

Notice and request for consent – protection structures, party walls, removal of fences, access to land

Building Act 2011, section 78, 79, 80, 81 84, 85
Building Regulations 2012, regulation 4

PERMIT AUTHORITY
USE ONLY

Reference number

BUILDER / DEMOLITION
CONTRACTOR USE

Reference number

Important information for owners of affected land

Under the *Building Act 2011* (the Act), a person responsible for building or demolition work must not, without notification and consent of each affected owner:

- place a protection structure beyond the boundaries of the land on which work is being carried out;
- carry out certain works that would affect a party wall;
- remove fences or gates (note: consent is not required in some circumstances – see part 4 of this form); or
- access adjoining land to do the work or conduct a survey (note: consent is not required if the adjoining land is vacant, however this does not affect the exercise and enforcement of any right that a person has to stop, restrict or prevent a person going on to the other land).

The person responsible for the work (who could be the builder, demolition contractor or the owner of the land on which the work is done) is required to provide you with details of how your land will be affected. After you receive this form you have 28 days in which to consider what is being proposed. If you are not entirely clear about what is being proposed, you should liaise with the person responsible for the work and request further information.

Under section 86 (2A) of the Act the person responsible for work who gives notice or seeks consent may apply to the Magistrate's Court for a court order, if:

- consent is refused - any time after the refusal is given; or
- the consent sought is neither refused nor given and you do not make a request for further information within the 28 day period after this form was given - after that 28 day period has expired; or
- the person responsible for the work provides further information in response to your request - 14 days after further information is given.

Alternatively, the person responsible for the work has the option of changing the design such that it does not affect your land. In such cases there would be no requirement to notify you or get your consent for the purposes of the Act.

You may indicate your response on this form at part 7 and return it to the person responsible for the work. The work affecting your land must not commence without your consent or a court order.

It is suggested that you keep a copy of the signed form indicating your consent or refusal for your records.

For more information please refer to the Department of Mines, Industry Regulation and Safety web site at www.dmirs.wa.gov.au/building-and-energy or call 1300 489 099 or email be.info@dmirs.wa.gov.au.

1. Name and postal address of owner(s) of affected land

Name of owner(s)
of affected land

Street address
(provide lot number
where street number
is not known)

| | | | |
|--------------------------------------|-----------|-------------|----------------------------|
| Name of owner(s) of affected land | | | |
| Unit no | Street no | Level | Lot no |
| Street name | | Street type | Street suffix |
| Suburb | State | Postcode | Country (if not Australia) |

OR
PO Box address

| | | | |
|-----------|-------|----------|----------------------------|
| PO Box no | | | |
| Suburb | State | Postcode | Country (if not Australia) |

2. Land where work is proposed

Property street address (provide lot number where street number is not known)

| | | | |
|-------------|-----------|-------------|---------------|
| Unit no | Street no | Level | Lot no |
| Street name | | Street type | Street suffix |
| Suburb | | State | Postcode |

3. Adjoining land affected by work

Property street address (provide lot number where street number is not known)

| | | | |
|-------------|-----------|-------------|---------------|
| Unit no | Street no | Level | Lot no |
| Street name | | Street type | Street suffix |
| Suburb | | State | Postcode |

4. Notifiable event

Requirement for protection structures (section 78 of the *Building Act 2011*)

Provide details of each protection structure that would be required to be placed into or onto the affected land including the reason for, and nature, location and duration of, the protection structure and the estimated time for doing the protection work.

Party wall, substantial dividing fence, boundary retaining wall (section 79 of the *Building Act 2011*)

Provide details of how the structural, waterproofing or noise insulation capacity of a party wall, substantial dividing fence or boundary retaining wall that protects the adjoining land would be affected.

Removal of fences (section 80 of the *Building Act 2011*)

Specify the fence, gate or other barrier shared by, or located on, the affected land that would be removed; the reasons for its removal and details of any temporary barrier that is proposed to be erected.

Advice note:

Under section 80(1) of the *Building Act 2011* consent or a court order **is not required** for removal of fences in the following circumstances:

- a) the removal is required as a matter of urgency to prevent imminent collapse of, or damage to, any land including a building or structure on the land; or
- b) where the land that shares, or on which is located, the fence, gate or other barrier, is vacant land, or any building on that land is vacant; or
- c) the removal is required for the construction of a **close wall**; and
 - i) a building permit for the close wall is in effect; and
 - ii) the person responsible for the work has given at least 7 business days' notice of the proposed removal to:
 - (A) each owner of the land on which is located the fence, gate or other barrier; and
 - (B) at least one adult occupier of the land, if the land is not occupied by any of its owners.

Close wall means a wall, fence, post or column, whether free standing or attached to, or forming part of, a building or structure, that is so close to a boundary of the land on which the wall or fence is located that it is not reasonably practicable to build a separate dividing fence along the boundary.

The 7 business days' notice is independent to this form and can either be a letter, email or other suitable communication.

The person responsible for the work that requires the removal of a fence, gate or other barrier to the land on or beyond the boundary of the works land, **must ensure that if necessary a temporary barrier is erected** and that it is adequate and suitable having regard to the use of the other land.

Access to land (section 81 of the *Building Act 2011*)

Provide reasons for the requirement to access adjoining land.

Note: For encroachment or adversely affecting adjoining land, use form BA20.

Specify the proposed timeframe within which the notifiable event may occur (if known)

Please attach to this form:

Plans and specifications for the proposed building or incidental structure showing how the building work/demolition work will affect other land and any relevant reports in respect of the building work/demolition work.

5. Access for survey

- I request consent to access the property to carry out a survey of the affected land; or
- I do not request consent to access the property to carry out a survey of the affected land.

Details of proposed survey

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| |
|--|

6. Person responsible for work details

Builder / demolition contractor / owner's name

Street address
(provide lot number where street number is not known)

| | | | |
|-------------|-----------|-------------|----------------------------|
| | | | |
| Unit no | Street no | Level | Lot no |
| Street name | | Street type | Street suffix |
| Suburb | State | Postcode | Country (if not Australia) |

OR
PO Box address

| | | | |
|-----------|-------|----------|----------------------------|
| PO Box no | | | |
| Suburb | State | Postcode | Country (if not Australia) |

Email address

| | | | |
|--|--|--|--|
| | | | |
|--|--|--|--|

Phone/fax

| | |
|----------|-----|
| Phone no | Fax |
|----------|-----|

Registration details
(if applicable)

| |
|--|
| Registration number / licence number / owner-builder approval number |
|--|

Builder / demolition contractor / owner's signature

| | |
|--------------|------|
| Name (print) | |
| Signature | Date |

7. Consent (response notice)

In accordance with section 85 of the *Building Act 2011*, I hereby respond to the notice provided to me in respect to the land detailed in part 3 of this notice and:

- I consent to what is proposed in parts 4 and 5 of this notice; or
- I do not consent to what is proposed in parts 4 and 5 of this notice.

Owner's signature

| |
|--------------|
| Name (print) |
|--------------|

| | |
|-----------|------|
| Signature | Date |
|-----------|------|

Note: the *Building Act 2011* does not affect rights or obligations you may have under other laws.