

Documentation for Protection Works Notices

The protection works notice (Form 3) is to be completed for each adjoining owner and is to be served on the adjoining owner and on myself as the relevant building surveyor along with the following documents

1. Three (3) copies of the Form 4.
2. Architectural site plan showing the relationship of the proposed protection works to the adjoining property. The site plan must include allotment dimensions and show adjoining buildings along with the location of the proposed protection works.
3. Architectural floor plans elevations & sections that indicate the proposed protection works and the relationship of the protection works with the adjoining property.
4. Structural design details for the proposed protection works including drawings, computations and specifications indicating how the protection works will comply with reflecting compliance with the Building Code of Australia, relevant codes and standards and the Building Act and Building Regulations.
5. A description of the protection works along with a description of the timing and duration of the works.
6. Geotechnical report.

The adjoining owner has 14 days to respond to the protection works notices. If there is no response then consent is deemed to be given. It would be beneficial to serve the notices by registered certified mail so that return receipts are obtained. The receipts will act as evidence of service so that the service date can be established.

Responses from adjoining owners

Adjoining owners generally send the protection works information to independent engineers for review. The adjoining owner relies on advice from their consultant to form the response to the notices. The following scenarios are possible regarding protection works notices responses:

1. Agree to the protection works
2. Disagree
3. Request further information
4. No response within 14 day time frame (consent deemed to be given)

In the event that an adjoining owner disagrees with the proposed protection works, or requests further information regarding the protection works, the relevant building surveyor may ask for more information in order that a determination can be made as to the appropriateness of the protection works.

The additional information provided to the relevant building surveyor (RBS) must also be made available to the adjoining owner.

After considering the additional information and the proposed protection work, the relevant building surveyor must make a determination and provide notice of the determination in writing to the owner and adjoining owner.

Prolongation of protection works consent process

If the RBS makes determination on the adequacy of protection works (for scenarios 2 and 3) he must notify the adjoining owners of the determination. The RBS must also advise the adjoining owner that they have 14 days in which to appeal his decision.

Appeals are made to the Building Appeals Board and could add in excess of four weeks to the process. Notices may have to be served again if the appeal is upheld.

Actions following protection works approval

Once the protection works consents have been resolved the works will need to be approved under a building permit.

1. The building Act requires that before work commences the owner or owner's agent must undertake dilapidation surveys of all adjoining properties on which protection is required. Copies of dilapidation reports must then be given to the relevant adjoining owners. The copies should be countersigned by the adjoining owners and held on the file in case they are required for future reference.

Note that the Section 94 of the Act requires that the report is signed or otherwise acknowledged by the owner and adjoining owner.

2. Section 93 of the Building Act requires that the property owner undertaking the protections works put in place a contract of insurance in favour of the adjoining owner against:
 - Damage by the proposed protection work to the adjoining property; and
 - Any liability that is likely to be incurred to the adjoining occupiers and members of the public during the carrying out of the building work for a period of 12 months after that building work is completed.
3. The contract of insurance must be for an amount that is agreed to by the adjoining owners and a copy of the contract of insurance must be lodged with the adjoining owners. The contract of insurance must be maintained for the duration of the building works, and any renewal notices must be sent to the adjoining owners.
4. As-built drawings, specification and computation of the protection works must be prepared and served on the adjoining owner and myself as the relevant building surveyor within two months of the completion of the protection works.

Further information can be obtained from the Victorian Building Authority website

www.vba.vic.gov.au

