



# Building Permits:

**Protection Works**

**Public Protection**

**Mandatory inspections**

**Building Appeals Board**

This webinar will start shortly to allow participants to join.



*The VBA respectfully acknowledges the Traditional Owners and custodians of the land and water upon which we rely. We pay our respects to their Elders past and present.*

*We recognise and value the ongoing contribution of Aboriginal people and communities to Victorian life.*

*We embrace the spirit of reconciliation, working towards equality of outcomes and an equal voice.*



# Practitioner Education Series

As Victoria's Building and Plumbing Regulator, we **safeguard Victoria's future liveability, promoting safe, compliant buildings, built to last.**

Our role is not to set policy, but to **support industry to understand and comply with the rules.**

Our Practitioner Education series **helps support the industry by providing practical insights, evidence-based strategies and useful resources.**

# Welcome

Today you will hear from:

**Christian Williams**

Senior Technical Advisor - Building



**Practitioner  
Education  
Series**

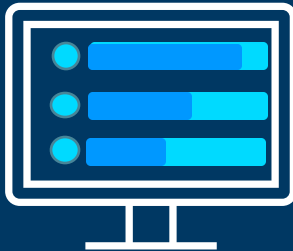
# Housekeeping



Today's session is **recorded** and will be available on the VBA website



**Questions** can be submitted and voted on via the Q&A function



We will be conducting **live polls** today, which will automatically appear on your screens

## Today we will cover:

### Protection Works and Public Protection

- Serving of Protection Works Notices (PWN)
- Roles and responsibilities
- Public Protection (Regulation 116)

### Mandatory inspections

- Requirements
- Roles and responsibilities
- Direction to Fix

### Building Appeals Board

- Appeals
- Disputes
- Modifications
- Compliance assessment

## After this webinar, you will be able to:

- Have a better understanding of the requirements for Protection Work and Public Safety
- Have a better understanding of the requirements for Mandatory Inspections
- Have a better understanding of the functions of the Building Appeals Board under the Building Act.

# Protection Work & Public Protection



## Protection Work

# Protection Work – What is it?

It can be **permanent** or **temporary work** that may include:

- Underpinning of existing footings on adjoining property;
- Shoring / Propping of common walls / Retaining walls;
- Building work designed to maintain the stability of adjoining property or to protect it from damage;
- A gantry or other overhead barriers to prevent material from falling on a roof or other part of the adjoining property.



Practice Note  
PW-02 Protection work





## Protection Work – Why do we need it?

To ensure the protection of **adjoining property** from the **risk of significant damage** due to building work on a site.

## Adjoining property – What is it?

### **Land that could be affected includes:**

- Any street / highway / lane / footway / square / alley / right of way
- Land, situated adjacent to a building site, that may be at risk of significant damage due to building work
- Building work on the boundary – excavation / site cut / demolition work / adjacent buildings / retaining walls

## Protection work or building work – What’s the difference?

- **Protection work** (PW) is the work undertaken to protect adjoining buildings and land caused by the building work.
- **Building work** is the work carried out that triggers the need for PW and can only be done within the allotment boundaries for which a building permit has been issued.

## Accessing a building site – Can I use the adjoining property?

- Adjoining owner consent required.
- Right of entry.

## Roles and responsibilities

- Relevant Building Surveyor
- Owner
- Adjoining owner (including a Municipal Council or other Authority)



## Protection Work

# Roles and Responsibilities – Relevant Building Surveyor (RBS)

- Determine if PW is required to the adjoining property
- Document a determination that PW is required (Form 6, R111)
- Determine whether proposed PW is adequate
- Where an adjoining owner does not agree, but the RBS is satisfied, issue the determination using Form 9



## Protection Work

### Roles and Responsibilities - Owner

- Provide adequate information as required
- Provide a statement that explains the operation of PW & the disputes resolution process to the adjoining owner
- Plans and specifications for the work that relate to the PW
- Copy of the allotment site plan
- Prepares Forms 7 and 8
- Arrange insurance and survey
- PW adjacent to Public Space



## Protection Works – Serving of PWN

The method to correctly serve a PWN is:

**By post**



**By hand**



**By email**

(only if prior consent given)



## Roles and Responsibilities – Adjoining Owner

- Respond to Form 7 within 14 days of service by completing a Form 8
- Provide access for a survey
- Costs and expenses incurred by the adjoining owner be paid by the owner as agreed



## Quiz – Roles and Responsibilities in PW

Q1. True or False: **The relevant building surveyor is the right person to assess whether PW notices are required.**

A: True

Q2. **Who sends the PW notices: Is it the Owner or the RBS?**

A: Owner

Q3. True or False: **You are free to access the adjoining property without your neighbour's consent.**

A: False





## Public Protection Regulation 116 - Overview

- What is protection of the public?
- When are precautions required?
- What are the Relevant building surveyor's responsibilities?
- What documentation must be provided to the Relevant building surveyor?



## Public Protection Regulation 116

### What is Public Protection?

When there is a risk to the safety of the public due to construction work within or over the allotment boundary of a site, precautions must be in place to protect the public.

### Protection of the Public

Examples of specific precautions include:

- Para webbing
- Chain mesh fencing
- Solid hoardings
- Scaffolds
- Gantries.

## Public Protection Regulation 116

### Examples of when precautions are required

- Building façade works
- Balcony construction
- Excavation for footings along an allotment boundary adjoining a footpath, road, or public space
- Deep excavation for a basement or for multi-storey construction on the street alignment or public area
- Retaining walls above and / or below ground
- Tilt panel construction (prefabricated large concrete panels being lifted from the road over to the property or where lifting and propping adjacent to street alignment is required)
- Demolition of part or whole building

## Public Protection Regulation 116

### What are the Relevant Building Surveyor's responsibilities?

- Assess the documentation
- Check the adequacy of the proposed precautions
- Request a Report and Consent be obtained from the relevant council – Reg 116(4), unless compliance with local law is required

## Public Protection Regulation 116

### What documentation must be provided to the RBS?

- **Site plan** showing:
  - the subject allotment,
  - adjoining properties,
  - public space (footpath, road, lane)
  - access provisions for pedestrians and/or a traffic management plan
- **Elevations and sections:** including building and hoarding
- **A hoarding plan:** location of hoarding, width of the street, footpath, street furniture warning signage, flashing lights in place overnight
- **A work method statement:** which can include timings for the precautions and period of time, they will be in place
- **Engineer's certification, and design of structural components** including any applicable computations

## Quiz – Public Protection Regulation 116

Q1. True or False: **When there is a risk to the safety of the public due to construction work on a site, precautions must be in place to protect the public.**

A: True

Q2. **Who is the right person to check the adequacy of the proposed precautions, the RBS or the Owner?**

A: RBS

Q3. True or False: **Unless a local law requires precautions, the report and consent of the relevant council is not required for precautions over the street alignment.**

A: False



# Mandatory Inspections



## Mandatory notification stages and inspection of building work

- Mandatory notification stages are critical prescribed stages when building work must be inspected by the Relevant Building Surveyor (RBS):
  - Construction of a new building or alteration of an existing building (R167)
  - Demolition or removal of a building (R168)
  - Construction of a swimming pool or spa (R169)
- Inspections occur at certain stages of building work (Regs 167, 168, 169, 172 or as defined by the RBS)
- RBS must cause the inspection, complete and approve the inspection, **before** any further building work can continue





## Mandatory Inspections

# Construction of a new building or alterations to an existing building

- Before placing a footing
- Prior to pouring an in-situ reinforced concrete member
- Completion of framework
- Inspection of fire and smoke resisting building elements (R172)
- Final, on completion of all building work.



## Mandatory Inspections

### Demolition or removal of a building

- Upon completion of precautions for public protection
- Final inspection, on completion of all demolition or removal work.



## Mandatory Inspections

### Construction of a swimming pool or spa

- Completion of excavation for the swimming pool or spa
- Before pouring any footing or in-situ reinforced concrete member that is specified in the building permit by the RBS
- Completion of precautions for public protection (regulation 116)
- Final, on completion of the swimming pool or spa and associated safety barrier



## Mandatory Inspections

# Roles and Responsibilities

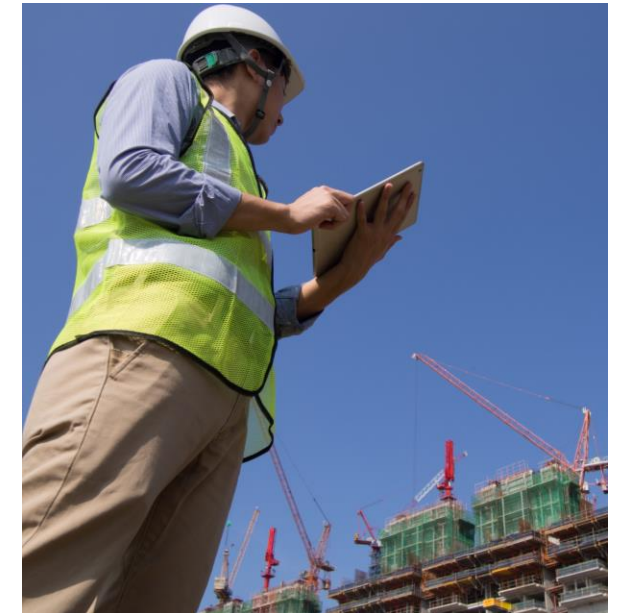
### Relevant Building Surveyor



### Building inspector



### Builder



## Mandatory Inspections

### Role of the Relevant Building Surveyor

- Maintain building compliance standards, ensuring that mandatory inspections are carried out in accordance with the legislation
- Power for the RBS to cause an inspection in person at any time
- Carry out inspections
- Keep record of inspection (S35A and R173)
- Non-compliant building work and Direction to Fix process
- Issue Enforcement under Part 8 of the Act



## Mandatory Inspections

### Role of the Building Inspector

- Persons who can carry out an inspection
- Must be a registered Building Surveyor or Building Inspector, or a prescribed person able to carry out inspections



## Mandatory Inspections

### Role of the Builder

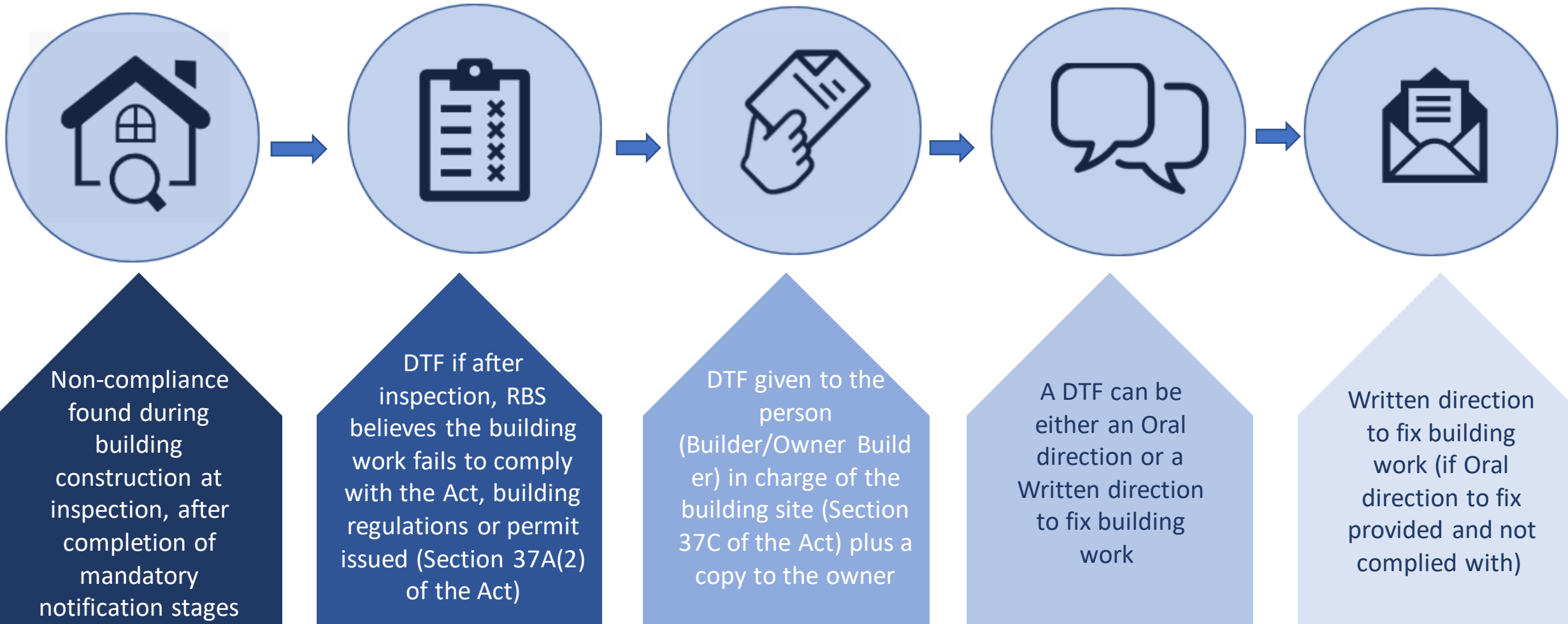
- Notify RBS to inspect each mandatory notification stage
- Ensure no further building work occurs until approval is given



