

## Exiting the industry – Private building surveyors

Building surveyors uphold and enforce building standards by carrying out their functions and duties under the *Building Act 1993* (the Act).

If you are a private building surveyor seeking to exit the industry, you must finalise all outstanding work, where possible.

The VBA must also consent to your surrender of registration, but may refuse to do so if you have outstanding obligations.

### Planning for retirement

If you are thinking about retiring, please plan ahead. Exiting the industry takes time, so allow at least 12 months to finalise your commitments and wind up your business.

### Managing your workload

Think carefully before taking on new work once you decide to leave the industry, as record management obligations apply (see below).

Ideally, building surveyors should not take on any new work in the period leading to their exit from the industry. This ensures there is enough time to finalise or transfer any outstanding building permits.

### Responsibilities to clients

Private building surveyors must continue to manage their responsibilities and obligations as a registered practitioner under the Act.

Well before exiting the industry, private building surveyors should:

- obtain a list of their open permits from the VBA and correct any errors;
- ensure that all documentation held by Council is up to date and correct;
- communicate with clients to assist them with finalising their building work;
- finalise all outstanding permits, where practicable;

- [transfer their functions](#) to another building surveyor by agreement or advise clients to seek [termination of their appointment](#); and
- seek VBA consent to surrender their registration.

### Communicating your intentions

Private building surveyors should inform clients, builders and anyone they have a contract with that they are intending to leave the industry.

Owners should also be informed about the actions they must take to finalise their building work.

Where work cannot be finalised, private building surveyors should assist clients by transferring their functions to an alternative building surveyor if all parties agree to this.

### Finalising lapsed permits

Private building surveyors cannot issue an occupancy permit or certificate of final inspection for a particular project once that project's building permit has lapsed.

If building work is not complete, a new permit must be issued before work can continue.

If a client decides not to continue with their building work after their permit has lapsed, they should contact the VBA, who will record their decision as a "deemed termination of the project".

If the client later decides to continue their building work, they should terminate the appointment of the initial building surveyor and appoint a new building surveyor to issue a new building permit.

### Transfer of private building surveyor functions

A private building surveyor may transfer functions to another building surveyor if the

person who appointed the existing building surveyor *and* either the new building surveyor or municipal building surveyor agree.

### Terminating a building surveyor's appointment at an owner's request

Owners wishing to appoint an alternative building surveyor must seek approval from the VBA to terminate the appointment of their existing building surveyor.

The VBA will generally consent to this request if:

1. the existing building surveyor agrees to the termination of their appointment (or no longer holds valid registration);
2. the new building surveyor agrees to be appointed; and
3. there is no enforcement action or dispute about advice.

Once the termination is granted, the owner must appoint the new building surveyor.

The VBA may also issue directions to assist in the transfer of functions if it consents to the termination of the private building surveyor's appointment. These directions are binding on:

- the original private building surveyor whose appointment was terminated;
- the person who appointed the original private building surveyor; and
- the newly appointed building surveyor.

### Before the transfer of functions

Before transferring their functions under section 80C, relevant building surveyors should do everything possible to ensure they have:

- inspected all building work for which a direction to fix was issued, a building notice was served, or a building order was made; and
- taken appropriate enforcement action where required.

Building surveyors should also ensure they have:

- no outstanding disputes in relation to protection work;

- no outstanding obligations to provide notices to the VBA or other regulatory authorities; and
- no outstanding administrative obligations, such as record keeping.

### Run-off insurance

Before leaving the industry, building surveyors should ensure they have run-off insurance cover for all work carried out during their period of registration.

### Records management

Building surveyors must retain all professional records relating to work they were involved in for ten years after an occupancy permit was issued.

This obligation stands, even if the surveyor retires or otherwise exits the industry.

### Surrender of registration

Private building surveyors can [surrender their registration](#) by informing the VBA of their intention to exit the industry.

Once approved, they can no longer work as a building surveyor in Victoria.

The VBA will routinely consent to requests to surrender registration, but may refuse to do so if a building surveyor has outstanding obligations.

Note: the ability to surrender registration is not intended to be a way for practitioners to avoid legal obligations or disciplinary action. In such circumstances, the VBA may withhold consent.

### Re-registration

Practitioners wishing to return to the industry must meet the requirements for registration applicable at the relevant time.

### Consumer empowerment

The VBA will provide consumers with information about protections available under the Act, such as dispute resolution and insurance schemes.

## Refunds

Owners may be entitled to a refund for uncompleted work under the Australian Consumer Law.

## Disciplinary action

Any private building surveyor who fails to comply with their responsibilities and obligations under the Act may be subject to disciplinary action. For more information, refer to the VBA website.

## VBA involvement

In limited circumstances, the VBA may consider direct action, including:

- issuing a direction for the [transfer of functions under section 80D](#); or
- directing a private building surveyor to carry out their functions.