

IMPORTANT INFORMATION

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

This form is only to be used if you wish to appeal against one of the following:

1. a determination made under s 87 of the *Building Act 1993* ('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.

This form is not to be used if the adjoining owner wishes to;

1. apply for compensation for inconvenience, loss or damage suffered during the carrying out of protection work.

This form is not to be used if the building site owner or the adjoining owner wishes to refer a dispute over;

1. the survey; or
2. insurance; or
3. the costs of assessing proposed protection work; or
4. the costs of supervising protection work; or
5. any other matter arising under Part 7 (protection of adjoining property) of the Act of which the building site owner and the adjoining owner are in dispute.

The form for applications for compensation and to refer disputes are located here:

[Form-E-Notice of Referral\(s\)/Application \(s 159\) \(buildingappeals.vic.gov.au\)](https://buildingappeals.vic.gov.au/Form-E-Notice-of-Referral(s)/Application-(s-159)).

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 \(Protection Work\) \(PDF, 241.33 KB\)](#).

Please note there are strict time limits prescribed by the *Building Regulations 2018* by which an appeal application must be filed with the Board. If an appeal application is filed after the date by which the application must be filed, the Board does not have the power to extend the time in which the application may be filed with the Board, nor does it have jurisdiction to hear and determine the application if the appeal is filed after the date by which the appeal must be filed. For more information on appeal periods, please refer to page 7 on this document.

UNDER SECTION 141 OF THE *BUILDING ACT 1993*

1 SITE DETAILS

Address where building works are to be carried out

Address

Street Address:

Suburb:

State:

P/Code:

Municipality

Use of Building

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

2 ADJOINING PROPERTY

Address of property to be protected

Address

Street Address:

Suburb:

State:

P/Code:

Municipality

Use of Building

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

3 APPLICANT

✓ ☐ Owner ☐ Adjoining Owner

Name

Company name and ACN (if applicable)

Address

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

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: ASIC Connect .
No	☐	You are required to attach a recent (less than three months) title search for the allotment. Go to: LANDATA® .

Is the applicant the owner of the property?

✓

Yes	☐	Go to question 4.
No	☐	Complete and sign the 'Authority to Act' Form. Under s 248(1) of the <i>Building Act 1993</i> (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. Please complete the Authority to Act Form on page 9 of this document, if you are a representative of the applicant.

4 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	How served: Email/post
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 appeal on the person

5 RESPONDENT

In relation to protection work the respondent is the Relevant Building Surveyor or, in the case of s 89 of the Act, the Building and Plumbing Commission.

✓

☐	Relevant Building Surveyor
☐	Building and Plumbing Commission

Name

Company name and ACN (if applicable)

Address

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

6 OTHER PARTIES

List any other parties in this section

Name

Company name and ACN (if applicable)

Address

Street Address:	
Postal Address:	
Phone Business hours:	Mobile:
Email:	

Note: 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.

7 MANDATORY REQUIREMENTS

7A GENERAL REQUIREMENTS

You must supply a written submission which addresses the following:

✓	☐	The Nature of the proceeding What you are appealing?
	☐	The Grounds for commencing the proceeding What are your reasons for the appeal?
	☐	The Relief Sought What do you want the outcome to be?

Please tick to identify if the information required is included in an attachment and supplied with this appeal application.

7B DOCUMENTS

Attach a copy of the Relevant Building Surveyors determination for protection works (section 87) or the declaration of the Building and Plumbing Commission (section 89), that is the subject of appeal and list details below:

Date	
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7C SECTION OF THE ACT UNDER APPEAL

Please refer to Part 10 of the Act for the Building Appeals Board's jurisdiction and then tick the section and subsection of the Act under appeal (below).

SECTION 144 - BUILDING REGULATIONS

✓	Section 141 -	Matter
	Subsection	
	141	Protection work
	An owner required to carry out protection work or an adjoining owner may appeal to the Building Appeals Board against:	
☐	(a)	A determination under section 87 as to the appropriateness of the work; or
☐	(b)	A declaration under section 89; or
☐	(c)	A failure, within a reasonable time, or refusal to make that determination or declaration; or
☐	(d)	A request by the relevant building surveyor to give more information made pursuant to s 87(2)(a) of the Act.

8 APPEAL PERIODS

Tick appropriate appeal period for your application:

✓	Section of the Act	Matter	Appeal Period days
☐	141	Protection Work	Within 14 days after the day the notice is given.
☐	141	Protection Work (Emergency procedures)	Within 30 days after the day the order is served.

9 FEES / PAYMENT

A separate fee is to be paid for each matter under appeal. The fees are outlined at [Forms, fees and templates | Building Appeals Board](#).

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

Please indicate your total fee amount payable for this application.

Total Amount

\$

10 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.

11 FAST TRACK

If you are seeking a fast track appeal hearing, you must complete the Application for a Fast Track Appeal form, which is available at [Appeal proceedings | Building Appeals Board](#) and pay the prescribed application fee. Only a party to an appeal proceeding can apply.

12 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 appeal is also made on behalf of that person)

Company Name and ACN (if applicable)

Address

Street Address:	
Suburb:	
State:	Post 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:

DECLARATION

I confirm I am the owner of the above site and I authorise the following person 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 appeal 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.

1 SITE DETAILS	✓
A copy of a recent title search (less than three months) for the allotment is attached.	☐
2 ADJOINING PROPERTY	
Address of property to be protected is accurately recorded.	☐
3 APPLICANT	
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.	☐
4 MANDATORY SERVICE OF DOCUMENTS	
A copy of this application form and supporting material that has been filed with that application has been served on the other parties.	☐
5 RESPONDENT	
The details of the respondent (that is; the decision maker) are accurate.	☐
6 OTHER PARTIES	
The details of the other parties are accurate.	☐
7 MANDATORY REQUIREMENTS	
A written submission has been supplied addressing the Nature, Grounds and Relief sought.	☐
A copy of the decision under appeal has been provided.	☐
The appropriate section of the <i>Building Act 1993</i> (the Act) that your appeal relates to has been identified.	☐
Evidence in support of your application has been provided (for example; drawings, photographs, plans or expert reports).	☐
8 APPEAL PERIODS	
The appropriate appeal period for your application is provided.	☐

9 FEES/PAYMENT	
Total fee amount payable for this application is identified.	☐
Payment Details Form has been completed and is attached.	☐
10 HEARING DETAILS	
Preference to have your application determined via a written submission or that a hearing is conducted by the Board has been identified.	☐
11 FAST TRACK	
If you are seeking a fast track appeal hearing, the Application for a Fast Track Appeal form is completed with any material in support of that application.	☐
12 DECLARATION AND SIGNATURE	
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.	☐