

PROTECTION WORKS NOTICES INFORMATION

(Building Act Section 87 – 101)

SUMMARY OF BUILDING ACT REQUIREMENTS AND PROCESS FOR SERVING OF NOTICES

1. If Conti Group as the relevant building surveyor considers that protection work is required, Conti Group issues a determination to this effect using a Form 6;
2. The owner and/or agent of owner serves 3 copies of a properly completed and signed Form 7 'Protection Works Notice' and 3 copies of a Form 8 'Protection Works Response Notice' on the affected adjoining owner/s together with copies of the following:
 - The Form 6 Determination of the Relevant Building Surveyor that protection work is required.
 - 1 copy of relevant architectural drawings of the project;
 - 1 copy of relevant structural and/or civil drawings of the project;
 - 1 copy of design engineer's 'Certificate of Compliance' of design (reg 126);
 - 1 copy of geotechnical (soil) investigation report (if relevant);
 - A detailed description of the proposed protection works including nature, duration, type and method of proposed protection (protection work measures letter).
3. Serve the above documentation by one of the means described below to each adjoining owner using their precise registered name and registered postal address and fill out and sign the 'declaration of service of protection notices' provided as part of the protection works package. These details must be established by the Municipal Council rates records (preferred as these are likely to be the most up to date), title details or ASIC records. Service on PO Box address is not acceptable. Serve a full copy to the Owners Corporation Manager (as well as the individual owners) if Owner Corporation occurs.

Serving of documents may be by the following means:-

- **By hand** (i.e. in person).
 - **Ordinary Post** (standard parcel delivery). If this method is used, the Evidence Act 2008 states that, unless evidence is raised that gives doubt, a postal article sent by prepaid post addressed to a person at a specified address in Australia is taken to be received on the fourth working day after the day it was posted. It is important to allow this duration to establish the deemed day of receipt and it is important to record the precise details (location and manner) of posting.
 - **Electronically** (via email) Only if the adjoining owner consents to receiving the information electronically.
4. The adjoining owner should complete and return the Form 8 to you with a copy to the Relevant Building Surveyor and keep one for their own records. Section 85 of the Building Act gives the adjoining owner 14 days to respond otherwise consent to the proposed protection works is deemed to be granted. Serving of the notices in person is recommended. A further 4 days is also allowed for postage to arrive at its destination;
 5. Obtain a site-specific contract of 'protection work' insurance in accordance with section 93 of the Building Act. The insurance must be for an amount agreed to with the adjoining owner or in the event of a dispute for an amount determined by the Building Appeals Board. A copy of the contract of insurance must be served on the adjoining owner and extended as often as necessary for not less than 12 months after completion of the works;

6. Undertake a survey (dilapidation report) of the adjoining property together with the adjoining owner (or an agent of the adjoining owner) recording all existing defects and taking photographs as necessary to confirm the condition of the adjoining property prior to commencement of the works. Give a copy of the survey to the adjoining owner. *Note. An example report has been attached for your reference.*

Other Comments:

Bldg Act Sec. 85

If the adjoining owner requests further information after receiving the protection works notice, such information, if reasonably required to determine the adequacy of protection works, should be provided by the applicant.

Bldg Act Sec 87

If the adjoining owner disagrees to the proposed protection works, the relevant building surveyor must make a determination and give either party a period of 14 days to appeal his/her decision.

Bldg Act Sec. 90 & 91

If the adjoining owner is absent or cannot be located, the applicant may apply to the Minister, in writing, for the appointment of a suitable person to act as the agent of the adjoining owner.

Bldg Act Bldg Act Sec. 92

The relevant building surveyor must make available to the adjoining owner, without charge, any plans, specifications and reports relating to the proposed works.

Bldg Act Sec. 95

The applicant must give the adjoining owner not less than 24 hours notice prior to entering onto his/her property for the carrying out of the survey. The adjoining owner must not obstruct or refuse to admit the applicant onto his property for the purposes of carrying out the survey (penalties apply).

Bldg Act Sec. 97

The applicant must pay to the adjoining owner all costs and expenses necessarily incurred by the adjoining owner in assessing proposed protection work and supervising the carrying out of the work (this may include engineer's, legal personnel, architect's, building surveyor's and the like). The amount of expenses must be agreed to between the parties or otherwise determined by the Building Appeals Board.

Bldg Act Sec. 98

The applicant must compensate the adjoining owner for inconvenience, loss or damage suffered in connection with the carrying out of the protection work.

Bldg Act Sec. 101

Not later than 2 months after completion of the protection works, the applicant must serve on the adjoining owner and the relevant building surveyor a complete set of plans, drawings and specifications showing the actual protection work which has been carried out in respect of the adjoining property.

