

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-Notice of Appeal\(s\)-Protection Work \(buildingappeals.vic.gov.au\)](https://buildingappeals.vic.gov.au/Form-C-Notice-of-Appeal(s)-Protection-Work).

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](#))

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® .

2 APPLICANT

(PLEASE TICK BELOW)

☐ Owner ☐ Adjoining Owner ☐ BPC 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	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 application on the person
.....		
.....		
.....		

4 OTHER PARTIES

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

☐ Owner ☐ Adjoining Owner ☐ BPC ☐ 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:



	The Nature of the proceeding What is the nature of the dispute?
	The Grounds for commencing the proceeding What are your reasons for the application?
	The Relief Sought 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	Dispute about inspections - 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	Emergency protection work - 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	Insurance - 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	Surveys of adjoining property - 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	Cost of supervising protection work - 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	Other disputes between owners and adjoining owners -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	Disputes about the building permit levy - 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	Application and effect of building regulations - 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	Party Walls - 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	Compensation – Protection work (Division 4) - 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 and templates | 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.

1 SITE DETAILS	✓
A copy of a recent title search (less than three months) for the allotment is attached.	☐
2 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.	☐
3 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.	☐
4 OTHER PARTIES	
The details of other parties are accurate.	☐
5 MANDATORY REQUIREMENTS	
A written submission has been supplied addressing the Nature, Grounds and Relief sought.	☐
The appropriate section of the <i>Building Act 1993</i> (the Act) that your dispute relates to has been identified.	☐
Evidence in support of your application has been provided (for example; drawings, photographs, plans or expert reports).	☐
6 FEES/PAYMENT	
Total fee amount payable for this application is identified.	☐
Payment Details Form has been completed and is attached.	☐
7 HEARING DETAILS	
Preference to have your application determined via a written submission or that a hearing is conducted by the Board has been identified.	☐
8 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.	☐