

### UNDER SECTION 138, 138A, 139, 142 OR 144 OF THE *BUILDING ACT 1993*

#### 1 SITE DETAILS

##### Address

Street Address:	
Suburb:	
State:	P/Code:

##### Municipality

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##### Use of Building

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##### Class/classes of building

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##### Is the copy of current Certificate of Title for the allotment attached?

✓

Yes	<input type="checkbox"/>	
No	<input type="checkbox"/>	Need to attach a copy of current Certificate of Title for the allotment. Go to <a href="http://www.landata.vic.gov.au">www.landata.vic.gov.au</a>

#### 2 APPELLANT

##### Name

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##### Company name

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##### Address

Street Address:		
Suburb:	State:	P/Code:
Phone Business hours:	Mobile:	
Email:		

**Is the Appellant the Owner of the property?**

Under section 248(1) of the *Building Act 1993*, it is an offence for a person to act on behalf of an owner of a building or land for the purpose of making an application unless the person is authorised in writing to do so.

✓

	The appellant is the owner	
	The appellant is acting on behalf of the owner	Complete and sign the 'Authority to Act' form at the back of this form
	The appellant is neither the owner nor acting on behalf of the owner	Outline the capacity of the appellant and then go to question 3

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**3 MANDATORY SERVICE OF DOCUMENTS**

The Act requires that a copy of this application and the attached documents must be served on other parties, namely:

- the decision maker; and
- any other 'party concerned' (this would generally include other people with a direct interest in the outcome of the application)

Please specify which parties have been served with a copy of this application.

	Name	Company/ Position title	How served: Email/post
1			
2			
3			

If some parties have not been served with a copy of this appeal – please outline why they have not been served.

Name	Company/Position title	Reason for not serving a copy of the appeal on the person

## 4 RESPONDENT

List the decision maker (i.e. the person who made the decision which is being appealed)

**Name**

**Company name**

**Address**

Street Address:	
Suburb:	
State:	P/Code:
Phone Business hours:	Mobile:
Email:	

## 5 OTHER PARTIES

List any other parties in this section

**Name**

**Company name**

**Address**

Street Address:	
Postal Address:	
Phone Business hours:	Mobile:
Email:	

Note: If there are additional parties, please specify them in your written submission.

**6 MANDATORY REQUIREMENTS**

**6A GENERAL REQUIREMENTS**

You must supply a written submission which addresses the following:



	<b>The Nature of the proceeding*</b> What you are appealing?
	<b>The Grounds for commencing the proceeding*</b> What are your reasons for the appeal?
	<b>The Relief Sought*</b> What do you want the outcome to be?

Please tick to identify if the information required is included in an attachment and supplied with this appeal application.

- \* **If your application is being made pursuant to s144 of the *Building Act 1993*: The *Building Regulations 2018* came into operation on 02 June 2018, replacing the *Building Interim Regulations 2017*. You must provide which Building Regulations (you may select only one) your application is being made in respect of. If you are unsure, consult the Relevant Building Surveyor or other relevant authority as appropriate.**

**6B DOCUMENTS**

Attach a copy of the decision under appeal and list its details below:

Date	
From	

You will need to submit three copies of the plans if they are larger than A3 in size.

**6C SECTION OF ACT UNDER APPEAL**

Please refer to Part 10 of the *Building Act 1993* for the Building Appeals Board’s jurisdiction and then tick the section and subsection of the Act under appeal (below).

**SECTION 138 OF THE ACT - BUILDING AND OCCUPANCY PERMITS**

✓	<b>Section 138 - Subsection</b>	<b>Matter</b>
<b>138</b>		
	(1)(a)	The refusal or deemed refusal of a building or occupancy permit
	(1)(b)	The imposition of a condition on a building or occupancy permit other than a prescribed condition or a condition required by or under the Act or the regulations to

		be included in the permit
	(1)(c)	The amendment or cancellation of a building or occupancy permit
	(1)(d)	The refusal or deemed refusal of an application to amend or cancel a building or occupancy permit
	(1)(e)	The failure, within a reasonable time, to decide an application to amend or cancel a building or occupancy permit, if no time is prescribed within which the decision must be made
A requirement of a reporting authority or relevant building surveyor to:		
	(2)(a)	give more information about a building or occupancy permit application
	(2)(b)	amend a building or occupancy permit application
If a condition of a building or occupancy permit leaves anything to be determined or approved by a person or body or confers any similar discretion on a person or body:		
	(3)(a)	the person or body's failure, within a reasonable time, or refusal to make that determination, give that approval or exercise that discretion
	(3)(b)	that determination or approval or the exercise of that discretion
	(5)	A prescribed reporting authority may appeal against a decision to issue a building or occupancy permit that differs from, or fails to implement, the authority's recommendations in a report on the application for the permit