Disclaimer

This information is provided as a summary and general information purposes only of the Building Act requirements and is not intended to replace the legislative requirements. For complete information regarding protection works legislation please refer to section 87 – 101 of the Building Act and Part 111/112 of the Building Regulations 2018. Conti Group has issued this document on the terms and understanding that:

1. *Conti Group is not responsible for the accuracy of the information contained herein.*
2. *Conti Group is not responsible for the results of any actions taken on the basis of any information in this publication or for any error or omission in this publication.*
3. *Conti Group expressly disclaims all and any liability and responsibility to any person in respect of anything or the consequences of anything done or omitted to be done by any such person in reliance upon the contents of this publication.*

ATTACHMENTS

- VBA Protection Work Process Practice Note PW-02
- Protection Works Measures
- Form 7 Protection Work Notice (Template)
- Form 8 Protection Work Response Notice (Template)
- Declaration of Service of Protection Notices
- Dilapidation Inspection Report

Building Practice Note PW-02: Protection Work Process

This Practice Note provides guidance to building practitioners about the protection work process under Part 7 of the Building Act 1993 (the Act) and Division 1 of Part 7 of the Building Regulations 2018 (the Regulations).

The context below provides guidance on:

- Protection work - introduction
- Distinction between protection work and building work
- Entry on adjoining property
- Responsibilities of the RBS in relation to protection work
- Protection work notices
- Independence of the RBS
- Notice of determination under section 87 of the Act - Form 9
- Requiring protection work after work has commenced
- Other administrative responsibilities of the RBS
- Dispute resolution relating to protection work

Abbreviations & Definitions

The abbreviations and definitions set out below are for guidance only. They are not intended to vary those set out in the Building Act 1993 (the Act), or the Building Regulations 2018 (the Regulations).

- **Act** – Building Act 1993
- **Adjoining property** – Land (including any street, highway, lane, footway, square, alley, and right of way) which is so situated in relation to the site on which building work is to be carried out as to be at risk of significant damage from the building work.
- **AS** – Australian Standard
- **BAB** – Building Appeals Board
- **BCA** – Building Code of Australia Volume One and Two
- **MBS** – Municipal Building Surveyor
- **RBS** – Relevant Building Surveyor
- **Protection work** – permanent or temporary work that may include, however, is not limited to:
 - Underpinning, including vertical support, lateral support, protection against variation in earth pressures, ground anchors and other support for adjoining property;
 - Shoring up of the adjoining property (which may include retaining walls and bored piers);
 - Overhead protection for adjoining property;
 - Other work designed to maintain the stability of adjoining property or to protect it from damage from building work;
 - Any work or use of equipment necessary for the provision, maintenance and removal of work referred to above,

- whether or not the work or equipment is carried out or used on, over, under, or in the air space above the land on which the building work is, or is to be carried out, or the adjoining property.
- **Regulations** – Building Regulations 2018
- **Section** – section of the Building Act 1993

Protection work - introduction

An owner is entitled to carry out building work on their land. Sometimes that work has the potential to cause damage to adjoining property. The Act provides a process for the protection of adjoining property from the risk of significant damage due to building work.

Adjoining property can be affected when—

- building work, particularly if close to the boundary, consists of excavations, site cuts, changes to footings or demolition work;
- there are existing buildings, retaining walls or other structures near the boundary on an adjoining property;
- there is a risk of building materials or equipment falling across a boundary during the construction process.

The Act provides that where there is a risk of significant damage to adjoining property from building work, the adjoining owner must be consulted about proposed work and actions that will be undertaken to protect their property.

The RBS plays a central role in overseeing the consultation process and ensuring that proposed protection work is adequate. The independence of the RBS is critical to their role in the process.

Common types of protection work include:

- Retaining walls;
- Bored piers;
- A gantry or other overhead barriers to prevent material from falling on a roof or other part of the adjoining property;
- Propping of party walls or common walls, or other building elements on adjoining property;
- Underpinning of existing footings on adjoining property.

The role and responsibilities of the owner and the adjoining owner in the protection work process are summarised in the VBA Protection Work Approved Statement.

Distinction between protection work and building work

Protection work

Protection work is the work undertaken to protect an adjoining property from the risk of significant damage caused by the building work. It can be done on an adjoining property or on the property where the building work is occurring, or both. Where protection work needs to be done on the adjoining property, section 95 of the Act allows for access to the adjoining property to undertake the required protection work.

Building Work

Building work is the work being done that gives rise to the need for protection work. Building work can only be done within the boundaries of the property for which a building permit is issued.

The RBS must ensure this distinction is understood by all parties. A misunderstanding could lead to dispute, liability for costs, building delays and frustration.

Significant damage

The term 'significant damage' is not defined in the Act. When considering whether there could be 'significant damage' to adjoining property the RBS should have regard to potential soil subsidence on the adjoining land and potential damage to buildings, driveways, paving, gardens, trees and other structures or land.

Fences and protection work

Building work on boundaries may involve the demolition of walls which give rise to the requirement for a new fence between properties. Work may also involve the construction of new walls on boundaries which requires the removal of an existing fence.

The removal and replacement of boundary fences is not protection work and is subject to the Fences Act 1968. More information about rights and obligations of owners under the Fences Act can be obtained at:

<https://www.justice.vic.gov.au/fencing-law-in-victoria> .

