

**Retention and Disposal Authority for Records of the Building and
Plumbing Regulation Functions**

Authority number: PROS 20/01



PROS 20/01

**Retention and Disposal
Authority for Records of the
Building and Plumbing
Regulation Functions**

Status Date: 12/02/2020

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INTRODUCTION

Context

Background and Scope

On 1 July 2013, amendments to the *Building Act 1993* (Act) established the Victorian Building Authority (VBA) as a new statutory authority. The VBA replaced the former Building Commission and Plumbing Industry Commission, combining the regulatory oversight of the two.

VBA has the following functions under the Act and associated legislation:

- monitor and enforce compliance with the Act and associated regulations
- administer licensing and registration of plumbing practitioners, and registration of building practitioners and associated registered trades
- participate in the development of national building and plumbing standards
- monitor developments relevant to the regulation of building and plumbing standards
- promote the maintenance of adequate competency levels amongst plumbers
- provide information on building and plumbing standards; the regulation of buildings, building work and building practitioners; and the regulation of plumbing work and plumbing practitioners
- provide information and training to assist those who are carrying out functions under the Act or associated regulations
- promote the resolution of consumer complaints about work carried out by builders and plumbers
- conduct or promote research relating to the regulation of the building and plumbing industries in Victoria and report on the research outcomes in the VBA Annual Report
- monitor the collection of the building permit levy
- charge and collect fees for information and training services provided by the VBA
- administer the Victorian Building Authority Fund
- advise the Minister for Planning on the carrying out of the VBA's functions under the Act and any other matter referred to it by the Minister.

The VBA also has the following functions under the *Building and Construction Industry Security of Payment Act 2002* (SOP Act):

- keep under regular review the administration and effectiveness of the SOP Act and associated regulations
- authorise Authorised Nominating Authorities (ANAs) to nominate adjudicators to determine payment disputes. ANAs are authorised by the agency to nominate and manage dispute adjudicators. Dispute adjudicators facilitate the resolution of disputes regarding payments made or withheld under a contract
- maintain a publicly available register of ANAs
- keep a record of adjudication determinations and publish adjudication statistics.

The VBA provides administrative support to the following independent statutory bodies:

- Building Advisory Council

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- Building Appeals Board
- Building Regulations Advisory Committee (BRAC)
- Plumbing Advisory Council.

The scope of this RDA is limited to the building and plumbing regulation functions of the VBA and its related statutory bodies.

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Scope	The building and plumbing regulation functions undertaken by the Victorian Building Authority and its related statutory bodies.
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Status	Issued by Keeper
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Issue Date	12/02/2020
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Introduction

Purpose of this Authority

The purpose of this Authority is to provide a mechanism for the disposal of public records in accordance with the *Public Records Act 1973*.

The Authority:

- identifies records which are worth preserving permanently as part of Victoria's archival heritage
- prevents the premature destruction of records which need to be retained for a specified period to satisfy legal, financial and other requirements of public administration, and
- authorises the destruction of those records not required permanently.

Context of this Authority

Public Record Office Victoria Standards

This Authority should be used in conjunction with the Standards issued by the Keeper of Public Records under Section 12 of the *Public Records Act 1973*. Copies of all relevant PROV standards, specifications and regulatory advice can be downloaded from www.prov.vic.gov.au. These documents set out the procedures that must be followed by Victorian public offices.

Disposal of records identified in the Authority

Disposal of public records identified in this Authority must be undertaken in accordance with the requirements of Public Record Office Standard PROS 10/13 *Disposal*.

It is a criminal offence to unlawfully destroy a public record under s 19(1) of the *Public Records Act 1973*.

The destruction of a public record is not unlawful if done in accordance with a Standard established under s 12 of the *Public Records Act 1973*.

This Standard (also known as an Authority) authorises the disposal of public records as described within its provisions. However, disposal is **not** authorised under this Standard if it is reasonably likely that the public record will be required in evidence in a current or future legal proceeding.

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For the purposes of this Retention and Disposal Authority, a 'legal proceeding' has the same meaning as the *Evidence (Miscellaneous Provisions) Act 1958*, and includes any civil, criminal or mixed proceeding and any inquiry in which evidence is or may be given before any court or person acting judicially, including a Royal Commission or Board of Inquiry under the *Inquiries Act 2014*.

If the public office identifies that public records must be retained under other applicable legislation for a period that exceeds the retention period specified under the Standards, then the longer retention period must apply.

Normal Administrative Practice

The destruction of some public records is permitted without final authorisation under normal administrative practice (NAP). NAP covers the destruction of ephemeral material of a facilitative nature created, acquired or collected by public officers during the course of their duties.