## SECTION 138A DIRECTIONS TO FIX BUILDING WORK

✓	Section of the Act	Matter
	138A	A builder may appeal against a decision to give that builder a written direction to fix building work under Division 2 of Part 4 of the Act

## SECTION 139 TEMPORARY OCCUPATION OF BUILDINGS

✓	Section 139 - Subsection	Matter
	<b>139</b>	
	(a)	The refusal of approval under Division 3 of Part 5 to occupy the building on a temporary basis
	(b)	The imposition of a condition on an approval under Division 3 of Part 5, other than a prescribed condition or a condition required by or under the Act or the regulations to be included in the approval
	(c)	The amendment or cancellation of an approval under Division 3 of Part 5
	(d)	A failure within a reasonable time to decide an application to issue, amend or cancel an approval under Division 3 of Part 5

## SECTION 142 BUILDING NOTICES AND ORDERS

✓	Section 142 - Subsection	Matter
	<b>142(1)</b>	
	(1)(a)	A decision to serve a building notice on the owner under Division 2 of Part 8
	(1)(b)	The failure within a reasonable time, or refusal, to cancel a building notice on being requested to do so by the owner
	<b>142(2)</b>	
	(2)(a)	The making of a building order under Division 2 of Part 8

	(2)(b)	The imposition of any condition in that order
	(2)(c)	A refusal to amend or cancel that order
	(2)(d)	A failure, within a reasonable time, to amend or cancel that order
	(2)(e)	A requirement under Division 3 of Part 8 that the building order be fully complied with

<b>142(3)</b>		
	(3)(a)	A refusal of the municipal building surveyor to cancel an emergency order under Division 1 of Part 8
	(3)(b)	A failure, within a reasonable time, to cancel that order

## SECTION 144 - BUILDING REGULATIONS 2006 or BUILDING INTERIM REGULATIONS 2017 or BUILDING REGULATIONS 2018\*

✓	Section 144 - Subsection	Matter
<b>144</b>		
		If the building regulations leave a matter to be determined or approved by a person or body or confer a similar discretion on a person or body, an appeal against:
	(a)	that determination or approval or the exercise of that discretion; or
	(b)	the failure, within a reasonable time, or refusal to make that determination, give that approval or exercise that discretion

- \* **The Building Interim Regulations 2017 came into operation on 04 June 2017, replacing the The Building Regulations 2018 came into operation on 02 June 2018, replacing the Building Interim Regulations 2017. You must provide which Building Regulations (you may select only one) your application is being made in respect of. If you are unsure, consult the Relevant Building Surveyor or other relevant authority as appropriate.**

## 7 FEES / PAYMENT

A separate fee is to be paid for each matter under appeal.

The fees are outlined at [www.buildingappeals.vic.gov.au/how-to-apply/forms-and-fees](http://www.buildingappeals.vic.gov.au/how-to-apply/forms-and-fees)

- Always refer to the current prescribed fee schedule for appeal application costs prior to submitting your application
- Complete the payment details form.

Please indicate your total fee amount payable for this application

**Total Amount**

\$	
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## 8 HEARING DETAILS

Please indicate below if you prefer to have your application heard via a written submission or a hearing conducted by the Board.

✓	
	I would prefer the Board to make its determination based on written submissions
	I would prefer the Board to make its determination following a hearing

The Board will determine whether it is appropriate to:

- refrain from having a hearing and make its determination based on written submissions of parties.

If there is a hearing, you will be given a minimum of seven (7) days notice of your appeal hearing date. It is expected that you will be ready to proceed on that day. Parties to the appeal may attend and/or be represented at the hearing.

If a person provides information or documentation to the Board, the person must also provide the same information or documentation to all of the other parties to the proceeding.