Entry on adjoining property

Accessing a building site using an adjoining property

Sometimes building work is designed in a way which requires access to adjoining property in order to carry out the building work. For example, building materials may need to be lifted onto the building site with a crane that must swing over adjoining property; or the preferred construction of masonry walls on boundaries is to construct or finish them from outside the property boundary of the building site.

Where the construction process requires access to the building site via an adjoining property, this is not protection work. The protection work process does not entitle an owner to access an adjoining property to undertake building work. Access to an adjoining property to conduct building work must be arranged by agreement with the owner of the adjoining property.

It is recommended that an owner, designer and builder discuss proposed building work with the adjoining owner and reach agreement about any access that may be required before finalising the design and applying for a building permit. If a building permit is issued and access required over, or on, adjoining property cannot be agreed, the building design may need to be altered and a variation to the building work may be required.

Carrying out of survey or protection work

Section 95 of the Act provides the owner or an agent of the owner with the ability to enter the adjoining owner's property to carry out a survey under section 94 and any required protection work. Before entry, the adjoining owner must be given 24 hours notice, unless another time frame is agreed by the parties.

Entry on the adjoining property for this purpose is available between the hours of 8am and 6pm.

The right of entry to carry out a survey or protection work does not apply to entry for any other purpose, such as carrying out of building work.

Responsibilities of the RBS in relation to protection work

The responsibilities of the RBS in relation to protection work include, but are not limited to, the following:

- Determine whether protection work is required as part of the assessment of a building permit application or at any time during the construction phase when it becomes apparent that protection work may be required;
- Document their determination that protection work is required;

- Review protection work notices exchanged between the owner and the adjoining owner;
- Assess whether the proposed protection work is adequate;
- Create the required records relating to the above actions throughout the process;
- Lodge documents with the relevant council as required by section 30 or 73 and regulations 44 or 203;
- Participate in any appeals or other proceedings before the BAB as required;
- Monitor the carrying out of the protection work at mandatory inspections or at any other time as required and take any necessary action if there is any danger to life or property;
- Act independently and to assist owners and adjoining owners through the process.

Protection work is only required when the RBS determines that it is required under regulation 111. The requirement must be assessed on a case-by-case basis. Regulation 112 sets out the matters the RBS must consider in determining if protection work is required. Other matters the RBS should consider are soil reports, local soil conditions, site slope, the location of drains or other underground services, proposed methods for ensuring stability of excavations, such as battering or 'hit and miss' methods.

When the RBS determines that protection work is required, the RBS should consider whether there needs to be inspections of the building work relating to protection work in addition to the prescribed mandatory inspections. If inspections are appropriate, the RBS can put conditions on the building permit that require the builder to call for inspections at specified stages of the work. Practice Note 69 provides more information on mandatory notification stages and inspection of building work.

The RBS's determination to require protection work must be set out in the form of a Determination that Protection Work is Required (Form 6 in Schedule 4 of the Regulations). Within 7 days of making the determination, the RBS must give a copy of the Form 6 to the applicant for the building permit and, if the applicant is not the owner, the owner (regulation 111(5)).

Protection work notices

Having decided that protection work is required, the RBS sets in motion a process that provides both the owner and adjoining owner with certain rights and obligations under the legislation. It is critical that the administrative process is carried out correctly for those rights to be exercised.

The owner is then required, under the section 84 of the Act, to serve the adjoining owner and the RBS with a notice in the form of a Protection Work Notice (Form 7) with accompanying documents set out in regulation 113, including sufficient detail to show how the proposed building work will affect the adjoining property and how the proposed protection work will protect the adjoining property, as well as three copies of the Protection Work Response Notice (Form 8) and the VBA Protection Work Approved Statement, which explains the protection work process.

Section 85 of the Act requires the adjoining owner to respond to the owner's Form 7 notice within 14 days of being served the notice. The response must be in the form of a Protection Work Response Notice (Form 8) (regulation 114). An adjoining owner who fails to respond in the required time is taken to have agreed to the proposed protection work under section 85(2) of the Act.

If the adjoining owner's response agrees to the proposed protection work, the Form 8 notice is only required to be given to the owner. If the adjoining owner agrees or is taken to have agreed, the owner may proceed to carry out the protection work after obtaining any required permits or approvals (section 86).

If the adjoining owner's response disagrees with the proposed protection work or requires more information to be given to enable the proposal to be considered by the RBS, a copy of the Form 8 notice must be given to both the owner and the RBS.

Independence of the RBS

The RBS acts as an independent decision maker in the protection work process. The RBS must not prepare the Form 7 for the owner or 'approve' the proposed protection work before the notice is given to the adjoining owner. The RBS should inform the owner or their agent of the reasons for requiring protection work, so they can formulate the proposed protection work and provide the details required in the Form 7 notice to the adjoining owner. The RBS should provide advice to the owner or adjoining owner, if necessary, to ensure that the protection work process is followed correctly.

If there has been no response to the Form 7 notice from the adjoining owner, the RBS must satisfy themselves that the adjoining owner has been properly served with the notice. Section 236 sets out ways in which notices may be served under the Act. The RBS should ask how the notice was served and consider contacting the adjoining owner to make sure they have received the Form 7 notice.

