

inform

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Building intelligence at your fingertips...

pulse^o
Intelligence from every angle



Commissioner's comments



The building industry is facing some significant changes and opportunities. Building activity is again at billion dollar levels, while issues relating to sustainability are demanding increasing attention.

On the domestic building front, Victoria will be the first state in Australia to introduce the 5 Star standard for all new homes, from July 2004. The standard combines energy efficiency and water saving measures. It is expected to produce more comfortable homes and reduced energy and water costs for residents, besides delivering significant environmental benefits.

The Building Commission, in partnership with the Sustainable Energy Authority and the Plumbing Industry Commission, is developing a package to inform consumers about the new requirements. This complements the industry roadshows held throughout the state last year informing building practitioners on how to implement the standard. In this edition an insert from *Inherit* is included. The March edition of *Inform* included a Residential Sustainability Measures technical information sheet, which is also available on our website, while the Practice Note for the 5 Star standard will shortly be released.

The commercial building sector also has a new means of addressing sustainability issues, the Green Star – Office As Built and Green Star – Office Interiors rating tools developed by the Green Building Council of Australia. Launched in April and June 2004 respectively, drive the change to healthier and more sustainable office environments. You can read more about Green Star applications on page 8.

A highlight of the last quarter for the Commission has been the launch of Pulse, featured in the leading article in this issue of *Inform*. Pulse is 'intelligence from every angle'. It has been developed by the Commission to provide easy access to data and analysis that can help all industry stakeholders make better decisions. The data has been gathered from local and national resources ranging from Consumer Affairs Victoria and WorkCover to the Australian Bureau of Statistics and research by the Building Commission.

Entries are rolling in for My Favourite Place, our competition to help Victoria celebrate the Year of the Built Environment – it's advertised regularly in the *Sunday Herald Sun*. My vote is for a certain sports stadium that's nearly as old as Melbourne, featured Victoria's first football game and cricket test and hosted the Olympics. Encourage your friends, families and colleagues to give it some competition! And spread the word further by putting the Year of the Built Environment sticker on your vehicle, also included in this edition of *Inform*.

A handwritten signature in black ink, appearing to read 'Tony Arnel'. The signature is stylized and written in a cursive-like font.

Tony Arnel
Building Commissioner



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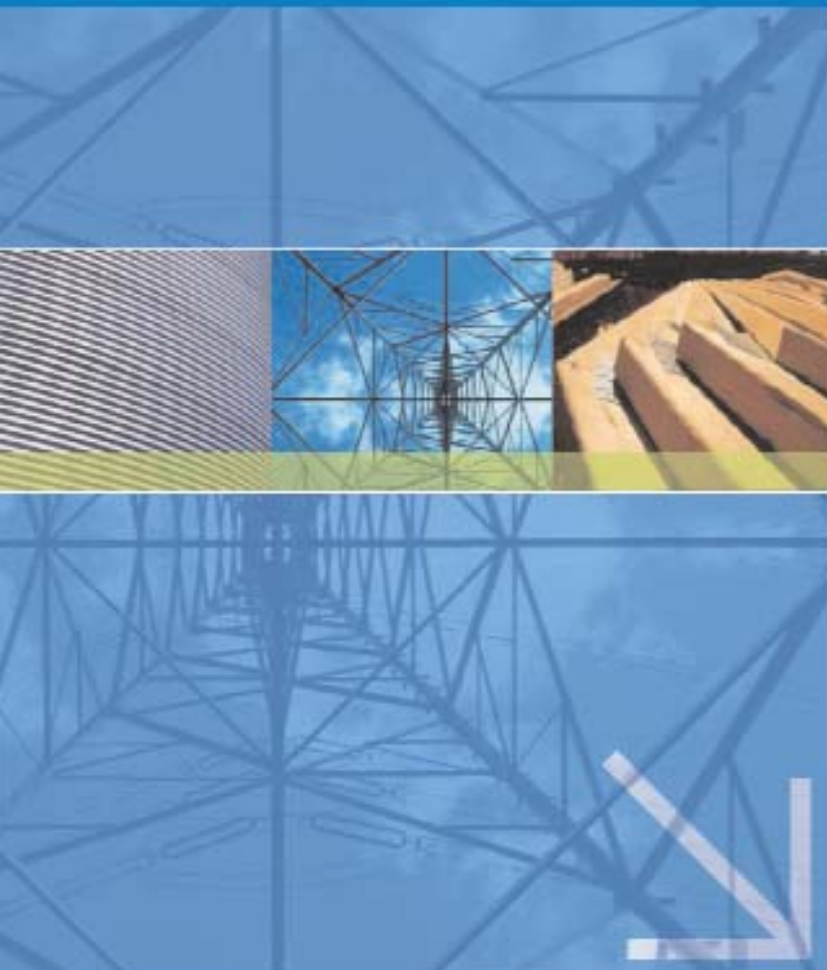
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pulse
intelligence from every angle

Building Intelligence 2003



The building industry employs 140,000 Victorians.

