



## PROTECTION OF ADJOINING PROPERTY

1. The attached form 7 and 8 need to be served on the adjoining owners and the relevant Building Surveyor.
2. Included with these forms you must also serve:
  - a) details of the proposed building works as at the date of the notice; and
  - b) details of the proposed protection work setting out the nature, location, time and duration of the protection work.
3. Before commencing the protection works the owner (or agent) in company with the adjoining owner (or agent) must:
  - a) make a full and adequate survey of the adjoining property; and
  - b) record in writing or by any other means any of the parties desires all existing cracks and defects in the adjoining property.
4. Before commencing any protection work in respect of an adjoining property, the owner must enter into a contract of insurance against damage by the proposed protection work to the adjoining property and against any liabilities likely to be incurred to adjoining occupiers and member of the public during the carrying out of the building work and for a period of 12 months after that building work is completed.

The contract of insurance must be entered into with an insurer and for an amount agreed to by the owner and adjoining owner.

The owner must lodge the contract of insurance with the adjoining owner before the commencement of the protection work.

The contract of insurance must be renewed or extended as often as may be necessary during carrying out the building work and for 12 months after that work is completed.



### PROTECTION WORK NOTICE – Form 7

Building Act 1993 – Building Regulations 2018 – Regulation 113

#### To

Adjoining Owner \_\_\_\_\_

Postal Address \_\_\_\_\_

\_\_\_\_\_ Postcode \_\_\_\_\_

Relevant Building Surveyor: Mitchell Shire Council

Postal Address: 113 High Street, Broadford VIC 3658

Contact Person: \_\_\_\_\_ Phone: 5734 6200

#### From

Owner/Agent \_\_\_\_\_

Postal Address \_\_\_\_\_

\_\_\_\_\_ Postcode \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone \_\_\_\_\_

#### 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 land and request your agreement to the proposed protection work.

#### Details of Proposed Building Work

##### Property Details

Address \_\_\_\_\_

Lot/s \_\_\_\_\_ LP/PS \_\_\_\_\_ Volume \_\_\_\_\_ Folio \_\_\_\_\_

Crown Allotment \_\_\_\_\_ Section \_\_\_\_\_ Parish \_\_\_\_\_

County \_\_\_\_\_ Municipal District \_\_\_\_\_

##### Adjoining Property Details

Address \_\_\_\_\_

Lot/s \_\_\_\_\_ LP/PS \_\_\_\_\_ Volume \_\_\_\_\_ Folio \_\_\_\_\_

Crown Allotment \_\_\_\_\_ Section \_\_\_\_\_ Parish \_\_\_\_\_

County \_\_\_\_\_ Municipal District \_\_\_\_\_

##### Details of proposed building work

*(insert details including details about damage etc that may be caused to adjoining property)*



### Details of proposed protection work

*(insert the nature, location, time and duration of the proposed protection work, including the extent to which access to the adjoining property will be required for the purpose of undertaking the proposed protection work)*

### 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.

### Signature

Signature of owner/owner's agent \_\_\_\_\_

Date \_\_\_\_\_

NOTE 1: 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 the notice under Section 84 of the Act and in the case of (b) or (c) must also be given to the relevant Building Surveyor who must determine the matter under Section 87 of the **Building Act 1993**.

NOTE 2: Under section 85 of the **Building Act 1993**, the adjoining owner must respond to a notice under section 84 of the Act by giving to the owner within 14 days a notice under section 85 of that Act –

- a) agreeing to the proposed protection work: or
- b) disagreeing with the proposed protection work: or
- c) requiring more information.

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

In the case of (b) and (c) above, a copy of the notice under section 85 of the Act must also be given to the relevant Building Surveyor. (See Form 8)



### PROTECTION WORK RESPONSE NOTICE – Form 8

Building Act 1993 – Building Regulations 2018 – Regulation 114

#### To

Agent or Owner \_\_\_\_\_

Postal Address \_\_\_\_\_

\_\_\_\_\_ Postcode \_\_\_\_\_

Relevant Building Surveyor: Mitchell Shire Council

Postal Address: 113 High Street, Broadford VIC 3658

Adjoining Owner \_\_\_\_\_

Postal Address \_\_\_\_\_

\_\_\_\_\_ Postcode \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone \_\_\_\_\_

#### Address of property where building work is to be carried out

(from Form 3)

Address \_\_\_\_\_

#### Address of my adjoining property

Address \_\_\_\_\_

#### Response from adjoining owner

In accordance with section 85 of the Building Act 1993, I hereby respond to the notice served on me by the owner under section 84 of that Act and –

- a) agree with the proposed work
- b) disagree with the proposed protection work for the following reasons
- c) request the following further information


#### Signature

Signature of adjoining owner or agent \_\_\_\_\_

Date \_\_\_\_\_