If the adjoining owner agrees to the protection work, the RBS must not assume that the proposed protection work is appropriate. The RBS must review the proposed protection work and satisfy themselves that:

- the work is actually protection work; and
- it will provide appropriate protection to the adjoining property, and
- if so, make a decision on whether to approve the building permit.

If the RBS is not satisfied with the proposed protection work, the RBS must refuse to issue the building permit until a suitable revised proposal is made.

If the RBS is not satisfied that the prescribed information was provided in the Form 7 notice, including that the proposed protection work is not detailed adequately in plans and specifications provided with the Form 7, the RBS should request additional information. The RBS should also require the owner to revise the Form 7 notice and re-serve it on the adjoining owner. Serving of a revised Form 7 notice results in recommencement of the 14 day period (not including service time) for the adjoining owner to respond.

Where the adjoining owner disagrees with the proposed protection work, or requires more information, the RBS must take the actions set out in section 87 of the Act. If a request for information is made by the adjoining owner, the RBS must consider if the request is reasonable, and if it is:

- make a request to the owner for that information; and
- provide the information to the adjoining owner.

If the RBS considers the request for information is not reasonable, they should advise the adjoining owner of that decision in writing including the reasons for the decision. The RBS can then make any other inquiries they think fit (section 87(3)) and proceed to make their determination under section 87(1).

Notice of determination under section 87 of the Act - Form 9

On receipt of a Form 8 notice from the adjoining owner disagreeing with the proposed protection work, or requiring more information to be given, the RBS must consider the Form 7 and Form 8, including the adjoining owner's comments (if any) and determine whether the proposed protection work is appropriate (section 87(1)). If agreement has not been reached between the owner and adjoining owner, before making a determination on whether the owner's proposal for protection work is appropriate or not, the RBS must follow the procedure set out in section 87.

The determination made by the RBS under section 87 of the Act must be in the form of a Notice of Determination Under Section 87 of the Act (Form 9 notice). The RBS must give a copy of the Form 9 notice to the owner and adjoining owner.

The notice may be given by:

- sending by ordinary post (allow for delivery time);
- delivering the notice to the person;

- leaving the notice at the person's address with a person aged 16 years or over, and apparently residing at that address; or
- by email or facsimile, but only if the person receiving the determination has agreed in writing to accept service via email or facsimile.

The owner or adjoining owner have 14 days after the day a determination under section 87 has been given to both the owner and the adjoining owner, to lodge an appeal against the determination with the BAB.

Requiring protection work after work has commenced

There may be situations where damage to adjoining property is not foreseen based on the building permit application, but changed circumstances on-site make protection work necessary. This can occur when there are unexpected site conditions or where the builder does not follow the building permit documentation. The swift and effective action of the RBS is critical when the need for protection work arises unexpectedly during construction.

In these cases, the RBS should inspect the site without delay and determine whether protection work is required. The RBS may need to issue a direction to fix (Part 4 of the Act) or stop the building work from proceeding or require work to make the site or adjoining property safe (Part 8 of the Act). A building order to stop building work can be issued under section 112 of the Act by the RBS where the building work contravenes the Act or Regulations, or is a danger to life, safety or health of a person, or affects the support of an adjoining property.

It is not appropriate to issue a building order to stop building work where the owner has failed to comply with administrative provisions contained in sections 93-100 of the Act.

If the RBS issues a building order to stop building work, they may exempt any part of the work from the building order if it is in the interests of safety or security of the building; in the interests of the safety or health of the public; or to prevent a nuisance (section 112(6)). If an exemption is given under section 112(6), this can allow urgent work to be carried out. However, the RBS should only require works necessary to make the site and any adjoining property safe and stable. The RBS should then promptly make a determination that protection work is required (recording this in a Form 6) so that the protection work process can be followed.

To safeguard life safety and building standards, the RBS has the discretion to take other enforcement action under Part 8 of the Act, including the issue of a building notice, a building order or a building order – minor work.

If the RBS is not the MBS, they must inform the MBS immediately if they consider that the condition of the site presents an emergency. Upon being notified, the MBS or their delegate should inspect the site, immediately assess the situation and determine if an emergency order should be made, or other action be taken.

Other administrative responsibilities of the RBS

The RBS must give to the council any determination that protection work is required (Form 6), any protection work notice (Form 7), any protection work response notice (Form 8), and any notice of determination made under section 87 (Form 9), with the building permit under section 30 (regulation 44(1)(d)-(g)) and, if issued after the building permit has been issued, with the occupancy permit under section 73 of the Act (regulation 203(e)-(h)).

In accordance with section 92 of the Act, at any time after notice of intention to commence the carrying out of building work is given, the RBS must make available to the adjoining owner, on request, for inspection, without charge, any plans, drawings and specifications of the proposed building work in the possession or control of the relevant building surveyor.

Dispute resolution relating to protection work

The RBS must not act as an arbiter where there is disagreement about protection work between the owner and an adjoining owner. If there is a dispute between the owner and the adjoining owner, the RBS should refer the parties to the BAB (www.buildingappeals.vic.gov.au) to have the matter considered under Part 10 of the Act. Further information about resolution of protection work disputes between an owner and adjoining owner is provided in the VBA Protection Work Approved Statement.