It is far too important to the Victorian economy to be relying on anecdotal or out-of-date information.

Facts at your fingertips

*All you wanted to know about the building industry
but didn't know where to ask*

Well now you do. Take yourself to the Building Commission home page on the internet www.buildingcommission.com.au, click on the 'Pulse' logo, and there it is. The most up-to-date information available on the Victorian building industry – or what Pulse calls 'intelligence from every angle'.

One angle covered is the use of IT in the industry. A search using Pulse reveals that 94 per cent of Registered Building Practitioners use computers in their businesses. That knowledge helped the Building Commission decide the principal vehicle for delivering its information treasure-chest. This same knowledge may also help you when communicating with other builders, suppliers and contractors, who may be more familiar with emails and IT than you thought.

Pulse is designed to give you easy access to the sort of information that can help you make better decisions. And if you're one of the six per cent of building practitioners who don't use the Internet, a summary of the Pulse information is also available in hard copy by calling 9285 6400.

How Pulse^o came to life

The Building Industry Summit 2001, was attended by industry associations including the Housing Industry Association and the Master Builders of Australia. It was agreed that to better manage the industry we needed better industry measurement. After the Commission consulted widely to determine what information would be of most use to the industry - the result was Pulse intelligence from every angle.

Pulse incorporates the latest facts and figures on 150 topics, provided by sources ranging from its own data, to the Victorian WorkCover Authority, Australian Bureau of Statistics and the Victorian Civil and Administrative Tribunal, as well as many more.

The 150 topics are set out under three major categories that reflect long-term building industry goals for Victoria:

- **quality building**
- **attractive industry**
- **satisfied customers**

Detail is provided on areas such as industry profit margins, consumer expectations and data on the quality of Victoria's Builders.

As well as these measures, Pulse offers expert commentary on issues such as current building levels throughout Victoria and the broader economic, social and environmental trends that impact on the industry.

It's free... for everyone

Pulse is interactive and available online 24 hours a day, seven days a week. Monthly updates and hot issue reports are distributed by email, fax or mail, and updates are also flagged on the home page of the Building Commission website.

Building Intelligence 2003, the first annual Pulse publication, is available online and in hard copy. It summarises the data, graphs, analysis and commentaries on the Pulse website.

Pulse also includes a monthly update called *Pulse today*. This is sent to registered users each month, highlighting the latest industry information.

There is no charge for accessing any part of Pulse. You can register online for *Pulse today* or, if you don't have internet access, call 9285 6400 to register for hard copy updates, and to receive your copy of the current edition of *Building Intelligence 2003*.

***"A search using Pulse^o
reveals that 94 per cent
of registered builders
use computers in their
businesses."***

Pulse° facts at your fingertips [continued]

Case study 1: Taking the Pulse° of... commercial building

As a Project Manager with a large commercial builder, Jane Brown needs to keep up with Work Cover and occupational health and safety issues. "They're important both from a cost perspective, and for checking we have the right procedures to keep staff safe and on the job," she says.

"Looking at Pulse provided me with a range of information I could use to benchmark our performance and identify areas where we need to

improve and those where we are ahead of the game. Most of this information either wasn't available before Pulse or came from so many different sources I had to spend weeks tracking it down.

"For instance, I found out that workers compensation insurance across the industry is about six per cent of payroll. I can compare this to our premium rates and consider whether we can negotiate a better deal.

"From Pulse I found that the rate of worker's compensation claims is on the decrease in the industry and is currently at 11.9 claims per 1000 workers. I then compared this to our company to determine how we rate."

Case study 2: Taking the Pulse° of... domestic building

John Smith wanted to know whether to expand his domestic building business into the Bass Coast Shire. "By looking at Pulse I saw that the Bass Coast had the second highest level of building activity in the Gippsland region, and that 85 per cent was in domestic work. So there's obviously plenty going on there!" he says.

"I also wanted to get an idea of what people think about the industry's future, not just people in big business, but people like me who are on the ground.

"Pulse told me that 60 per cent of all domestic builders expect the situation to improve or stay the same, and 61 per cent of people in rural Victoria

agree. Seventy-seven per cent of my rural builder peers think their profits will increase or stay the same in the next two years. So the weight of opinion is that the future looks good, which I couldn't have found out before Pulse."

Case study 3: Taking the Pulse° of... local government

(CEO of the Golden Plains Shire, Rod Nicholls) is using Pulse as a convenient source of the sort of information the Shire needs for decision-making and strategic planning. "Prior to Pulse, this data was not available from a central source," he says.

Building activity is one of the topics that interests Rod, because of its flow on effects for employment and infrastructure. "Pulse tells me that the average monthly level of building activity in Golden Plains in 2003 was

\$4.4 million, and these levels have continued – in March 2004 it was \$4.6 million.

"This is good news for the local economy, but we have to keep an eye on building levels in relation to the workload of our Building service team. Pulse reveals they are approving about 30 per cent of building permits by number and 18 per cent by value. If the level of activity continues to increase, we may need to plan for more staff in this area.

"Pulse also tells me that municipal Building Surveyors undertake about two weeks of training each year. We now know to assess our surveyors' level of training against these industry levels, to ensure they can keep up with their responsibilities. This information simply wasn't available before.

"I expect Pulse will be a valuable tool for supporting our commitment to the G21 initiative, an alliance of regional councils developed to address strategic issues affecting us all."

From anecdote to accuracy

"I expect Pulse to be widely accessed by building industry stakeholders from the boardroom to the building site," says Building Commissioner Tony Arnel, "because it provides the most up-to-date intelligence on the building industry, intelligence that allows investors, builders, businesses large and small and consumers to make better-informed decisions.

"It provides a shift from anecdotal evidence to decisions based on factual information."

And as Industrial Relations Minister Rob Hulls put it at the launch of Pulse on 27 April 2004, "The building industry employs 140,000 Victorians. It is far too important to the Victorian economy to be relying on anecdotal or out-of-date information."

Building up – drilling down

To make better business decisions you need reliable and up-to-date information. Pulse gives you the latest industry information that can help give you a competitive edge.

Use Pulse to help you look at an idea or a proposal from every angle before you decide to take actions that can affect your livelihood. And don't forget to let the Building Commission know if there are more topics you'd like to see included, or if you discover a valuable new source of information for the industry.

For more information on Pulse, visit www.buildingcommission.com.au and click on the Pulse logo, or phone (03) 9285 6400.

Quality building	Attractive industry	Satisfied consumers
<ul style="list-style-type: none"> Building standards Quality builders Practitioner integrity Building control Environmental performance 	<ul style="list-style-type: none"> Volume of work Profitability Industry structure Employment profile Working conditions technology@work Research and innovation 	<ul style="list-style-type: none"> Community perceptions Consumer expectations Disputes Consumer information
Economic	- Social -	Environmental



Fast facts from Pulse^o

- The building industry accounts for 5.8 per cent of state employment
- 76 per cent of consumers have a high level of satisfaction with their building project
- Registered practitioners do a week of continuing professional development a year
- 48 per cent of builders have a high understanding of environmentally sustainable design

How green is your building?



Deputy Premier, John Thwaites at the Green Star - Office As Built launch.

Tenants and owners of commercial buildings can now find the answer to that question, thanks to the Green Star – Office As Built rating tool launched by Deputy Premier John Thwaites at the end of April 2004, and the Green Star – Office Interiors rating tool launched in June by the US green building expert Huston Eubank in June 2004 for a two-month stakeholder consultation period. Developed by the Green Building Council of Australia (GBCA), the new product complements the Green Star – Office Design rating tool launched in late 2003.

"To build green you need to get the design right and Green Star – Office Design evaluates the design against a comprehensive range of environmental criteria. But while a certified Green Star design will be a valuable tool, the market – and especially tenants – will also want to see that the promise of the design has been realised in the construction and that is what Green Star – Office As Built

delivers," explains GBCA Executive Director, Maria Atkinson.

Mr Thwaites complimented GBCA on their work, saying that as a major tenant of commercial offices, the Government welcomed developments such as the Green Star suite of tools. He noted the Bracks Government's Commercial Office Building Energy Innovation Initiative was also helping to build greener offices, with developers and owners able to apply for matching grants of up to \$60,000 to build and refurbish premises in energy-saving ways.

"Our workplaces are a major contributor to greenhouse pollution, so it's important that government and the private sector work together to improve the quality of commercial buildings and reduce the impact on the environment," he said.