The following material may be destroyed under NAP:

- working papers consisting of rough notes and calculations used solely to assist in the preparation of other records such as correspondence, reports and statistical tabulations
- drafts not intended for retention as part of the office's records, the content of which has been reproduced and incorporated in the public office's record keeping system
- extra copies of documents and published material preserved solely for reference.

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Transfer of records to Public Record Office Victoria

Contact Public Record Office Victoria for further information on procedures for transferring permanent records to archival custody.

Use of Other Authorities

In applying the disposal sentences set out in this Authority, reference should be made to other current Authorities where applicable. Where there is a conflict between two Authorities (for instance this Authority and the General Retention and Disposal Authority for Records of Common Administrative Functions), consult the Public Record Office Victoria for advice.

Explanation of Authority Headings

Class Number

The class number or entry reference number provides citation and ease of reference.

Description

The description of each record class is specified in this entry. A record class is a group of records that relate to the same activity, function or subject and require the same disposal action.

Status

This entry provides the archival status of each class - either permanent or temporary.

Custody

This entry specifies whether the records are to be retained by the public office or transferred to Public Record Office Victoria. Permanent records must be managed and transferred in accordance with PROV Standards

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Establishment of Standard

Pursuant to Section 12 of the *Public Records Act 1973*, I hereby establish these provisions as a Standard (also known as a Retention and Disposal Authority) applying to Victorian Building Authority . This standard as varied or amended from time to time, shall have effect from the date of issue unless revoked.

[signed]

Justine Heazlewood, Keeper of Public Records

Date of Issue: 12/02/2020

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No	Function/Description	Status	Disposal Action
1.0	<p>Registration and Licensing Management</p> <p>The function of managing the registration or licensing of building and plumbing practitioners, under relevant legislation.</p> <p>Includes the registration or licensing of individuals or the registration of corporate practitioners.</p> <p>Types of regulated practitioners include domestic builder, demolisher, gasfitter, drainage plumber and building surveyor.</p> <p>Includes the receipt and assessment of initial applications and the management of renewals.</p> <p>Registration and licensing management includes:</p> <ul style="list-style-type: none"> • processes for the receipt of applications and supporting documentation • assessment of applicants, including background checks and the assessment of knowledge, qualifications, skills or experience • recommendations on whether an application is approved or not, including if any restrictions or conditions are to be imposed on the registration or licence • decisions • applications for mutual recognition (of registration/licences held in other Australian States or Territories, or in New Zealand) • renewals. <p>The renewal process may vary from the initial application process by:</p> <ul style="list-style-type: none"> • using a condensed application process that updates details previously supplied • assessment of current knowledge, qualifications, skills and experience (gained/maintained since the last application/renewal) • a review of compliance history to ascertain if the practitioner has complied with the Act/s, or promptly addressed/rectified any areas of non-compliance once identified • a review of restrictions or conditions on registration, including those arising from disciplinary action and/or prosecution. <p>Also includes reviews (internal or external) of a refusal to register or license, or a refusal to renew a registration or licence, or against conditions placed on a registration</p>		

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No	Function/Description	Status	Disposal Action
<i>Registration and Licensing Management</i>			
	<p>or licence.</p> <p>Includes the surrender of registration or licences by practitioners no longer wishing/able to practice.</p> <p>See <i>Records of Common Administrative Functions</i> COMMUNITY RELATIONS for enquiries regarding the registration process.</p> <p>See <i>Records of Common Administrative Functions</i> FINANCIAL MANAGEMENT for records of registration fee and other payments.</p> <p>See <i>Records of Common Administrative Functions</i> GOVERNMENT RELATIONS for records of advice to government agencies.</p> <p>See <i>Records of Common Administrative Functions</i> PERSONNEL MANAGEMENT for records of police and other background checks held separately to an application for registration or licensing.</p>		
1.1	<p>Records of continuing value - Registration and Licensing Management</p> <p>Records of continuing value documenting the registration and licensing function. Includes:</p> <ul style="list-style-type: none"> • the development and review of registration and licensing requirements • the development and review of criteria for determining the suitability of an applicant • the development and review of criteria for the application of conditions or limits to a registration or licence • applications for registration or licensing which set precedent, lead to policy change or a major review of processes • reports to Parliament or the portfolio Minister including reports concerning changes to registration and licensing requirements, registration criteria, the registration history of particular individuals or corporate practitioners, or registration characteristics of a category/class of practitioner etc. 	Permanent	Retain as State Archives, Transfer to PROV
1.2	<p>Long-term Records of Registration and Licensing Management</p> <p>Records of long term administrative value documenting the registration and licensing function. Includes:</p> <ul style="list-style-type: none"> • the register of registered or licensed practitioners 	Temporary	Destroy 75 years after date first registration issued.

