

**IMPORTANT INFORMATION**

It is important you read the following information before filling out this application form.

This form is not to be used if you wish to appeal against one of the following:

1. a determination made under s 87 of the Act as to the appropriateness of the work; or
2. a declaration under s 89 of the Act; or
3. a failure, within a reasonable time, or refusal to make that determination or declaration; or
4. a request under s 87 of the Act to give more information.

The form to appeal against these decisions are located here: [Form-C-Protection-work-appeal.pdf \(buildingappeals.vic.gov.au\)](#).

Parties are encouraged to familiarise themselves with Practice Notes 8A and 8B before they commence a proceeding at the Board in connection with protection work, which provides guidance in respect of protection work related proceedings.

Those Practice Notes can be located here:

1. [Practice Note 8A \(2021\) - Disputes and Compensation proceedings in respect of Part 7 of the Building Act 1993 \(Protection Work\) \(PDF, 250.08 KB\)](#); and
2. [Practice Note 8B \(2021\) - Appeal proceedings in respect of Decisions made under Part 7 of the Building Act 1993 \(Protection Work\) \(PDF, 241.33 KB\)](#).

### DISPUTES REFERRED UNDER DIVISION 3 OF PART 10 OF THE *BUILDING ACT 1993* AND APPLICATIONS MADE UNDER SECTION 159 OF THE *BUILDING ACT 1993*

#### 1 SITE DETAILS

##### Address

Street Address:

Suburb:

State:

P/Code:

##### Municipality

##### Use of Building

Class/classes of building (Go to: [Building classes - Victorian Building Authority](#))

Is the copy of a recent title search (less than three months) for the allotment attached?



Yes		Note: If the applicant is a company, a Company Extract must also be provided and must be dated less than three months of the date of the application being lodged. Go to: <a href="#">ASIC Connect</a> .
No		You are required to attach a recent (less than three months) title search for the allotment. Go to: <a href="#">LANDATA®</a> .

#### 2 APPLICANT

(PLEASE TICK BELOW)

Owner     Adjoining Owner     VBA     Relevant Building Surveyor     Builder

Name

Company name and ACN (if applicable)

## Address

Street Address:		
Suburb:	State:	P/Code:
Phone Business hours:	Mobile:	
Email:		

If you are a representative of the applicant, please complete the Authority to Act form on page 8 of this document. Under section 248(1) of the *Building Act 1993* (the Act), it is an offence for a person to act on behalf of an owner of a building or land for the purpose of making an application unless the person is authorised in writing to do so.

### 3 MANDATORY SERVICE OF DOCUMENTS

The Act requires that a copy of this application and the attached documents must be served on other parties, namely:

- the decision maker; and
- any other 'party concerned' (this would generally include other people with a direct and immediate interest in the outcome of the application).

Please specify which parties have been served with a copy of this application.

	Name	Company/Position Title	Company/Position Title
1			
2			
3			
4			
5			

If some parties have not been served with a copy of this appeal, please outline why they have not been served.

Name	Company/Position Title	Reason for not serving a copy of the application on the person
.....	.....	.....
.....	.....	.....
.....	.....	.....

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## 4 OTHER PARTIES

Tick the box below to indicate the parties involved in this matter

Owner     Adjoining Owner     VBA     Relevant Building Surveyor     Builder

List the parties involved in the matter

**Name**

**Company name and ACN (if applicable)**

**Address**

Street Address:	
Suburb:	
State:	P/Code:
Phone Business hours:	Mobile:
Email:	

**Name**

**Company name and ACN (if applicable)**

**Address**

Street Address:	
Suburb:	
State:	P/Code:
Phone Business hours:	Mobile:
Email:	

Note: You need to list all of the parties outlined in section 3 above (Mandatory Service of Documents). If there are additional parties, please identify them and their contact details in the document containing the nature, grounds and relief that is required to be filed with this application form.

## 5 MANDATORY REQUIREMENTS

### 5A GENERAL REQUIREMENTS

You must supply a written submission which addresses the following:



	<b>The Nature of the proceeding</b> What is the nature of the dispute?
	<b>The Grounds for commencing the proceeding</b> What are your reasons for the application?
	<b>The Relief Sought</b> What do you want the outcome to be?

### 5B DISPUTE APPLICATIONS

Tick appropriate dispute relating to for your application:

✓	Section of the Building Act 1993	Matter	Fee
	150	<b>Dispute about inspections</b> - Disputes between an owner and the relevant building surveyor about the exercise of any of the building surveyor's inspection powers under section 228D(6)(ab).	\$
	151	<b>Emergency protection work</b> - Disputes between an owner and an adjoining owner about how or when emergency protection work required by declaration under section 89(1) is to be carried out.	\$
	152	<b>Insurance</b> - Disputes between an owner and an adjoining owner about the nature of cover to be provided under a proposed contract of insurance under section 93 or about the amount to be insured under that contract.	\$
	153	<b>Surveys of adjoining property</b> - Disputes between an owner and an adjoining owner about how or when a survey is to be carried out under section 94 or about the adequacy of a survey carried out under that section.	\$

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154	<b>Cost of supervising protection work</b> - Disputes between an owner and an adjoining owner about the costs and expenses necessarily incurred by the adjoining owner in supervising protection work under Part 7.	\$
155	<b>Other disputes between owners and adjoining owners</b> - Disputes between an owner and adjoining owner in relation to a matter arising under Part 7, where the Building Appeals Board does not have jurisdiction to deal with that matter under any other provision (including costs and expenses necessarily incurred in assessing proposed protection work).	\$
156	<b>Disputes about the building permit levy</b> - Disputes between the applicant for a building permit and the relevant building surveyor about the building surveyor's estimate of the cost of the work for which the permit is sought.	\$
157	<b>Application and effect of building regulations</b> - Disputes about a building, building work or proposed building work that concerns the application or effect of any provision of the building regulations (within the meaning of section 160) or whether any provision of the building regulations is or has been complied with.	\$
158	<b>Party Walls</b> - Disputes between the owners of buildings with a party wall about the construction of the wall or how much of the cost of construction is to be met by each of the owners.	\$
159	<b>Compensation – Protection work (Division 4)</b> - An adjoining owner who suffers inconvenience, loss or damage during the carrying out of protection work under Part 7.	\$

## 6 FEES/PAYMENT

A separate fee is to be paid for each dispute selected above in 5B.

The fees are outlined at [Forms & fees | Building Appeals Board](#).

- Always refer to the current prescribed fee schedule for dispute application costs prior to submitting your application.
- Complete the [Payment Details Form](#).

Please indicate your total fee amount payable for this application.

**Total Amount**

\$

## 7 HEARING

Please indicate below if you prefer to have your application heard via a written submission or a hearing (in-person or remotely via videoconferencing technology).

✓	
	I would prefer the Board to make its determination based on written submissions.
	I would prefer the Board to make its determination following a hearing (in-person or remotely via videoconferencing technology).

The Board will determine whether it is appropriate to:

- refrain from having a hearing and make its determination based on the written submissions of the parties.

If there is a hearing, you will be given a minimum of seven (7) days' notice of your appeal hearing date. It is expected that you will be ready to proceed on that day. Parties to the appeal may attend and/or be represented at the hearing.

If a person provides information or documentation to the Board, the person must also provide the same information or documentation to all of the other parties to the proceeding.

## 8 DECLARATION AND SIGNATURE

I understand that, under section 248(1) of the *Building Act 1993* (the Act), it is an offence for a person to act on behalf of an owner of a building or land for the purpose of making an application unless the person is authorised in writing to do so.

I acknowledge that it is an offence to knowingly make any false or misleading statement or provide any false or misleading information to the Building Appeals Board in relation to an application (s 246 of the Act).

**SIGNATURE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

## AUTHORITY TO ACT FORM

### 1 OWNER/S DETAILS

**Name**

**Company Name and ACN (if applicable)**

**Address**

Street Address:	
Suburb:	
State:	P/Code:
Phone Business hours:	Mobile:
Email:	

**Name of second owner (if the application is also made on behalf of that person)**

**Company Name and ACN (if applicable)**

**Address**

Street Address:	
Suburb:	
State:	P/Code:
Phone Business hours:	Mobile:
Email:	

### 2 SITE DETAILS

**Address (please note a copy of title search/contract of sale is required to confirm ownership of the land/building)**

Street Address:	
Suburb:	
State:	P/Code:



## 3 SIGNATURE OF OWNER/S

### DECLARATION

I confirm I am the owner of the above site and I authorise the following person(s) to act on my behalf:

**Name of person or representative:** \_\_\_\_\_

I also acknowledge that it is an offence to knowingly make any false or misleading statement or provide any false or misleading information to the Building Appeals Board in relation to an application (section 246 of the *Building Act 1993*).

**SIGNATURE OF FIRST OWNER:** \_\_\_\_\_

**PRINT NAME:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**SIGNATURE OF SECOND OWNER** \_\_\_\_\_

**(If the application is also made on behalf of a second person)**

**PRINT NAME:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

### APPLICATION CHECKLIST

Use this checklist to ensure all your required documents are submitted. If all the required information is not provided at the time of submission your application may not proceed.

<b>1 SITE DETAILS</b>	<input checked="" type="checkbox"/>
A copy of a recent title search (less than three months) for the allotment is attached.	<input type="checkbox"/>
<b>2 APPLICANT</b>	
If the applicant has appointed another person to act on their behalf, the 'Authority to Act' Form has been completed and signed by the applicant.	<input type="checkbox"/>
<b>3 MANDATORY SERVICE OF DOCUMENTS</b>	
A copy of this application form and supporting material that has been filed with that application has been served on the other parties.	<input type="checkbox"/>
<b>4 OTHER PARTIES</b>	
The details of other parties are accurate.	<input type="checkbox"/>
<b>5 MANDATORY REQUIREMENTS</b>	
A written submission has been supplied addressing the Nature, Grounds and Relief sought.	<input type="checkbox"/>
The appropriate section of the <i>Building Act 1993</i> (the Act) that your dispute relates to has been identified.	<input type="checkbox"/>
Evidence in support of your application has been provided (for example; drawings, photographs, plans or expert reports).	<input type="checkbox"/>
<b>6 FEES/PAYMENT</b>	
Total fee amount payable for this application is identified.	<input type="checkbox"/>
Payment Details Form has been completed and is attached.	<input type="checkbox"/>
<b>7 HEARING DETAILS</b>	
Preference to have your application determined via a written submission or that a hearing is conducted by the Board has been identified.	<input type="checkbox"/>
<b>8 DECLARATION AND SIGNATURE</b>	
You have acknowledged that it is an offence under s 246 of the Act to knowingly make any false or misleading statement or provide any false or misleading information to the Board in relation to this appeal.	<input type="checkbox"/>