Building Regulation Advisory Committee

Each edition of Inform profiles one of our four associated statutory bodies. This edition we look at the role of the Building Regulations Advisory Committee (BRAC)

BRAC has two roles set out in the *Building Act 1993*. It provides advice to the Minister for Planning on draft building regulations and also accredits building products, construction methods and components or systems connected with building work. The Committee includes industry professionals with a range of backgrounds, such as building surveying, technical, architectural, engineering, legal and safety. BRAC is represented by organisations including the Melbourne City Council, the Royal Australian Institute of Architects, Engineers Australia, the Master Builders Association of Victoria, the Housing Industry Association, the Property Council of Australia, the Municipal Association of Victoria, and the Australian Institute of Building Surveyors.

The Committee considers proposed amendments to the *Building Code of Australia* (BCA), proposed Australian Standards referenced in the BCA and Victorian building regulation amendments.

BRAC also provides advice to the Building Commission on technical, administrative and regulatory issues. This can include responding to fire reports prepared by Metropolitan Fire and Emergency Services Board and Country Fire Authority, matters raised by other industry bodies and its members, as well as matters raised by other statutory bodies.

Assessing product accreditation applications against the performance requirements of the BCA is also the BRAC's responsibility.

BRAC has overseen the introduction of the amendment to the BCA relating to 5 Star energy provisions for new dwellings and apartments in Victoria. They have

also had involvement in the development and publication of a practice note on these new innovative energy efficiency measures.



BPB inquiry decisions

1/12/2003 to 28/2/2004

DAVID NEIL TRIMBLE, Yarragon

Reg No. V1-1031

Decision – Reprimand, Fine \$1,500 & Costs \$250

The practitioner is registered as an erector of temporary structures. This inquiry was conducted as a result of the partial localised collapse of a temporary grandstand at the Ballarat Federation Tattoo in 2001. The practitioner pleaded guilty to three allegations that he failed to carry out his work in a competent manner and to a professional standard contrary to regulation 15.2 of the Building Regulations 1994 by virtue of the following conduct:

As the sole director of the company (AAA Seating Hire Pty Ltd) that erected the temporary structure, the practitioner had a pecuniary interest in the building work and yet he issued a Form 14 'Certificate of Compliance – Inspection' for the structure.

Furthermore the structures were not in good repair and working order and had not been constructed to provide for their structural safety and the safety of the public and other persons using them.

GEOFFREY MARRIOTT, Garfield

Reg No. DB-U 10920

Decision – Reprimand, Fine \$250 & Costs \$200

The practitioner is a registered domestic builder and these allegations arose from building work he carried out in Warragul South in 2000. The practitioner pleaded guilty to four allegations that he failed to carry out his work in a competent manner and to a professional standard contrary to regulation 15.2 of the *Building Regulations 1994* by virtue of the following conduct:

He did not provide a written major domestic building contract to the owner contrary to section 31(1) of the *Domestic Building Contracts Act 1995*, and he demanded more than 5% of the contract price as a deposit before starting work on the project contrary to section 11(1)(a) of the same Act.

Furthermore he carried out defective building work at the site and installed a roof to the extension that did not meet the requirements of the relevant planning permit.

ROBERT SERAPIGLIA, Noble Park

Reg No. BS 14734 & IN-U 14916

Decision – Reprimand, Fine \$2,500 & Costs \$500

The practitioner is a registered building surveyor and these allegations arose from conduct during his employment as a building surveyor with the Melbourne Certification Group (a business unit of the Melbourne City Council). The practitioner pleaded guilty to an allegation that he was guilty of unprofessional conduct in that he stole \$169,871 from his employer in 2000.

BERNARD MATHEW NOY, Apollo Bay

Reg No. DB-U 15583 & CB-U 4437

Decision – Reprimand, Fine \$750 & Costs \$250

This inquiry was conducted as a result of the demolition of a dwelling in Apollo Bay in 2000. The practitioner pleaded guilty to one allegation that he demolished the dwelling when a building permit had not been issued for the work contrary to section 16(1) of the *Building Act 1993*. He also pleaded guilty to two allegations that he failed to carry out his work in a competent manner and to a professional standard contrary to regulation 15.2 of the *Building Regulations 1994* by virtue of the following conduct:

He carried out the demolition when he was not registered as a demolisher and he removed asbestos during the

demolition process when he was not an approved asbestos removalist.

RICARDO PEROOMAL, Point Cook

Reg No. DB-U 10737

Decision – Reprimand

This inquiry was conducted as a result of the practitioner bringing these offences to the Board's attention on his own initiative. The practitioner pleaded guilty to an allegation that as a director of T & S Restorations Pty Ltd he allowed the company to carry out domestic building work at Newport in 1999 under a major domestic building contract when not covered by the required insurance contrary to section 136(2) of the *Building Act 1993*. He also pleaded guilty to an allegation that as a director of T & S Restorations Pty Ltd he allowed the company to carry out domestic building work at five sites between 2000 and 2002 under a major domestic building contract when none of the directors were registered contrary to section 176(2A) of the same Act.

MICHAEL SHEVCHUK, Ivanhoe

Reg No. DB-L 1349 (susp)

Decision – Reprimand, Fine \$250 & Costs \$250

At the time of this conduct the practitioner was registered as a domestic builder - limited. This inquiry was conducted as a result of the construction of a verandah in Rowville in 1999. The practitioner pleaded guilty to one allegation that he constructed the verandah when a building permit had not been issued for the work contrary to section 16(1) of the *Building Act 1993*. He also pleaded guilty to one allegation that he failed to carry out his work in a competent manner and to a professional standard contrary to regulation 15.2 of the *Building Regulations 1994* by virtue of the fact that the contract he provided did not contain all of the elements required by section 31(1) of the *Domestic Building Contracts Act 1995*.

Prosecutions

1/10/2003 to 28/2/2004

GRAHAM COCKS, Bright (BS 1200)

Date of Offences:

December 2000 – June 2001

Date of Prosecution:

3 November 2003

The defendant was the relevant building surveyor in relation to a number of projects in Porepunkah, Bright and Wandiligong.

The defendant pleaded guilty before Magistrate Riordan to 6 charges of failing to give the Alpine Shire Council a copy of the building permit and associated documents within 7 days of issuing the building permit, contrary to section 30(1) of the *Building Act 1993*.

In sentencing the defendant, His Worship commented that the requirement for permits to be given to the relevant council was necessary for the regulation of government.

His Worship adjourned the matter on the condition that the defendant enter into a 'good behaviour bond' for a period of 12 months and pay \$600 to the Court Fund. The defendant was also ordered to pay Commission's costs in the amount of \$1,742.42.

EWERT CONSTRUCTION COMPANY Elsternwick

Date of Offences:

January 2001 to March 2002

Date of Prosecution:

18 December 2003

At the relevant time the sole director of this company was Geoffrey Ewert.

In July 2001, the Defendant Company was engaged to carry out the construction of a carport and internal renovations to a dwelling in Brighton East.

The Defendant Company was charged with 3 offences against the *Building Act 1993* arising out of its involvement in the above building work:

- carrying out building work without a building permit, contrary to section 16(1);
- carrying out domestic building work under a major domestic building contract without being covered by the required insurance, contrary to section 136(2); and
- providing false information to a building surveyor, contrary to section 246 being that the company was suitably registered to carry out the work to which it had contracted.

The Defendant Company appeared before Magistrate Wilson and pleaded guilty to all charges.

His Worship fined the Defendant Company an aggregate of \$2,500, with conviction, on all charges and ordered it to pay the Commission's costs in the amount of \$2,190.

In imposing this penalty, His Worship took into account that:

- the Company was willing to continue working at the site to ensure that the carport was structurally sound;
- the Defendant Company had no similar prior convictions; and

the Defendant Company had pleaded guilty at the earliest opportunity.

JAMES GRAY, Golden Square (Unregistered)

Date of offences:

1 December 1999 to

31 December 2000

Date of prosecution:

1 December 2003

The defendant is not and has never been registered as a building practitioner.

Between December 1999 and December 2000, the defendant constructed an extension to a dwelling at Lockwood South and dwelling at Beaconsfield. The contract price for the building work at Lockwood south was \$17,400. The contract price for the work at Beaconsfield was \$130,000.

On 1 December 2003, the defendant appeared before Magistrate Bolster and pleaded guilty to 4 charges against the *Building Act 1993*.

- holding himself out as being qualified to practice as a building practitioner when not registered, contrary to paragraph 176(1)(d), in relation to both sites;
- carrying out domestic building work under a major domestic building contract when not registered, contrary to sub-section 176(2A), in relation to both sites;
- carrying out domestic building work under a major domestic building contract without being covered by the required insurance, contrary to sub section 136(2) in respect of the Beaconsfield site.
- making an application for a building permit on behalf of the owner when not authorised in writing to do so, contrary to sub section 248(1), in respect of the Beaconsfield site.

In sentencing the defendant, the Magistrate took into account the significant maximum penalties provided for the offences and the need for general deterrence. He noted the prosecution's submissions that whilst the defendant's conduct was not at the most serious end of the scale, it involved not insignificant breaches of the legislation at 2 sites. He was satisfied that the matter was too serious for an adjourned undertaking (which the defendant had sought) and that conviction was called for. However, he reduced the fine he would otherwise have ordered in view of the quantum of costs.

The defendant was convicted and fined an aggregate of \$3,000 on all charges and ordered to pay the Commission's costs of the prosecution in the sum of \$5,400.

TRAVIS CONNORS, Doncaster East (Unregistered)

Date of offences:

12 November 2000 to April 2001

Date of Prosecution:

10 February 2004

In August 1999, Ausland Developments Group Pty Ltd entered into a contract with TJC Developments pursuant to which TJC Developments was to construct 9 residential units at 1-7 Amstel Street, Craigieburn. TJC Developments was a business operated by Connors Funslow Pty Ltd, a company of which the defendant was a director. The defendant was directly involved in the construction of the units. The contract price was \$702,000 and the contract was therefore a major domestic building contract as defined in the *Building Act 1993*.

The defendant was registered by the Building Practitioners Board as a domestic builder until 19 October 2000, when his registration was suspended pursuant to sub-section 172(3) of the *Building Act 1993* (Act).

Notwithstanding that his registration was suspended from 19 October 2000,

the defendant continued work on the units until April 2001. He completed the fixing and final stages of units 5 to 7. He completed the frames for units 8 and 9, largely completed the lock up stage and began the fixing stage of those units. When he ceased work on the project in April 2001, units 8 and 9 were still incomplete.

The defendant pleaded guilty before Magistrate Cashmore in the Heidelberg Magistrates' Court to one charge of carrying out domestic building work under a major domestic building contract when not registered, contrary to sub-section 176(2A) of the Act.

The defendant was fined \$750 without conviction and ordered to pay the Commission's costs in the sum of \$2,000.

In sentencing the defendant, the magistrate took into account:

- the fact that the defendant was completing a job that had been started before his registration was suspended;
- the project was covered by insurance;
- the defendant had no prior convictions (although he had only been working as a builder for 3 years prior to the offence) and had not come to attention again since;
- the plea of guilty;
- the fact that the defendant made admissions when first confronted with the allegation in October 2002;
- the delay since the commission of the offence;
- the importance of the registration scheme.

GARY WARREN, Malcoota Registered (DB-L 20919)

Date of Offences:

May 2001 to April 2002

Date of Prosecution:

26 February 2004

In early 2001, Warren was engaged to make alterations to a holiday house in Malcoota and build an extension.

He was not registered as a building practitioner and did not hold the required insurance at any time while he was carrying out work on the house. He carried out part of the work before a building permit was issued.

He was charged with:

1. carrying out building work without a building permit, contrary to sub-section 16(1) of the *Building Act 1993* (Act);
2. carrying out domestic building work under a major domestic building contract without the required insurance, contrary to sub-section 136(2) of the Act; and
3. carrying out domestic building work under a major domestic building contract when not registered, contrary to sub-section 176(2A) of the Act.

The charges were heard before Mr Hill M in the Orbst Magistrates' Court on 26 February 2004. Warren pleaded guilty to all the charges. He was fined an aggregate of \$1,000 without conviction and ordered to pay costs of the prosecution in the sum of \$600.

Prosecutions [continued]

1/10/2003 to 28/2/2004

JOHN GRUNDEN, Mallacoota Registration Suspended (DP-AD)

Date of Offences:

August 2001

Date of Prosecution:

26 February 2004

In early 2001, Grunden was engaged to prepare plans for proposed alterations and extension of a holiday house in Mallacoota.

Grunden applied for a building permit for this work on behalf of the owners of the holiday house. In doing so, he did not obtain the owner's written authorisation to apply for the building permit. As a result, Grunden was charged with an offence against section 248(1) of the *Building Act 1993*.

Grunden pleaded guilty to this charge before Magistrate Hill.

After hearing a lengthy plea on Grunden's behalf, His Worship adjourned the charge against Grunden for a period of 6 months on the condition that he remain of good behaviour during that period. He made no order as to costs.

In making these orders, His Worship took into account the submission that Grunden had made efforts to reform his behaviour and also the behaviour of other similarly qualified practitioners in Mallacoota

DARRYL MINNE Horsham (Unregistered)

Date of Offences:

July – September 2001

Date of Prosecution:

22 October 2003

The defendant was a commercial builder unlimited from 10 October 1995 to 14 September 2000. At the time of the offence the defendant was not registered.

In July 2001, the defendant's company Minne Bros. Ltd was engaged to carry out renovations to a sunroom at a property in Horsham. The defendant commenced carrying out the building work shortly afterwards.

The defendant appeared before Magistrate McDonald and pleaded guilty to 3 charges against the *Building Act 1993*:

- carrying out building work without a building permit, contrary to section 16(1); and
- carrying out domestic building work under a major domestic building contract without:
 - being covered by the required insurance, contrary to section 136(2); and
 - being registered contrary to section 176 (2A).

His Worship sentenced the defendant to pay an aggregate fine of \$5,000, with conviction, on all charges. The defendant was also ordered to pay the Commission's costs in the amount of \$2,654.80.

In sentencing the defendant, His Worship expressed concern about the blow-out in the contracted price from \$5,472.50 to \$31,567 and rejected the defendant's claim that he believed that his HIA membership 'covered everything.' His Worship also emphasised the need for home owners

to engage registered building practitioners and to be assertive in asking builders about their registration, insurance and permits.

PETER SCOTT Kilsyth (Unregistered)

Date of Offences:

July – November 2000

Date of Prosecution:

2 October 2003

The defendant is not and never has been registered as a building practitioner.

In July 2001, the company of which the defendant was a director was engaged to construct a dwelling at a site in Chirnside Park. The defendant was charged with 2 offences under the *Building Act 1993* arising from the company's involvement in this building work.

The defendant appeared before Magistrate Hassard and pleaded guilty to the 2 charges.

- Carrying out domestic building work under a major domestic building contract without being covered by the required insurances, contrary to section 136(2) of the Act;
- Knowingly providing false information to a person carrying out a function under the Act (the relevant building surveyor) by stating that the required insurance was in place for the building work.

In sentencing the defendant, His Worship accepted that the defendant had not committed the offences willfully, in that he had not been aware that the insurance policy that had been obtained for the building work had been cancelled.

The Magistrate fined the defendant \$500 on each charge, without conviction. The defendant was also ordered to pay the Commission's costs in the amount of \$2,500.00.

RICHARD LESLIE SPARKS

Toorak

MARONELLE PTY LTD

Frankston (Unregistered)

Date of Offences:

May 2001 to November 2001

Date of Prosecution:

16 October 2003

In May 2001, the owner of a dwelling in Kew engaged Maronelle Pty Ltd to carry out renovations to the dwelling. Richard Sparks was, at the relevant time, a director of the Company.

The Company and Sparks were charged with and pleaded guilty to 6 charges against the *Building Act 1993*:

- carrying out building work without a building permit, contrary to section 16(1);
- carrying out domestic building work under a major domestic building contract without being covered by the required insurance, contrary to section 136(2);
- holding out as being covered by the required insurance, contrary to Section 137;
- holding out as being qualified to practice as a building practitioner, contrary to section 176(1)(d);
- carrying out domestic building work under a major domestic building contract without being registered under Part 11 of the Act, contrary to section 176(2A); and
- applying for a building permit without being authorised in writing by the owner of the site to do so, contrary to section 248.

The matter was heard by Magistrate Curvich who, after hearing the defendant's plea in mitigation, adjourned the matter against each defendant for 12 months on the condition that the defendants undertook to be good behaviour in the meantime and that they each paid \$800 and the Commission's costs totalled \$1600.

In sentencing the defendants, His Worship noted that:

- Sparks had been a carpenter for 19 years;
- neither defendant had previously engaged in structural renovations or installations of kitchens;
- the offences were committed as a result of ignorance and were not a calculated attempt to breach the law;
- neither defendant had previously come before the Court;
- neither defendant was of a 'shady' character; and
- there was a de facto penalty imposed in the payment of costs.

The Building Practitioners Board is reminding RBPs of two potential pitfalls that could put their registration at risk:

- **improper conduct by their building company or employees**
- **the practise of "lending" registration to other practitioners.**

Under Victorian legislation any company in the business of building must have at least one of its principals (Company Director or Partner) registered with the Building Practitioners Board in the relevant registration category. However, this means that the practitioner as the registered person is largely responsible for the actions of their companies or employees.

"The Building Practitioners Board registers individuals not companies, so if a company undertakes illegal building work or operates improperly, it is the individual practitioner who will be held accountable by the Board," cautioned Carolyn Lloyd, Chair of the BPPB.

Another risk to registration is when an RBP "lends" their registration to an unregistered building practitioner, without controlling or supervising the work. If brought before the board this improper conduct could result in the cancellation of the practitioner's registration.

"Registrations are non-transferable and RBPs are responsible for their personal registration, any work that is carried out under that registration needs to comply with the regulations," Carolyn Lloyd stated.

Building practitioners are assessed to ensure that they have the appropriate skills, knowledge and experience to carry out their duties. Having employees on site that are registered builders is the most practical way to ensure work carried out on site is done to a quality standard and reduces the company and the practitioner's exposure to risk.

New insurer for Victorian builders

The changes to the domestic building insurance market introduced in New South Wales and Victoria in July 2002, are providing certainty and restoring confidence in the market sector. This is evidenced by the fact that there are now four providers.

The domestic building insurance market expanded following the entry of CGU Insurance Limited into the market on 18 May 2004. CGU joins Vero (formerly known as Royal Sun Alliance), Australian International Insurance Ltd, and Great Lakes Reinsurance (administrator of

Rewards existing clients & underwriter), in providing domestic building insurance to the Victorian marketplace.

Small builders with a turnover of up to \$2.5 million per annum are the first sector of the market that CGU are targeting.

CGU domestic building insurance distribution will initially be limited to brokers endorsed by the leading building industry associations.

CGU's parent company, Insurance Australia Group is the largest general insurance group in Australia and New Zealand, with annual gross written premiums of \$6 billion and over 11 million active policies across Australia. It provides personal and commercial insurance products under brands including NRMA Insurance, SGIO, SGIC, CGU, and Swann Insurance.

For more information on domestic building insurance, please visit the Building Commission's website at www.buildingcommission.com.au.

Sunsetting regulations project update

The Subordinate Legislation (*Building Regulations 1994 - Extension of Operation*) Regulations 2004 were made on Tuesday 18 May 2004. These Regulations extend the operation of the *Building Regulations 1994* beyond their sun-setting date of 14 June 2004.

The extension will allow completion of the work being undertaken on the sun-setting project. It is anticipated that this should be concluded within the next few months.

To access a copy of the new Regulations that extend the operation of the *Building Regulations 1994*, please visit www.buildingcommission.com.au.

For further information on the proposed new *Building Regulations 2004* please contact Dennis Hogan, Manager, Technical and Research Services on (03) 9285 6484.

Opportunity to review security of payment legislation

On 31 January 2003, the Victorian *Building and Construction Industry Security of Payment Act 2002* came into effect. This legislation was introduced by the Government to protect building and construction contractors from poor payment practices.

The security of payment scheme has been well received by the building and construction industry in Victoria. However, a review of the Victorian Act is necessary to address emerging issues affecting the operation of the Act and to take advantage of opportunities for refinement that have been identified since the statutory scheme commenced operation.

The Building Commission is conducting a review of the *Victorian Security of Payment Act 2002* with

the aim of delivering a more robust, effective and streamlined security of payment scheme.

An Options Discussion Paper is being broadly circulated to industry participants in order to canvass their views. It will result in a Final Report being forwarded to Government before the end of 2004 outlining recommendations for amendments to the Victorian Act.

To receive your copy of the Options Discussion Paper, please contact Lisa Arnaud at the Building Commission on (03) 9285 6403 or visit www.buildingcommission.com.au.

You can provide feedback on the paper using the electronic response form available on the Building Commission website.

Building Code of Australia (BCA) Edition 2004



The 2004 edition of the *Building Code of Australia* (BCA 2004) has recently been published. It is available from the Australian Building Codes Board in a newly formatted soft cover publication as well as a new fully featured internet version.

BCA 2004 contains a number of changes from BCA 1996. The Building Commission recommends that you read the provisions and become acquainted with them. A summary of the new provisions in BCA 2004 is provided on the Building Commission website www.buildingcommission.com.au.

Should you have any queries regarding the proposed changes please contact Technical and Research Services on telephone 1300 360 380 or email publicrelations@buildingcommission.com.au



My Favourite Place Competition

The Year of the Built Environment 2004 (YBE 2004) is an opportunity for Australians to celebrate the places in which they live, work and play. It is also an opportunity for the community to recognise the value of buildings and their place in the environment.

The latest YBE 2004 activity that is gaining momentum is Victoria's My Favourite Place Competition. Launched in the *Sunday Herald Sun* on 23 May and featured in that paper over subsequent weeks, the competition invites every Victorian to nominate their favourite place. It may be a local attraction, Melbourne icon or your latest building project.

The place with the most nominations in each municipality will be the local winner. Regional winners will be selected from the local winners, followed by the state winner of Victoria's Favourite Place. The state winner will be the regional winner with the highest number of nominations.

Entrants go in a monthly draw to win one of three Motorola V300 mobile phones with integrated camera. Entries can be submitted on entry forms available through the *Sunday Herald Sun*, local councils and the YBE 2004 website, www.ybe2004.vic.gov.au. Competition closes 24 July 2004.



Year of the Built Environment 2004
TOWARDS SUSTAINABLE COMMUNITIES

inform

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