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<i>Registration and Licensing Management</i>			
	<p>(register of practitioners)</p> <ul style="list-style-type: none"> • the detailed records of licences or registrations which have been cancelled or suspended • the detailed records of a decision to refuse to renew, or to place conditions on, an existing registration or licence, and any process to review this decision. 		
1.3	<p>Administrative Records of Registration and Licensing</p> <p>Administrative records documenting and supporting the registration and licensing function.</p> <p>Includes the detailed records of registrations or licences which are not cancelled or suspended.</p> <p>Also includes evidence supporting applications and renewals, such as:</p> <ul style="list-style-type: none"> • personal identification • records of an applicant's qualifications and training, including records of examination results • insurance records • referee reports • records of registrations and/or licences held in other jurisdictions • proof of payment • clearance results from police and other background checks • company registration (corporate applicants) • directors' financial and personal probity checks (corporate applicants). <p>Includes the annual submission of evidence to show insurance coverage is maintained throughout a registration, and any accompanying fee payments.</p> <p>Includes records of applications to surrender a registration or licence.</p> <p>Includes withdrawn applications and records of unsuccessful applications for a registration or licence and their review.</p>	Temporary	Destroy 10 years after action completed.
2.0	<p>Compliance Management</p> <p>The function of managing compliance in the regulation of the building and plumbing industries, including ensuring:</p>		

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Compliance Management

	<ul style="list-style-type: none"> • the requirements of relevant legislation, standards, and other mandatory frameworks are met for work performed and/or materials used • conditions and/or limitations of registration or licensing are adhered to • practitioners remain fit and proper persons to be registered and/or licensed • appropriate disciplinary action is taken where required to reduce/remove the risk of future non-compliance by a practitioner. <p>Compliance management processes and outcomes include:</p> <ul style="list-style-type: none"> • complaints management • compliance audits - including the lodgement of compliance certificates by practitioners • the reconciliation and audit of building permit levy returns inspections - including proactive inspections which are initiated by the agency and inspect a number of building or plumbing works. Inspections are based on criteria such as checking that changes are being rolled out by regulated practitioners after regulatory change in a registration or licence category • investigations • disciplinary action – including the show cause process. Under this process, if the agency has a reasonable belief that grounds for taking disciplinary action against a building practitioner exist and propose to take that action, a practitioner is issued with a show cause notice informing them of the grounds for disciplinary action, and that the agency intends to take disciplinary action against them. Practitioners may either submit a written response, or attend in person to give an oral representation • immediate suspension • monitoring enforceable undertakings. By providing an enforceable undertaking, a practitioner acknowledges that, if they do not comply with the undertaking, legal action may be taken against them and they may also be subject to disciplinary action. An undertaking may involve a practitioner agreeing to a specific activity, such as completing additional training, engaging an independent building surveyor, repairing or bringing something up to a finished 		
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No	Function/Description	Status	Disposal Action
<i>Compliance Management</i>			
	<p>standard or restoring something to its previous condition</p> <ul style="list-style-type: none"> • maintaining disciplinary registers including those made available to the public • prosecutions • cancellation of registration and/or license • practitioner intelligence gathering. This enables the identification of potential risks to consumers, the community and the building and plumbing industry by collating information from disparate sources. <p>Use REGISTRATION AND LICENSING MANAGEMENT for the Register of Practitioners for records of the cancellation or suspension of a licence or registration as an outcome of a compliance management process.</p> <p>Use REGULATION MANAGEMENT for records of regulatory audits undertaken and summary records supporting the audit for major statewide and issue specific audits.</p> <p>See <i>Records of Common Administrative Functions</i> COMMUNITY RELATIONS for records of enquiries from the public regarding whether building or plumbing contracts, work or materials used may potentially not be compliant or for records of press releases or other statements made in the media regarding compliance management activities.</p> <p>See <i>Records of Common Administrative Functions</i> CONTRACTING-OUT for records of contracts with external inspectors or investigators.</p> <p>See <i>Records of Common Administrative Functions</i> FINANCIAL MANAGEMENT for records of refunding and invoicing building permit levy payments.</p> <p>See <i>Records of Common Administrative Functions</i> GOVERNMENT RELATIONS for records of agreements with other agencies to share data or statistical information.</p> <p>See <i>Records of Common Administrative Functions</i> LEGAL SERVICES for records of legal advice.</p>		
2.1	<p>Records of continuing value - Compliance Management</p> <p>Records of continuing value documenting the compliance management function. Includes:</p>	Permanent	Retain as State Archives, Transfer to PROV