## 9 FAST TRACK

If you are seeking a fast track appeal hearing, you must complete the fast track application form, which is at [www.buildingappeals.vic.gov.au/how-to-apply/appeal-applications](http://www.buildingappeals.vic.gov.au/how-to-apply/appeal-applications) and pay the prescribed fee. A person to a proceeding can only apply.

## 10 APPEAL PERIODS

Tick appropriate appeal period for your application:

✓	Section of Act	Matter	Appeal Period days
	138	Building and occupancy permits	Under section 138(5) – within 14 days Otherwise – within 30 days
	138A	Direction to fix building work	Within 7 days of being served
	139	Temporary occupation of buildings	Within 30 days of being served
	142	Building notices and orders	Within 30 days of being served
	144	Building regulations	Within 30 days of being served

**11 DECLARATION AND SIGNATURE**

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I acknowledge that it is an offence to knowingly make any false or misleading statement or provide any false or misleading information to the Building Appeals Board in relation to an application (section 246 of the Act).

**SIGNATURE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_



## AUTHORITY TO ACT FORM

### 1 OWNER/S DETAILS

Name of first owner

Company Name

Address

Street Address:	
Suburb:	
State:	Post Code:
Phone Business hours:	Mobile:
Email:	

Name of second owner (if the appeal is also made on behalf of a second owner)

Company Name

Address

Street Address:	
Suburb:	
State:	Post Code:
Phone Business hours:	Mobile:
Email:	

### 2 SITE DETAILS

Address (please note a copy of title /contract of sale is required to confirm ownership of the land/building)

Street Address:	
Suburb:	
State:	Post Code:

## 3 SIGNATURE OF OWNER/S

### DECLARATION

I confirm I am the owner of the above site and I authorise the following person(s) to act on my behalf:

Name of agent or legal firm: \_\_\_\_\_

I also acknowledge that it is an offence to knowingly make any false or misleading statement or provide any false or misleading information to the Building Appeals Board in relation to an application (section 246 of the Act).

SIGNATURE OF FIRST OWNER: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

DATE: \_\_\_\_\_

SIGNATURE OF SECOND OWNER \_\_\_\_\_  
(If the appeal is also made on behalf of a second person)

PRINT NAME: \_\_\_\_\_

DATE: \_\_\_\_\_

## APPLICATION CHECKLIST

Use this checklist to ensure all your required documents are submitted. If all the required information is not provided at the time of submission your application may not proceed.

1 SITE DETAILS	Please tick
A copy of the current Certificate of Title for the allotment is attached	<input type="checkbox"/>
2 APPELLANT	
If the appellant is not the owner, and the appeal is on behalf of the owner, the 'Authority to Act' Form has been completed and signed	<input type="checkbox"/>
3 MANDATORY SERVICE OF DOCUMENTS	
A copy of this application document has been served on other parties	<input type="checkbox"/>
4 RESPONDENT	
The details of the respondent (i.e. the decision maker) are accurate	<input type="checkbox"/>
5 OTHER PARTIES	
The details of the other parties are accurate	<input type="checkbox"/>
6 MANDATORY REQUIREMENTS	
A written submission has been supplied addressing the Nature, Grounds and Relief sought	<input type="checkbox"/>
A copy of the decision under appeal has been provided	<input type="checkbox"/>
The appropriate section of the <i>Building Act 1993</i> that your appeal relates to has been identified	<input type="checkbox"/>
Evidence in support of your application has been provided (e.g. drawings, photographs, plans or expert reports)	<input type="checkbox"/>
7 FEES/PAYMENT	
Total fee amount payable for this application is identified	<input type="checkbox"/>
Payment details form have been completed and is attached	<input type="checkbox"/>
8 HEARING DETAILS	
Preference to have your application determined via a written submission or that a hearing is conducted by the Board has been identified	<input type="checkbox"/>

<b>9 FAST TRACK</b>	
If you are seeking a fast track appeal hearing, the fast track application form is completed	<input type="checkbox"/>
<b>10 APPEAL PERIODS</b>	
The appropriate appeal period has been identified	<input type="checkbox"/>
<b>11 DECLARATION AND SIGNATURE</b>	
You have acknowledged that it is an offence under section 246 of the Act to knowingly make any false or misleading statement or provide any false or misleading information to the Board in relation to this appeal	<input type="checkbox"/>