Related Documents

- Building Practice Note 69 Mandatory notification stages and inspection of building work
- Building Act 1993
- Building Regulations 2018
- Fences Act 1968
- Protection Works Forms (Forms 6, 7, 8 and 9
- VBA Protection Work Approved Statement:

Version History

- Version 2.0, published 28 June 2021, supersedes Practice Note 20: Protection work process

Contact Us

If you have a technical enquiry, please email technicalenquiry@vba.vic.gov.au or call 1300 815 127.

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PROTECTION WORKS MEASURES

(Further Information to Accompany Form 7 'Protection Works Notice')

Site Address: _____

Adjoining Property: _____

1. Protection Works Insurance

Prior to the commencement of building works, the owner shall arrange for protection works insurance in accordance with section 93 of the Building Act 1993. The protection works insurance shall be for an amount agreed to with the adjoining owner and against any possible damage to the adjoining property and any liabilities likely to be incurred by the adjoining occupiers. The contract of insurance shall be extended for a minimum of 12 months after the completion of the building work.

2. Adjoining Property Survey

The owner shall in conjunction with the adjoining owner (or his/her representative) undertake a survey of the adjoining property and record in writing and by any other means (i.e. photographs) any existing cracks or other defects in the adjoining property.

The survey shall be kept as evidence of the condition of the adjoining property prior to the commencement of works.

3. Hours of Access

The owner or agent of the owner in accordance with Section 95 of the Building Act 1993, may enter the adjoining property between the hours of 8am to 6pm with 24 hours notice provided except where agreed otherwise for the purpose of carrying out protection works as agreed.

In the course of carrying out protection works under the Building Act 1993 the owner or agent of the owner may without doing any unnecessary damage remove any furniture or fittings in the adjoining property which obstruct the carrying out of work.

4. Lodgement of Documents

No later than 2 months after the completion of any protection work carried out the owner must serve on the adjoining owner and relevant building surveyor a complete set of plans, drawings and specifications showing the protection work which has actually been carried out in respect of the adjoining property.

5. Method of Protection (Tick if applicable)

Construction of Footings on or Near Boundary

The builder will excavate the new footings with care and diligence to ensure that there is no adverse impact on the adjoining building/structure. Excavations (if applicable) and new footings should be carried out strictly in accordance with the certified engineers design drawings/documentation to form part of the approved building permit documents (refer attached). The excavation shall be properly guarded in accordance with regulation 116 of the building regulations 2018 (protection of public).

The builder shall arrange for the excavation of the footing, placement of the reinforcement, mandatory notification stage inspection and pouring of the footing as soon as practicable and in a continuous work schedule.

Should any damage be agreed to have occurred in the adjoining property that can be attributed to the damaged area shall be reinstated to the satisfaction of the adjoining owner and the builder.

The proposed footings shall under no circumstances undermine the adjoining existing footings.

□ **Construction of Walls on or Near Boundaries**

Construction above ground level shall be undertaken from scaffolding or the like which will have adequate measures to safe guard debris and building materials from falling off.

The adjoining property in the immediate vicinity of the proposed boundary works (i.e. 1m beyond the works) shall be hoarded off to protect adjoining occupants against injury.

The builder shall ensure that any building material that falls onto the adjoining property will be retrieved and the area cleaned to the original condition. Any damage that is agreed and deemed to have occurred as a result of the works will be repaired / reinstated to the satisfaction of the adjoining owner.

□ **Construction of Boundary Walls Above the Height of Existing Adjoining Roofs**

The roof of the adjacent structure shall be protected by the careful placement of plywood sheeting, solid planking or other suitable protective material for the duration of the works. The builder shall carry out the works to minimize the potential for any falling debris onto the adjoining roof.

The builder shall ensure that the roof surface and surrounding areas will be cleaned to the original condition and any damage that is agreed and deemed to have occurred as a result of the works will be repaired / reinstated to the satisfaction of the adjoining owner.

□ **Boundary Fences**

Prior to the removal of any boundary fences the builder shall arrange for the temporary relocation of vine type vegetation belonging to the adjoining property. The builder shall execute the works to avoid any damage to adjoining garden beds and/or paved areas.

The boundary fence shall be replaced with a temporary 1.8m high chain wire mesh or solid plywood hoarding at a location agreed to with the adjoining owner during the duration of the works and until completion of the boundary wall or new fence.

□ **Underpinning Works**

The underpinning works including the sequence, procedure and nature of the works shall be carried out strictly in accordance with the certified engineers design drawings/documentation to form part of the approved building permit documents (refer attached).

The builder shall ensure that the excavations are dug and poured on the same day and the underpinning pads are of the dimensions, width, depth etc stipulated by the structural engineer. All underpinning pads shall be inspected and approved by the structural engineer and/or Conti Group Building Consultants prior to pouring concrete.

□ **Party Wall Easement**

The building works associated with 'part wall easement' including the construction sequence, procedure and nature of the works shall be carried out strictly in accordance with the certified engineers design drawings/documentation to form part of the approved building permit documents (refer attached).

The builder shall ensure that the building works including but not limited to structural propping of party walls are carried out diligently and with care in strict accordance with the certified structural documentation. Structural propping shall be inspected and approved by the structural engineer and/or Conti Group Building Consultants prior to continuing on with the building works.

Demolition Works

All demolition work is to be carried out in strict accordance with AS2601-2001, Worksafe Demolition Code of Practice and Occupational Health and Safety Regulations (as current) Security fencing shall be provided around the perimeter of the demolition site, including any additional precautionary measures taken to prevent unauthorized entry to the site at all times during the demolition period. Security fencing shall be the equivalent of chain wire as specified in AS 1725. Any buildings located on or within close proximity to the allotment boundaries must be undertaken by hand in accordance with section 5.1 of the Worksafe Demolition Code of Practice.

The builder/demolisher shall ensure that strict compliance with the demolition procedure specification is followed throughout the demolition process. Attached is a copy for your reference (3 pages).

Retaining Wall Works

The builder will excavate the new footings with care and diligence to ensure that there is no adverse impact on the adjoining structure. The excavation shall be property guarded in accordance with regulation 116 of the Building Regulations 2018 (protection to public).

The builder shall arrange for the excavation of the footing, placement of the reinforcement, mandatory notification stage inspection and pouring of the footing as soon as practicable and in a continuous work schedule.

Retaining wall excavations shall be done in accordance with the suitable area for excavation details as contained within Part 3.1.1 of the NCC (as current). Where excavations may undermine or be outside the safe excavation area, additional comment from the design engineer will be sought in relation to the excavation method, for example: hit and miss excavation method, screw pile stabilisation method or other suitable means of soil stabilisation.

The above protection measures are proposed to meet the requirements of the Building Act 1993 and subject to the approval of Conti Group Building Consultants.

Signature of Owner / Builder
(or Agent of Owner)

Signature of Adjoining Owner

Name: _____

Name: _____

Signature: _____

Signature: _____

Date: _____

Date: _____

FORM 7
PROTECTION WORK NOTICE
Building Act 1993
 BUILDING REGULATIONS 2018
 Regulation 113

To: (Adjoining Owner)
 (Contact Person, Phone No, Postal
 Address & Postcode)

Relevant Building Surveyor:
 (Contact Person, Phone No, Postal
 Address & Postcode)

From: (Owner/Agent)
 (Contact Person, Phone No, Postal
 Address & Postcode)

Jeremy Conti Conti Group Building Consultants 7 Lilian Street, BULLEEN, VIC 3105 Phone: 9006 7950

In accordance with Section 84 of the Building Act 1993, I give notice of my intention to carry out building work on my land and request your agreement to the proposed protection work.

Property Details:
 (Building Work Site)

Address	
Lot/s	LP/PS
Volume	Folio
Crown Allot.	Section
Parish	County
Municipal District Of:	

Adjoining Property Details:
 (Your Site)

Address	
Lot/s	LP/PS
Volume	Folio
Crown Allot.	Section
Parish	County
Municipal District Of:	

NOTICE

In accordance with section 84 of the **Building Act 1993**, I give notice of my intention to carry out the following building work on my property and request your agreement to the proposed protection work which affects your adjoining property.

Details of proposed building work:
 (insert details including details about damage
 etc that may be caused to adjoining property)

Protection Work and Program:

Nature of protection work:

Location of protection work:

Time of protection work:

Duration of protection work:

**Access to adjoining property required
 to undertake proposed protection
 work:**

Signature of Owner or Agent:

Date:

Information about protection of an adjoining owner under the Building Act 1993 in relation to proposed protection work

In accordance with section 92 of the **Building Act 1993**, at any time after this notice is given to the adjoining owner, the relevant building surveyor must make available to the adjoining owner, on request, for inspection, without charge, any plans, drawings and specifications of the proposed building work in the possession or control of the relevant building surveyor. The relevant building surveyor's name and contact details are on page 1 of this notice.

If the proposed protection work is agreed to by the adjoining owner or determined as being appropriate by the relevant building surveyor under section 87(1) of the **Building Act 1993** or by the Building Appeals Board under section 141 of the **Building Act 1993** (as the case requires), the owner must —

- (a) before the commencement of any protection work —
 - (i) ensure that a contract of insurance is in force in accordance with section 93 of the **Building Act 1993** against damage by the protection work to the adjoining property and other liabilities described in that section; and
 - (ii) make a full and adequate survey of the adjoining property in accordance with section 94 of the **Building Act 1993**; and
- (b) pay to an adjoining owner all costs and expenses necessarily incurred by the adjoining owner in assessing proposed protection work and in supervising the carrying out of protection work in relation to an adjoining property in accordance with section 97 of the **Building Act 1993**; and
- (c) compensate an adjoining owner or an adjoining occupier for inconvenience, loss or damage suffered by the adjoining owner or adjoining occupier in connection with the carrying out of protection work in accordance with section 98 of the **Building Act 1993** or an order of the Building Appeals Board under section 159 of that Act.

NOTE Under section 85 of the Act, the adjoining owner must respond to a notice under section 84 of that Act by giving to the owner within **14 days** a notice under section 85 of that Act:

- (i) agreeing to the proposed protection work;
- (ii) disagreeing to the proposed protection work; or
- (iii) requiring more information.

(Failure to respond will be taken as agreement to the proposed protection work.)

In the case of (ii) and (iii) above, a copy of the notice under section 85 of that Act must also be given to the relevant building surveyor. (See regulation 114 and Form 8)

FORM 8
PROTECTION WORK RESPONSE NOTICE
Building Act 1993
BUILDING REGULATIONS 2018
Regulation 114

REGARDING PROPERTY AT:
(Building Work Site)

To: (Owner/Agent)
(Contact Person, Phone No, Postal Address & Postcode)

Relevant Building Surveyor:
(Contact Person, Phone No, Postal Address & Postcode)

From: (Adjoining Owner)
(Contact Person, Phone No, Postal Address & Postcode)

Address of Property where building work is to be carried out (from Form 7):

Address of Adjoining Property:

Jeremy Conti Conti Group Building Consultants 7 Lilian Street, BULLEEN, VIC 3105 Phone: 9006 7950

RESPONSE

In accordance with Section 85 of the Building Act 1993, I hereby respond to the Form 7 notice served to me by the owner under that section and (please tick appropriate box):

- | | Tick Box |
|---|--------------------------|
| (i) agree to the proposed protection work. | <input type="checkbox"/> |
| (ii) disagree with the proposed work for the following reasons:

_____ | <input type="checkbox"/> |
| (iii) request the following further information:

_____ | <input type="checkbox"/> |

Signature of Adjoining Owner or Agent:

Date:

NOTE The notice under section 85 of the Building Act 1993 must be given to the owner or agent within 14 days of being served with a notice under section 84 of that Act and in the case of (ii) or (iii) must also be given to the relevant building surveyor who must determine the matter under section 87 of the Building Act 1993. (See regulation 114)

Declaration of Service of Protection Notices

To: **Relevant Building Surveyor**
Conti Group Building Consultants
7 Lilian Street, Bulleen VICTORIA 3105

I,being the owner/agent
(owner or agent)

of
(insert location of proposed building work)

do solemnly and sincerely declare as follows:-

1. Pursuant to Regulation 111 of the Building Regulations 2018 (“the Regulations”), I am required to provide protection for adjoining property.
2. In accordance with Section 84 of the Building Act 1993 (“the Act”), I served protection details on all adjoining owner/s of adjoining property situated at:

.....
(address of adjoining property)

3. The details served comprised:-
 - (a) **a notice in accordance with Form 7 of the Regulations and three copies of Form 8;**
and
 - (b) **prescribed* details of the proposed building works as at the date of the notice;**
and
 - (c) **prescribed * details of the proposed protection works setting out the nature, location, time and duration of the protection works; and**
 - (d) **other prescribed* information.**
4. These documents were served by (insert how served) on
..... (insert date on which served).
5. A full copy of all documents and prescribed * details and information is attached to this declaration.

Signature: _____

Date: _____

Print Name: _____

** Prescribed details and information means the relevant details set out in Form 7 and any other information set out in the documents listed on the attached ‘protection works information’ letter which accompanies the protection works package.*

DILAPIDATION INSPECTION REPORT

For the Purpose of Section 94 of the Building Act 1993
(Protection of Adjoining Property)

This inspection report has been prepared by:

Subject site owner/agent:

Name:

Address:

Postcode:

Telephone:

Facsimile:

Email:

This inspection report has been prepared in the company of:

Adjoining owner/agent

Name:

Address:

Postcode:

Telephone:

Facsimile:

Email:

Subject Property Details:

Address of Property:

Postcode:

Date of Report:

Date of Inspection:

Weather Conditioning at the time of Inspection

Fine

Cloudy

Wet

Windy

Other (Please Specify)

Adjoining property Details:

General description of building (i.e. single storey detached dwelling)

Estimated age years.

Weather conditions on day of inspection:

Foundation (strip footing/stumps or concrete slab):

Floor: Wall:

Windows: Roof:

General summary of inspection:

Areas that were in accessible at time of inspection:

This inspection report is undertaken to comply with the requirements of Section 94 of the Building Act 1993 (Protection of adjoining property)

Owner/Agent Signed: _____ Adjoining Owner/Agent Signed: _____

Print Name: _____ Print Name: _____

Details of Report:

LEGEND: Defect rating

✓ No visible defect X Significant defect N Not applicable

Numbers on checklist refer to items on Summary of Defects list (see over)

THE SITE

Fences			Paths			Driveways			Steps		
Surface drainage			Retaining Walls (non-structural)								

Garage

Walls			Roof Frame			Floor			Roof Cover		
Drainage			Doors								

Shed

Walls			Roof Frame			Floor			Roof Cover		
Drainage			Doors								

EXTERIOR OF BUILDING

Masonry

Brickwork			Mortar			Cracking			Dampness		
Settlement			Flashings			Weepholes					

Timber/Other

Weatherboards			Paint Surface			Flashings			Cement Sheet		
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Windows

