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**Our Ref:** gs.Advisory Notes - Complete Package.dot

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# Advisory Notes for Protection of Adjoining Property

*Pursuant to Regulation 602 of the Building Regulations 2006  
and Section 84 of the Building Act 1993*

## Guide to Developers

The nature and location of the proposed building works may mean that you need to take measures to prevent damage to adjoining properties. (Usually “underground” protection and/or “overhead” protection.)

## What is Adjoining Property

An adjoining property means land (including any street or 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 building work.

## Protection Work

Protection work, whether permanent or temporary, includes underpinning, the provision of vertical support, lateral support, protection against variation in earth pressures, provision of ground anchors and other support for adjoining property. Protection work includes shoring up, overhead protection of adjoining property and any other work designed to maintain the stability of adjoining property or to protect property from damage from building works.

## Insurance Requirements

The Building Act requires that the owner of the land on which building work is to occur must purchase insurance to protect against damage to adjoining property and other liabilities arising out of the building work. The required period of insurance is the period of the actual building work plus a further period of 12 months after completion.

There are two typical types of insurance, viz:-

- (i) Home Building Insurance
- (ii) Contract Works Liability Insurance

Generally, the builder should already be carrying one of these forms of insurance. Where protection work is required, the building owner should ensure that:-

- (a) their name is specifically mentioned on the policy;
- (b) the policy includes the 12 month extension beyond works completion. (This provision is not a standard clause in these policies.);
- (c) the policy is specifically endorsed to include protection of adjoining property and Part 7 of the Building Act 1993. (Many policies are not specific in relation to these matters.)

## Procedure for Serving Notices

Protection notices (Forms 3 & 4) should be served on adjoining owner(s) in the following manner:-

**Step 1** Prepare a cover letter. The following matters are suggested for inclusion:-

- mention the adjacent property affected by the work;
- describe the extent of the work;
- describe the work methods to be adopted so that the extent of protection measures proposed can be related to the nature and manner of the proposed building work;
- mention that a dilapidation report has been or will be carried out (photos, written description of existing conditions, etc.) and make reference to the builder holding adequate insurance;
- state the programme for the works and give approximate commencement and duration;
- list all protection measures including any temporary hoardings to be erected and confirm that safe building procedures will be adopted to ensure protection of persons and property; and
- include relevant attachments to enable the proposals to be assessed – plans, structural details, computations, soil reports etc.

**Step 2** Include the following documents as relevant:-

- a set of structural drawings (showing bulk excavation, site retention, footings, etc), soil report, computations, architectural drawings (town planning drawings should suffice) and details of protection measures proposed;
- details of any overhead protection measures such as hoarding plans, scaffolding details, catch fans, roof planking plans, etc;
- completed Form 3, listing all the relevant documents.

**Step 3** (a) Send the package along with three copies of a blank Form 4 to each adjoining owner. (Three copies so that one copy can be kept by the adjoining owner, one copy returned to you, and one copy returned to Building Surveyor.)

(b) Send a duplicate of the entire package to the Building Surveyor. (Include proof of service by completing the enclosed Statutory Declaration as evidence that the documents have been served and on what date.)

**Step 4** The adjoining owner completes the Form 4's and sends one to you, one to the Building Surveyor and keeps one for their own records. If the adjoining owner does not respond within 14 days it will be taken that they have consented. ie. They will be deemed to have consented on the basis of the documents presented to them.

## Notes

1. Serving of documents may be by the following means:-

- (a) Delivery in person; or
- (b) By registered mail.

2. For adjoining property comprising multiple strata titles it is suggested that one set of complete documents be served on the Body Corporate Agent and a cover letter sent to each individual strata unit owner advising of the protection notices and indicating that plans and specifications of the proposal are available for viewing from the Body Corporate Agent.

For further details contact PLP Building Surveyors & Consultants Pty Ltd on telephone (03) 9650 7999.

**Encl.** 2 copies of Form 3  
1 Statutory Declaration  
3 Copies of Form 4  
(Electronic versions on MS Word are available on request)

#### **Disclaimer**

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# Statutory Declaration

*Statutory Declaration from owner of land who is required to provide protection for an adjoining property.*

I, ..... being the owner

of .....

(insert location of proposed building work) in the State of Victoria do solemnly and sincerely declare:-

1. That I have been required to provide protection for adjoining property pursuant to Regulation 602 of the Building Regulations 2006 ("the regulations").
2. That in accordance with Section 84 of the Building Act 1994 ("the Act") I served on the adjoining owner/s of the adjoining property situated at:

.....

a notice in accordance with Form 3 of the Regulations accompanied by three copies of Form 4 together **with details** of:-

(a) **the proposed building works as follows; and**

**Drawing Reference/Revision Numbers**

.....  
.....  
.....

**Engineering Specification/Computation Reference Numbers**

.....  
.....  
.....

**Other (eg. Construction sequence/details).**

.....  
.....  
.....

(b) **the proposed protection works setting out the nature, location, time and duration of the protection works on adjoining property as follows:-**

**Documents**

.....  
.....

3. That these documents were served by ..... (insert how served) on  
..... (insert date on which served).

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

## FORM 3 PROTECTION WORK NOTICE

Building Act 1993, BUILDING REGULATIONS 2006, Regulation 602(c), 602 (3)

**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)

PLP Building Surveyors & Consultants Pty Ltd Level 4, 63 Exhibition Street MELBOURNE Vic 3000	
Contact Person:	Phone: 03 9650 7999

***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:			

**Protection Work and Program:**

**Nature:**

**Location:**

**Time:**

**Duration:**


**Signature of Owner or Agent:**

**Date:**

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**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 regulations 602(4) and 602(5) and Form 4.)**

# PROTECTION WORK RESPONSE NOTICE

## FORM 4 Building Act 1993

BUILDING REGULATIONS 2006  
Regulation 602(4), 602(5)

**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)

PLP Building Surveyors & Consultants Pty Ltd  
Level 4, 63 Exhibition Street  
MELBOURNE Vic 3000  
Contact Person: Phone: 03 9650 7999

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

**Address of Property where  
building work is to be carried out  
(from Form 3):**

**Address of Adjoining Property:**

### RESPONSE

*In accordance with Section 85 of the Building Act 1993, I hereby respond to the Form 3 notice served to me by the owner under that section and (please tick appropriate box):*

(i) agree to the proposed protection work.

Tick Box

(ii) disagree with the proposed work for the following reasons:

(iii) request the following further information:

**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 regulations 602(4) and 602(5))