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No	Function/Description	Status	Disposal Action
<i>Compliance Management</i>			
	<ul style="list-style-type: none"> • compliance activities that lead to policy change within the building and plumbing industries. Includes compliance audit inspections and proactive inspections • disciplinary action or prosecutions which set precedent and/or change policy or processes within the agency • summary information or registers of disciplinary action taken. Includes those made available for public access e.g. Practitioner Disciplinary Register • practitioner intelligence analysis of compliance risks across the building and plumbing industries, or that provide strategic advice on a compliance issue. Examples of risk themes include mutual recognition of practitioners from other states, incidences of license lending or defective building themes arising from complaints. 		
2.2	<p>Long-term Records of Compliance Management</p> <p>Records of long-term administrative value documenting the compliance management function. Includes:</p> <ul style="list-style-type: none"> • audits, inspections, investigations, disciplinary action, internal or external reviews which lead to registration or licence suspension, cancellation, and/or prosecution, but do not result in policy change • practitioner intelligence assessment of individual practitioners, companies or persons of interest connected with practitioners. Assessments relate to behaviour by particular building and plumbing practitioners, and the risks are assessed to determine the overall risk to the building and plumbing industry. Examples of risk themes are cost of works, works related to swimming pools, unregistered work and protection works (which occur when building works may cause potential damage to adjoining properties). 	Temporary	Destroy 75 years after date first registration issued.
2.3	<p>Administrative Records of Compliance Management</p> <p>Administrative records documenting and supporting the compliance management function. Includes:</p> <ul style="list-style-type: none"> • compliance audit documentation, analysis and recommendations including lodged copies of compliance certificates or statements issued by practitioners to clients/consumers 	Temporary	Destroy 10 years after action completed.

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Compliance Management

	<ul style="list-style-type: none"> • copies of audit reports provided to the practitioner • building permit levy returns and audit documentation, analysis and recommendations • building permit levy management data and statistics; excluding the financial records of refunds or additional invoicing • records of inspections and proactive inspections and the outcome, including inspections related to regulatory audits and inspections of temporary structures • records of regulatory inspections e.g. drainage and plumbing connections, including notices and directions issued to the practitioner • records of the show cause process • investigations, inspections, and disciplinary action documentation where the initial complaint/cause for concern was not substantiated, or the result is to undertake no further disciplinary or prosecution actions • reviews of disciplinary action • records of complaint investigation and the outcome, including notices, orders, and directions. 		
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Regulation Management

3.0	<p>Regulation Management</p> <p>The function of managing the agency's regulatory responsibilities, including:</p> <ul style="list-style-type: none"> • accreditation • management of permissions and authorisations • modifications to regulations • appeals against decisions • regulatory audits. <p>Accreditation includes:</p> <ul style="list-style-type: none"> • accreditation of regulated products e.g. building products. <p>Management of permissions and authorisations include:</p> <ul style="list-style-type: none"> • the assessment of applications for permits, and audits to ensure compliance with the permit e.g. prescribed places of public entertainment, or temporary structure occupancy permits • permits and approvals issued by the State Building Surveyor • authorisation of Authorised Nominating Authorities (ANAs). ANAs are authorised by the agency to nominate and manage dispute adjudicators. Dispute adjudicators facilitate the resolution of disputes regarding payments made or withheld under a contract • applications to become an owner-builder. <p>Modifications to regulations include:</p> <ul style="list-style-type: none"> • decisions on applications to modify the regulations for discrete, one-off adjustments, usually to meet the peculiarities of a particular site. <p>Appeals against decisions include:</p> <ul style="list-style-type: none"> • appeals concerning a decision under the Act, or disputes concerning the application of regulations under legislation • appeals regarding determinations for proposed protection works (which occur when building works may cause potential damage to adjoining properties) appeals regarding the refusal to issue permits or approvals • appeals against the refusal to terminate the appointment of a building surveyor. 		
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<i>Regulation Management</i>			
	<p>Regulatory audits include:</p> <ul style="list-style-type: none"> • major statewide audits, such as the Victorian Statewide Cladding Audit • issue specific audits to assist regulatory management of the industry. <p>Includes the evaluation and review of the above regulatory responsibilities as a result of recommendations arising from Royal Commissions, including the 2009 Victorian Bushfire Royal Commission.</p> <p>Use COMPLIANCE MANAGEMENT for records of inspections, including inspections related to regulatory audits. See <i>Records of Common Administrative Functions</i> COMMITTEES for records of attendance at building code committees, and records of reports submitted to the Board on matters relating to regulatory research.</p> <p>See <i>Records of Common Administrative Functions</i> COMMUNITY RELATIONS for records of the provision of advice in response to customer enquiries.</p> <p>See <i>Records of Common Administrative Functions</i> FINANCIAL MANAGEMENT for financial transaction records arising from management of fund accounts and payments.</p> <p>See <i>Records of Common Administrative Functions</i> PUBLICATIONS for records of newsletters, advisory articles and media releases concerning changes to standards or codes.</p> <p>See <i>PROS 16/06 Records of Standards Setting and Organisational Performance Monitoring Functions</i> DEVELOPMENT OF STANDARDS AND CODES for records of the research and development of practitioner resources, frameworks and codes; and includes the provision of technical and regulatory advice.</p>		
3.1	<p>Records of continuing value - Regulation Management</p> <p>Records of continuing value documenting the function of regulation management. Includes:</p> <ul style="list-style-type: none"> • regulatory audit reports, which cover topics of public interest in response to a particular event, or based on a request from an industry group • records which contribute to regulatory audit reports including summaries of inspection activities, compilations of inspection outcomes, 	Permanent	Retain as State Archives, Transfer to PROV

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<i>Regulation Management</i>			
	<p>assessment criteria used and risk registers</p> <ul style="list-style-type: none"> • records of appeals and/or applications for modifications which result in a permanent modification of the regulations, changes in policy or set precedent • applications for permits or approvals for prescribed places of public entertainment (e.g. the Melbourne Cricket Ground or Crown Casino) where the agency is the issuing authority • permits or approvals issued by the State Building Surveyor. 		
3.2	<p>Long-term Records of Regulation Management</p> <p>Records of long-term value documenting the regulation management function.</p> <p>Includes records of the accreditation of building products or systems as well as records of the appeals, disputes and modifications to regulations administered by the Building Appeals Board.</p> <p>Records of the accredited building products or systems include:</p> <ul style="list-style-type: none"> • the register of accredited regulated products or systems • applications for the accreditation of regulated products or systems and resulting decisions. <p>Records of the appeals, disputes and modifications to regulations administered by the Building Appeals Board include:</p> <ul style="list-style-type: none"> • applications to modify the regulations and the resulting determinations. This process allows for one-off and site-specific variations to the technical requirements (regulations) to provide an acceptable solution capable of achieving necessary performance (i.e. unacceptable risk is avoided). Applications are for discrete, one-off adjustments, usually to meet the peculiarities of a particular site, rather than having a widespread impact on the building sector. Examples include the deletion of the requirement to provide natural light to a basement/theatre room or to vary the fire protection measures required for the construction of a verandah on a dwelling. Includes applications to modify regulations which have been withdrawn • appeals and disputes relating to disagreements about building projects, and the resulting 	Temporary	Destroy 99 years after action is completed.

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No	Function/Description	Status	Disposal Action
<i>Regulation Management</i>			
	<p>determination. This process hears disputes between different parties related to a building project, such as the building surveyor and the builder; or an owner and an adjoining owner. Includes appeals and disputes which have been withdrawn</p> <ul style="list-style-type: none"> • appeals regarding proposed protection works. Protection works occur when the building works may cause potential damage to adjoining properties. Examples of protection works include underpinning, shoring up and any other steps to protect adjoining property from damage from building work or equipment. 		
3.3	<p>Administrative Records of Regulation Management</p> <p>Administrative records documenting and supporting the regulation management function. Includes:</p> <ul style="list-style-type: none"> • applications for permits or approvals, such as for temporary structures • applications for a certificate of consent to operate as an owner-builder, and the owner-builder public register • directions and applications to transfer or terminate the appointment of a practitioner e.g. a private building surveyor, and the outcome • applications from organisations to operate as an Authorised Nominating Authority, and the ongoing regulation management. <p>Authorised Nominating Authorities (ANAs) are authorised by the agency to nominate and manage dispute adjudicators. Dispute adjudicators facilitate the resolution of disputes regarding payments made or withheld under a contract. Records of regulation management of ANAs include:</p> <ul style="list-style-type: none"> • applications from an organisation to be an Authorised Nominating Authority • routine reports submitted by an Authorised Nominating Authority • monitoring the performance of an Authorised Nominating Authority. 	Temporary	Destroy 10 years after action completed.