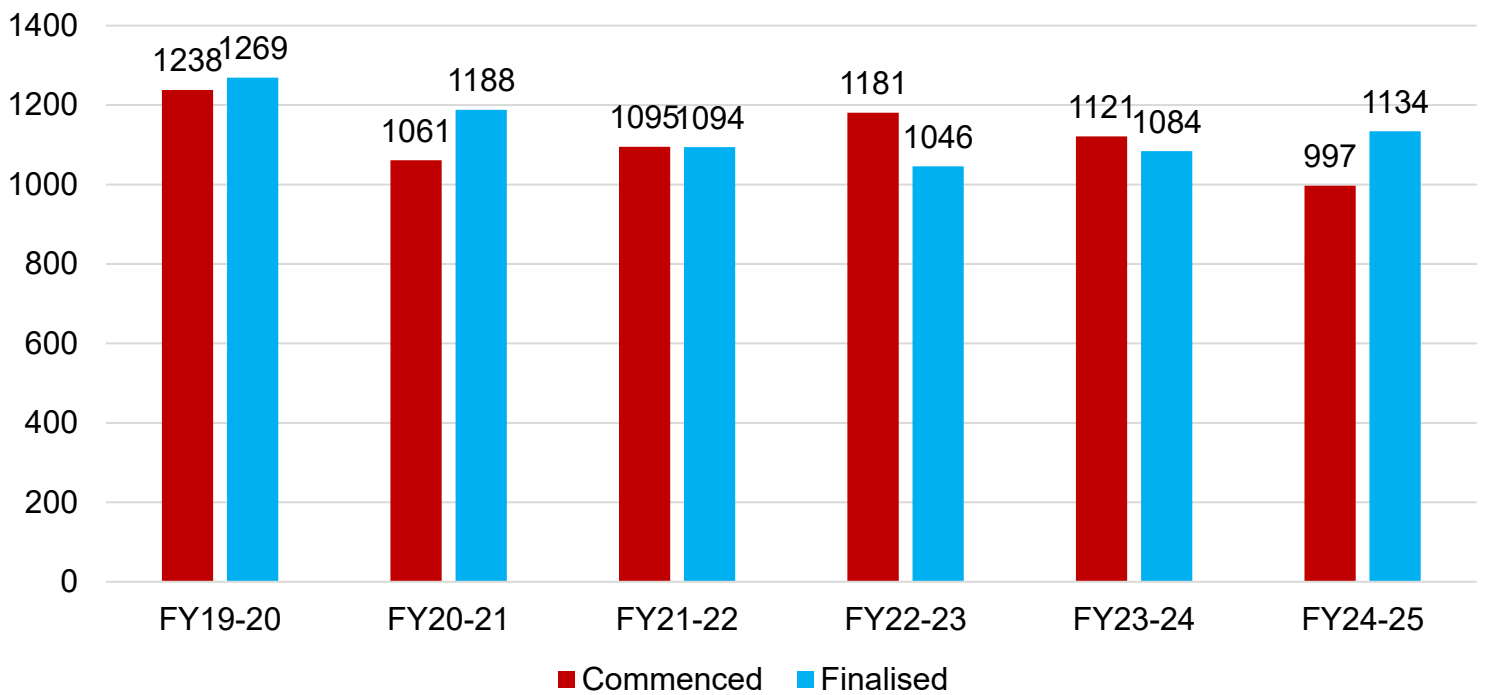
Proceedings commenced and finalised - Appeals and Disputes, including Applications made under s 159 of the *Building Act 1993*



Proceedings commenced and finalised - Modifications and Compliance Assessments



All proceedings commenced and finalised



FY24-25 - Listings