# Direction to Fix (DTF) Process



Direction to fix  
building work  
Practice Note NO-02





## Mandatory Inspections

### Direction to Fix – Time Frame

Time frame is the period prescribed by the regulations or 7 days after the Oral DTF given to the builder (Section 37D)



RBS may ask builder how much time they need to comply with direction when giving a written DTF to builder/owner builder



RBS must ensure the specified timeframe required to comply with DTF is reasonable. The time required cannot be less than the appeal period (7 days under R 271(1)(h))



## Mandatory Inspections

### Direction to Fix – Extensions

Builder can request for an extension of time before written DTF has expired (Section 37G of the Act)



RBS may grant an extension if the circumstance is appropriate to do so



Appeal decision of the written DTF



## Quiz – Mandatory Inspections

**Q1. Who causes an inspection - Is it the Relevant Building Surveyor or the Builder?**

A: RBS

**Q2. True or False: During construction, the Builder named on the building permit, after completion of each mandatory notification stage, must ensure that the RBS is notified that a stage is ready for inspection.**

A: True

**Q3. True or False: A copy of the written DTF is given to the Owner**

A: True



# Building Appeals Board



## Who is the Building Appeals Board?

- Independent statutory body
- Separate from VBA
- Members are building surveyors, architects, engineers, town planners, builders & lawyers



Victorian Building Authority

Building Appeals Board

## What can they do?

- Appeals
- Disputes
- Modification
- Compliance Assessment



## Appeal a decision

When you are dissatisfied with a decision.

### Examples:

- Council refuses a siting report and consent application
- Relevant Building Surveyor refuses to issue a building/occupancy permit
- Relevant Building Surveyor gives a written direction to fix to the builder
- Building notices and orders



## Disputes

Examples:

- Protection work:
  - insurance amount
  - cost for assessing/supervising
  - survey/dilapidation report
- Disputes over estimated cost of building work





## Modifications

You believe a provision of the building regulation should not apply, or should apply in a varied way.

Examples:

- Particular National Construction Code (NCC) requirement should not apply or
- Particular NCC requirement should apply differently

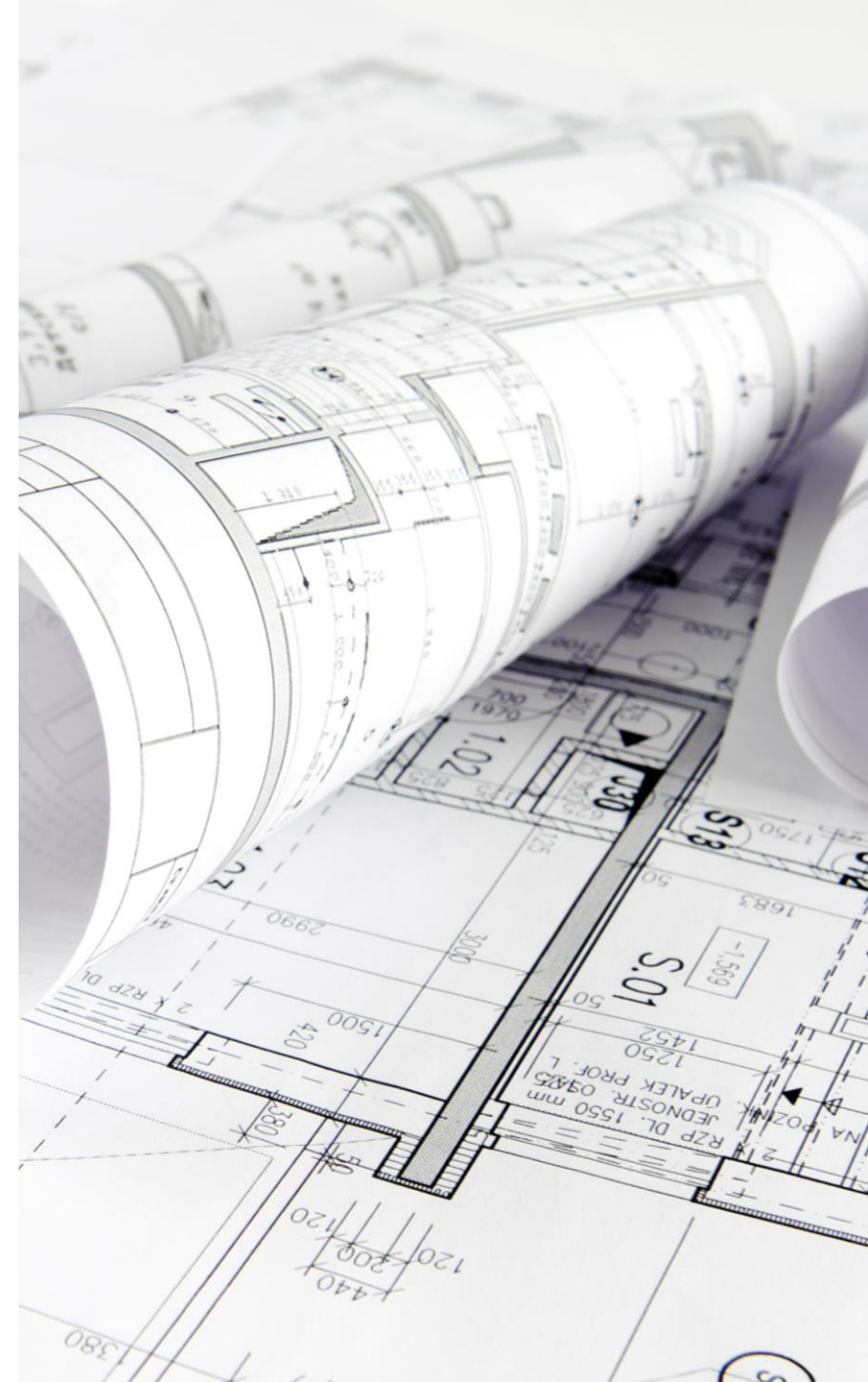


## Compliance assessment

When a determination is required on whether a particular design or any element of the building complies.

Example:

- Compliance assessment to assist the owner in the design phase.



## Quiz – Building Appeals Board



Building  
Appeals Board



**Q1. True or False: If the adjoining owner does not allow the owner to do the protection work survey, they can apply to the BAB**

A: True

**Q2. Owner wants a movie theatre room in their home, but cannot comply with the natural lighting requirement under the National Construction Code, is there an option to apply for a Modification?**

A: True



## Conclusion

### This webinar has helped you to:

- Be able to ensure public safety using Public Protection measures and safeguard adjoining property through Protection Work.
- Have a better understanding of Mandatory Inspection requirements and the Direction to fix process.
- Have a better understanding of the functions of the Building Appeals Board under the Building Act.

**Practitioner  
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Q & A



## Q&A (Pre-Submitted Questions)

Q1. If a Building Appeals Board application is made, should the RBS have their say beforehand?

Q2. What can we do if the owner of the adjoining property keeps refusing to approve the protection notice?

Q3. Where a non-compliance is identified onsite that relates to a matter that would ordinarily require report and consent i.e., Fire services, projection, wall height on boundary. After a Building Direction has been served, what is the role of the report authority in resolving the matter?

Q4. Do I need public protection where the proposed hoarding is located on boundary?



PRACTITIONER EDUCATION SERIES

**Thank you**