Flashings			Moulding			Sills			Fly Screens		
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Chimney

Flashings			Structural			Chimney Pot		
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Balconies, verandahs, patios, decks

Structural			Floor			Walls			Ceilings		
Posts			Steps			Handrails/Balustrade			Cement Sheet		

Roof

Condition			Skylights			Vents			Valleys		
Guttering			Down Pipes								

UNDERFLOOR SPACE

Timber Floor

Stumps			Framing			Dampness			Drainage		
Ventilation			Ant Caps			Services			Debris		

Suspended concrete floor

Concrete Condition			Dampness			Drainage			Ventilation		
Guttering			Debris								

Services

Electrical wiring			Plumbing			Hot water service		
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Summary of Defects:

The items listed below are a summary based on the checklist of pages 2. Items listed below are a record of existing defects as observed. A photo appendix is to also be attached as a record of the items listed below.

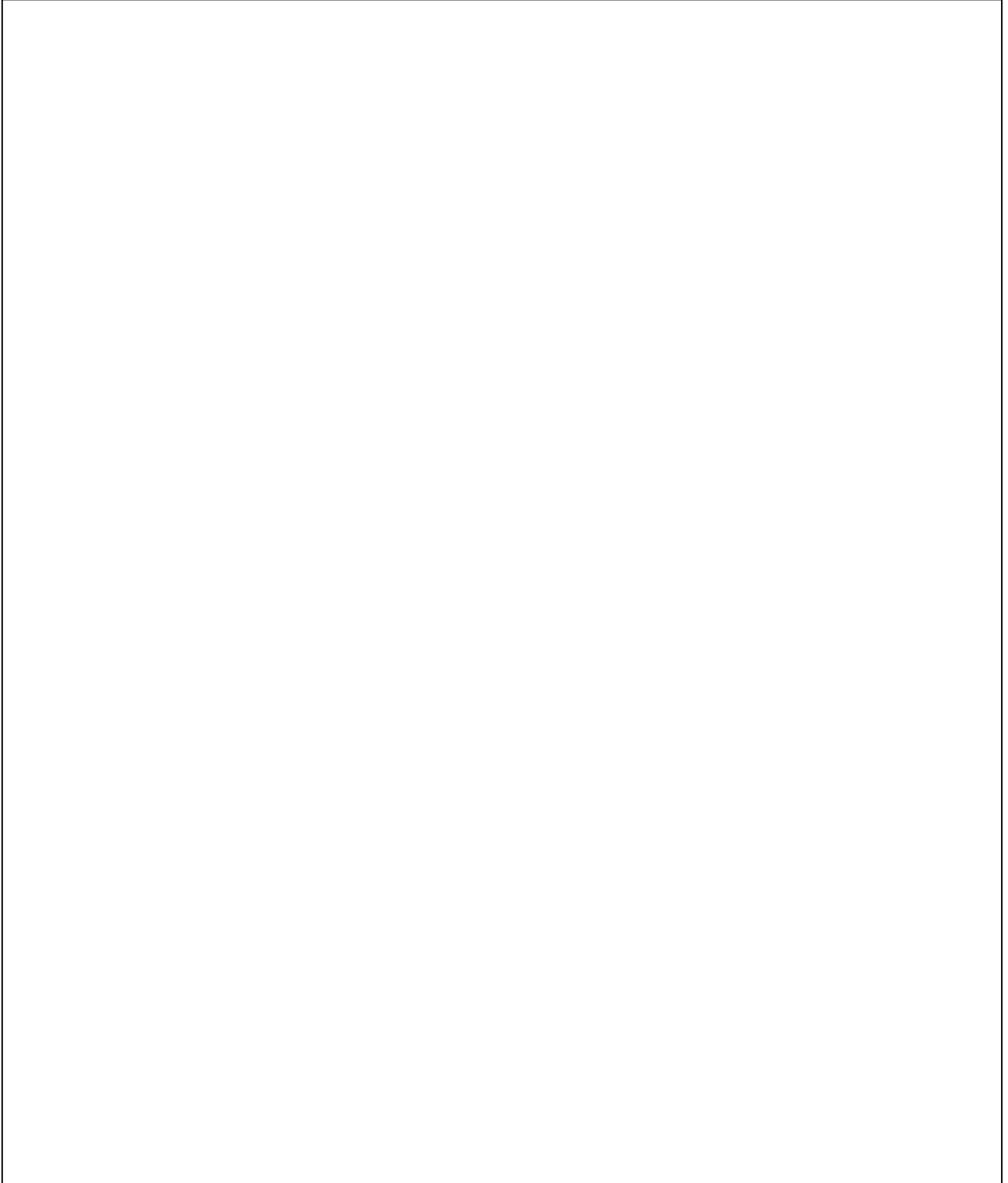
A large, empty rectangular box with a thin black border, occupying most of the page below the introductory text. It is intended for the user to list the observed defects.

Photo Appendix: