

Form 6 Course of Action

The project you are undertaking has been deemed to require a Form 6 – Protection Notice, the steps to take are as follows:

- Issue the Form 6 – Projection Notice to the required adjoining owner – ensuring to take note of the date of issuing.
- Copy the Building Surveyor into the email when sending out the Form 6 or send an email giving the date of issue. This way the Building Surveyor is aware of what and how the project is progressing.
- The adjoining owner has 21 days from the date of issuing the Form 6 – Protection Notice to return the Form 6 to who ever is seeking the agreement. This agreement must then be forward to the Building Surveyor in order to issue the Start Work Notice.
- If the owner is absent or will not respond, you will need to make reasonable attempts to deliver the Form 6. Records of the attempts to contact the owner with dates and location of where the documents were left will need to be forwarded to the Building Surveyor.
- After 21 days if **NO** response from the adjoining owner it is deemed that they are happy for you to proceed. (see 2016 ACT Section 79.5(a) and 79.5(b))

78. Absent or incapable adjoining owner

(1) The owner of relevant premises may apply to the Director of Building Control for the appointment of a person as agent for an adjoining owner if –

(a) the owner of the relevant premises is unable to find an adjoining owner to notify in accordance with [section 77](#); or

(b) an adjoining owner notified in accordance with [section 77](#) is not capable of representing himself or herself for the purposes of this Part.

(2) An application under [subsection \(1\)](#) is to –

(a) be in writing; and

(b) specify the reasons for the application; and

(c) contain such information as is specified by the Director of Building Control.

(3) If satisfied after receiving an application under [subsection \(1\)](#) that an adjoining owner is unable to be found or is not capable of representing himself or herself, the Director of Building Control may appoint a suitable person to act as the agent for the adjoining owner for the purposes of this Part.

(4) If the Director of Building Control appoints a person as an agent under this section, the Director of Building Control is to notify the person in writing of –

(a) the appointment; and

- (b) the nature of the duties to be performed as agent under the appointment; and
 - (c) the fees that may be payable to the agent by the adjoining owner for the performance of those duties; and
 - (d) any other terms and conditions the Director of Building Control thinks appropriate.
- (5) If the Director of Building Control appoints a person as an agent under this section –
- (a) the Director of Building Control is to notify the owner of the relevant premises of the appointment of the agent; and
 - (b) the owner of the relevant premises must notify the agent in accordance with [section 77](#).
- (6) The appointment of an agent under this Part is according to the terms and conditions, including the payment of fees, as are specified by the Director of Building Control in the instrument of appointment.
- (7) Nothing in this section prevents an adjoining owner from appointing, on his or her own initiative, an agent to act on his or her behalf for the purpose of this Part.

79. Adjoining owner may respond to protection work notice

- (1) An adjoining owner who receives a protection work notice may, within the prescribed period after receiving the notice, notify the owner of the relevant premises that the adjoining owner –
- (a) agrees to the proposed protection work as specified in the notice; or
 - (b) disagrees with all, or part, of the proposed protection work as specified in the notice and, if relevant, specifies changes to be made to the proposed protection work; or
 - (c) requests further information in respect of the proposed protection work.
- (2) If an adjoining owner requests further information under [subsection \(1\)\(c\)](#), the owner of the relevant premises must –
- (a) forward the request to the relevant building surveyor; and
 - (b) if the building surveyor determines that the request is reasonable, provide the adjoining owner with the further information requested; and
 - (c) if the building surveyor determines that the request is not reasonable, notify the adjoining owner of that determination.
- (3) If further information is provided under [subsection \(2\)\(b\)](#), the adjoining owner must notify the owner of the relevant premises that the adjoining owner –
- (a) agrees to the proposed protection work as specified in the notice and detailed in the further information; or
 - (b) disagrees with all, or part, of the proposed protection work as specified in the notice and, if relevant, specifies changes to be made to the proposed protection work.
- (4) If a request for further information was refused under [subsection \(2\)\(c\)](#), the adjoining owner must notify the owner of the relevant premises that the adjoining owner –
- (a) agrees to the proposed protection work as specified in the notice and detailed in any further information; or
 - (b) disagrees with all, or part, of the proposed protection work as specified in the notice and, if relevant, specifies changes to be made to the proposed protection work.
- (5) An adjoining owner who –
- (a) receives a protection work notice; and
 - (b) fails to respond in respect of the notice within the prescribed period after receiving the notice, or such further period as is specified in this section –
- is taken to have agreed to the proposed protection work as specified in the notice.

If an adjoining owner won't sign or disagrees with the Form 6 – Protection Notice, the steps to take are as follows:

- Contact the Building Surveyor
- May require further information

81. Effect of disagreement in relation to proposed protection work

(1) If an adjoining owner notifies the owner of relevant premises that the adjoining owner disagrees with all, or part, of the proposed protection work, the owner of the relevant premises must –

(a) if the protection work relates to –

(i) building work or demolition work to be performed at the relevant premises, refer the matter to the building surveyor engaged in respect of the work; or

(ii) plumbing work to be performed at the relevant premises, refer the matter to the relevant permit authority; and

(b) inform the adjoining owner of the referral.

(2) If a disagreement in relation to proposed protection work is referred to a building surveyor under [subsection \(1\)\(a\)\(i\)](#), the building surveyor –

(a) may request any additional information from the owner of the relevant premises, or the adjoining owner, that the building surveyor thinks relevant; and

(b) is to provide a copy of any additional information received under paragraph (a) to the owner of the relevant premises and the adjoining owner; and

(c) is to make a determination as to how, and what type of, proposed protection work is to be performed.

(3) If a disagreement in relation to proposed protection work is referred to a permit authority under [subsection \(1\)\(a\)\(ii\)](#), the permit authority –

(a) may request any additional information from the owner of the relevant premises, or the adjoining owner, that the permit authority thinks relevant; and

(b) is to provide a copy of any additional information received under paragraph (a) to the owner of the relevant premises and the adjoining owner; and

(c) is to make a determination as to how, and what type of, proposed protection work is to be performed.

(4) A person who makes a determination under [subsection \(2\)\(c\)](#), or [subsection \(3\)\(c\)](#), is to give a written copy of that determination to the owner of the relevant premises and each adjoining owner.

If at anytime you require further information or assistance, please don't hesitate to contract Lee Tyers Building Surveyor discuss the situation with one of the surveyors. Contact us by either email admin@ltbs.com.au or phoning on (03) 6229 2440



NOTICE FOR PROPOSED PROTECTION WORK

Section 76

Adjoining owner details:

To: *Adjoining Owner*
 Address
 Suburb/postcode

Form **6**

Owner details:

Owner: *Contact person:*
Address: *Phone No:*
 Fax No:
Email address:

Building Surveyor details – Building Work:

Building Surveyor: *Relevant Building Surveyor*
Business name: *Phone No:*
Business address:
 Fax No:
Licence No: *Email:*

Permit Authority details – Plumbing Work:

Permit Authority:
Address: *Phone No:*
 Fax No:
Licence No: *Email:*

Address of adjoining property:

Address: *Lot No:*
 Certificate of title No:

Address of proposed work:

Address: *Lot No:*
 Certificate of title No:

Details of proposed protection work:

This is to notify you in accordance with section 76 of the *Building Act 2016* of proposed building work and proposed protection work.

The following details are provided of proposed building work to be undertaken adjoining your property -

(Provide details of proposed building work):



The following details are provided of proposed protection work to be undertaken to protect your property –

(Describe nature and particulars of the proposed protection work):

Proposed program for undertaking the protection work:

I draw your attention to section 79 of the *Building Act 2016*, which states –

- (1) An adjoining owner who receives a protection work notice may, within 21 days after receiving the notice, notify the owner of the relevant premises that the adjoining owner –
 - (a) agrees to the proposed protection work as specified in the notice; or
 - (b) disagrees with all, or part, of the proposed protection work as specified in the notice and, if relevant, specifies changes to be made to the proposed protection work; or
 - (c) requests further information in respect of the proposed protection work.
- (2) If an adjoining owner requests further information under subsection (1)(c), the owner of the relevant premises must –
 - (a) forward the request to the relevant building surveyor; and
 - (b) if the building surveyor determines that the request is reasonable, provide the adjoining owner with the further information requested; and
 - (c) if the building surveyor determines that the request is not reasonable, notify the adjoining owner of that determination.
- (3) If further information is provided under subsection (2)(b), the adjoining owner must notify the owner of the relevant premises that the adjoining owner –
 - (a) agrees* to the proposed protection work as specified in the notice and detailed in the further information; or
 - (b) disagrees with all, or part, of the proposed protection work as specified in the notice and, if relevant, specifies changes to be made to the proposed protection work.
- (4) If a request for further information was refused under subsection (2)(c), the adjoining owner must notify the owner of the relevant premises that the adjoining owner –
 - (a) agrees to the proposed protection work as specified in the notice and detailed in the further information; or
 - (b) disagrees with all, or part, of the proposed protection work as specified in the notice and, if relevant, specifies changes to be made to the proposed protection work.
- (5) An adjoining owner who –
 - (a) receives a protection work notice; and
 - (b) fails to respond in respect of the notice within the prescribed period after receiving the notice, or such further period as is specified in this section is taken to have agreed to the proposed protection work as specified in the notice.



* If you agree, you may sign the agreement section provided at the bottom of this page and return a copy of this notice to the owner

Declaration by owner:

I declare that I will comply with my duties to carry out protection work under Part 6 of the *Building Act 2016*.

Name: [print]

Signed

Date

Owner:

Agreement of the adjoining owner for proposed protection work

1. I am the owner of the property adjoining the land where building work is proposed that may affect my land or buildings.
2. I have read this notice and agree with the proposed protection work that will be carried out by the person who sent the notice.

Name: [print]

Signed

Date

Adjoining owner: