

PROTECTION WORKS NOTICES INFORMATION

(Building Act Section 87 – 101)

SUMMARY OF BUILDING ACT REQUIREMENTS AND PROCESS FOR SERVING OF NOTICES

1. Serve 3 copies of a properly completed and signed Form 7 'Protection Works Notice' and 3 copies of a Form 8 'Protection Works Response Notice' on the affected adjoining owner/s together with copies of the following:
 - 1 copy of relevant architectural drawings of the project;
 - 1 copy of relevant structural and/or civil drawings of the project;
 - 1 copy of design engineer's 'Certificate of Compliance' of design (reg 126);
 - 1 copy of geotechnical (soil) investigation report (if relevant);
 - A detailed description of the proposed protection works including nature, duration, type and method of proposed protection (protection work measures letter).
2. Serve the above documentation either by hand (i.e. in person) or by normal mail and fill out and sign the 'declaration of service of protection notices' provided as part of the protection works package. This is important because section 85 of the Building Act gives the adjoining owner 14 days to respond otherwise consent to the proposed protection works is deemed to be granted. Serving of the notices in person is recommended. A further 4 days is also allowed for postage to arrive at its destination;
3. Obtain a site specific contract of 'protection work' insurance in accordance with section 93 of the Building Act. The insurance must be for an amount agreed to with the adjoining owner or in the event of a dispute for an amount determined by the Building Appeals Board. A copy of the contract of insurance must be served on the adjoining owner and extended as often as necessary for not less than 12 months after completion of the works;
4. Undertake a survey (dilapidation report) of the adjoining property together with the adjoining owner (or an agent of the adjoining owner) recording all existing defects and taking photographs as necessary to confirm the condition of the adjoining property prior to commencement of the works. Give a copy of the survey to the adjoining owner. An example report has been attached for your reference.

Other Comments:

Bldg Act Sec. 85

If the adjoining owner requests further information after receiving the protection works notice, such information, if reasonably required to determine the adequacy of protection works, should be provided by the applicant.

Bldg Act Sec 87

If the adjoining owner disagrees to the proposed protection works, the relevant building surveyor must make a determination and give either party a period of 14 days to appeal his/her decision.

Bldg Act Sec. 90 & 91

If the adjoining owner is absent or cannot be located, the applicant may apply to the Minister, in writing, for the appointment of a suitable person to act as the agent of the adjoining owner.

Bldg Act Bldg Act Sec. 92

The relevant building surveyor must make available to the adjoining owner, without charge, any plans, specifications and reports relating to the proposed works.

Bldg Act Sec. 95

The applicant must give the adjoining owner not less than 24 hours notice prior to entering onto his/her property for the carrying out of the survey. The adjoining owner must not obstruct or refuse to admit the applicant onto his property for the purposes of carrying out the survey (penalties apply).

Bldg Act Sec. 97

The applicant must pay to the adjoining owner all costs and expenses necessarily incurred by the adjoining owner in assessing proposed protection work and supervising the carrying out of the work (this may include engineer's, legal personnel, architect's, building surveyor's and the like). The amount of expenses must be agreed to between the parties or otherwise determined by the Building Appeals Board.

Bldg Act Sec. 98

The applicant must compensate the adjoining owner for inconvenience, loss or damage suffered in connection with the carrying out of the protection work.

Bldg Act Sec. 101

Not later than 2 months after completion of the protection works, the applicant must serve on the adjoining owner and the relevant building surveyor a complete set of plans, drawings and specifications showing the actual protection work which has been carried out in respect of the adjoining property.

This information is provided as a summary of the Building Act requirements and is not intended to replace the legislative requirements. For complete information regarding protection works legislation please refer to section 87 – 101 of the Building Act and Part 111 of the Building Regulations 2018.

PROTECTION WORKS MEASURES

(Further Information to Accompany Form 7 'Protection Works Notice')

Site Address: _____

Adjoining Property: _____

1. Protection Works Insurance

Prior to the commencement of building works, the owner shall arrange for protection works insurance in accordance with section 93 of the Building Act 1993. The protection works insurance shall be for an amount agreed to with the adjoining owner and against any possible damage to the adjoining property and any liabilities likely to be incurred by the adjoining occupiers. The contract of insurance shall be extended for a minimum of 12 months after the completion of the building work.

2. Adjoining Property Survey

The owner shall in conjunction with the adjoining owner (or his/her representative) undertake a survey of the adjoining property and record in writing and by any other means (i.e. photographs) any existing cracks or other defects in the adjoining property.

The survey shall be kept as evidence of the condition of the adjoining property prior to the commencement of works.

3. Hours of Access

The owner or agent of the owner in accordance with Section 95 of the Building Act 1993, may enter the adjoining property between the hours of 8am to 6pm with 24 hours notice provided except where agreed otherwise for the purpose of carrying out protection works as agreed.

In the course of carrying out protection works under the Building Act 1993 the owner or agent of the owner may without doing any unnecessary damage remove any furniture or fittings in the adjoining property which obstruct the carrying out of work.

4. Lodgement of Documents

No later than 2 months after the completion of any protection work carried out the owner must serve on the adjoining owner and relevant building surveyor a complete set of plans, drawings and specifications showing the protection work which has actually been carried out in respect of the adjoining property.

5. Method of Protection (Tick if applicable)

Construction of Footings on or Near Boundary

The builder will excavate the new footings with care and diligence to ensure that there is no adverse impact on the adjoining structure. The excavation shall be properly guarded in accordance with regulation 116 of the building regulations 2018 (protection of public).

The builder shall arrange for the excavation of the footing, placement of the reinforcement, mandatory notification stage inspection and pouring of the footing as soon as practicable and in a continuous work schedule.

Should any damage be agreed to have occurred in the adjoining property that can be attributed to the damaged area shall be reinstated to the satisfaction of the adjoining owner and the builder.

The proposed footings shall under no circumstances undermine the adjoining existing footings.

□ **Construction of Walls on or Near Boundaries**

Construction above ground level shall be undertaken from scaffolding or the like which will have adequate measures to safe guard debris and building materials from falling off.

The adjoining property in the immediate vicinity of the proposed boundary works (i.e. 1m beyond the works) shall be hoarded off to protect adjoining occupants against injury.

The builder shall ensure that any building material that falls onto the adjoining property will be retrieved and the area cleaned to the original condition. Any damage that is agreed and deemed to have occurred as a result of the works will be repaired / reinstated to the satisfaction of the adjoining owner.

□ **Construction of Boundary Walls Above the Height of Existing Adjoining Roofs**

The roof of the adjacent structure shall be protected by the careful placement of plywood sheeting, solid planking or other suitable protective material for the duration of the works. The builder shall carry out the works to minimize the potential for any falling debris onto the adjoining roof.

The builder shall ensure that the roof surface and surrounding areas will be cleaned to the original condition and any damage that is agreed and deemed to have occurred as a result of the works will be repaired / reinstated to the satisfaction of the adjoining owner.

□ **Boundary Fences**

Prior to the removal of any boundary fences the builder shall arrange for the temporary relocation of vine type vegetation belonging to the adjoining property. The builder shall execute the works to avoid any damage to adjoining garden beds and/or paved areas.

The boundary fence shall be replaced with a temporary 1.8m high chain wire mesh or solid plywood hoarding at a location agreed to with the adjoining owner during the duration of the works and until completion of the boundary wall or new fence.

□ **Underpinning Works**

The underpinning works including the sequence, procedure and nature of the works shall be carried out strictly in accordance with the certified engineers design documentation to form part of the approved building permit documents (refer attached).

The builder shall ensure that the excavations are dug and poured on the same day and the underpinning pads are of the dimensions, width, depth etc stipulated by the structural engineer. All underpinning pads shall be inspected and approved by the structural engineer and/or Conti Group Building Consultants prior to pouring concrete.

□ **Party Wall Easement**

The building works associated with 'part wall easement' including the construction sequence, procedure and nature of the works shall be carried out strictly in accordance with the certified engineers design documentation to form part of the approved building permit documents (refer attached).

The builder shall ensure that the building works including but not limited to structural propping of party walls are carried out diligently and with care in strict accordance with

the certified structural documentation. Structural propping shall be inspected and approved by the structural engineer and/or Conti Group Building Consultants prior to continuing on with the building works.

□ **Demolition Works**

All demolition work is to be carried out in strict accordance with AS2601-2001, Worksafe Demolition Code of Practice and Occupational Health and Safety Regulations (as current) Security fencing shall be provided around the perimeter of the demolition site, including any additional precautionary measures taken to prevent unauthorized entry to the site at all times during the demolition period. Security fencing shall be the equivalent of chain wire as specified in AS 1725. Any buildings located on or within close proximity to the allotment boundaries must be undertaken by hand in accordance with section 5.1 of the Worksafe Demolition Code of Practice.

The builder/demolisher shall ensure that strict compliance with the demolition procedure specification is followed throughout the demolition process. Attached is a copy for your reference (3 pages).

□ **Retaining Wall Works**

The builder will excavate the new footings with care and diligence to ensure that there is no adverse impact on the adjoining structure. The excavation shall be properly guarded in accordance with regulation 116 of the Building Regulations 2018 (protection to public).

The builder shall arrange for the excavation of the footing, placement of the reinforcement, mandatory notification stage inspection and pouring of the footing as soon as practicable and in a continuous work schedule.

Retaining wall excavations shall be done in accordance with the suitable area for excavation details as contained within Part 3.1.1 of the NCC (as current). Where excavations may undermine or be outside the safe excavation area, additional comment from the design engineer will be sought in relation to the excavation method, for example: hit and miss excavation method, screw pile stabilisation method or other suitable means of soil stabilisation.

The above protection measures are proposed to meet the requirements of the Building Act 1993 and subject to the approval of Conti Group Building Consultants.

Signature of Owner / Builder
(or Agent of Owner)

Signature of Adjoining Owner

Name: _____

Name: _____

Signature: _____

Signature: _____

FORM 7
PROTECTION WORK NOTICE
Building Act 1993
 BUILDING REGULATIONS 2018
 Regulation 113

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)

Jeremy Conti Conti Group Building Consultants 7 Lilian Street, BULLEEN, VIC 3105 Phone: 9006 7950

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:	

NOTICE

In accordance with section 84 of the **Building Act 1993**, I give notice of my intention to carry out the following building work on my property and request your agreement to the proposed protection work which affects your adjoining property.

Details of proposed building work:
 (insert details including details about damage
 etc that may be caused to adjoining property)

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Protection Work and Program:

Nature of protection work:

Location of protection work:

Time of protection work:

Duration of protection work:

**Access to adjoining property required
 to undertake proposed protection
 work:**

Signature of Owner or Agent:

Date:

Information about protection of an adjoining owner under the Building Act 1993 in relation to proposed protection work

In accordance with section 92 of the **Building Act 1993**, at any time after this notice is given to the adjoining owner, the relevant building surveyor must make available to the adjoining owner, on request, for inspection, without charge, any plans, drawings and specifications of the proposed building work in the possession or control of the relevant building surveyor. The relevant building surveyor's name and contact details are on page 1 of this notice.

If the proposed protection work is agreed to by the adjoining owner or determined as being appropriate by the relevant building surveyor under section 87(1) of the **Building Act 1993** or by the Building Appeals Board under section 141 of the **Building Act 1993** (as the case requires), the owner must —

- (a) before the commencement of any protection work —
 - (i) ensure that a contract of insurance is in force in accordance with section 93 of the **Building Act 1993** against damage by the protection work to the adjoining property and other liabilities described in that section; and
 - (ii) make a full and adequate survey of the adjoining property in accordance with section 94 of the **Building Act 1993**; and
- (b) pay to an adjoining owner all costs and expenses necessarily incurred by the adjoining owner in assessing proposed protection work and in supervising the carrying out of protection work in relation to an adjoining property in accordance with section 97 of the **Building Act 1993**; and
- (c) compensate an adjoining owner or an adjoining occupier for inconvenience, loss or damage suffered by the adjoining owner or adjoining occupier in connection with the carrying out of protection work in accordance with section 98 of the **Building Act 1993** or an order of the Building Appeals Board under section 159 of that Act.

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 regulation 114 and Form 8)

FORM 8
PROTECTION WORK RESPONSE NOTICE
Building Act 1993
BUILDING REGULATIONS 2018
Regulation 114

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)

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

Address of Property where building work is to be carried out (from Form 7):

Address of Adjoining Property:

Jeremy Conti Conti Group Building Consultants 7 Lilian Street, BULLEEN, VIC 3105 Phone: 9006 7950

RESPONSE

In accordance with Section 85 of the Building Act 1993, I hereby respond to the Form 7 notice served to me by the owner under that section and (please tick appropriate box):

- | | Tick Box |
|---|--------------------------|
| (i) agree to the proposed protection work. | <input type="checkbox"/> |
| (ii) disagree with the proposed work for the following reasons:

_____ | <input type="checkbox"/> |
| (iii) request the following further information:

_____ | <input type="checkbox"/> |

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 regulation 114)

Declaration of Service of Protection Notices

To: **Relevant Building Surveyor**
Conti Group Building Consultants
7 Lilian Street, Bulleen VICTORIA 3105

I,being the owner/agent
(owner or agent)

of
(insert location of proposed building work)

do solemnly and sincerely declare as follows:-

1. Pursuant to Regulation 111 of the Building Regulations 2018 (“the Regulations”), I am required to provide protection for adjoining property.
2. In accordance with Section 84 of the Building Act 1993 (“the Act”), I served protection details on all adjoining owner/s of adjoining property situated at:

.....
(address of adjoining property)

3. The details served comprised:-
 - (a) a notice in accordance with Form 7 of the Regulations and three copies of Form 8;
and
 - (b) prescribed* details of the proposed building works as at the date of the notice;
and
 - (c) prescribed * details of the proposed protection works setting out the nature,
location, time and duration of the protection works; and
 - (d) other prescribed* information.
4. These documents were served by (insert how served) on
..... (insert date on which served).
5. A full copy of all documents and prescribed * details and information is attached to this declaration.

Signature: _____

Date: _____

Print Name: _____

** Prescribed details and information means the relevant details set out in Form 7 and any other information set out in the documents listed on the attached ‘protection works information’ letter which accompanies the protection works package.*

DILAPIDATION INSPECTION REPORT

For the Purpose of Section 94 of the Building Act 1993
(Protection of Adjoining Property)

This inspection report has been prepared by:

Subject site owner/agent:

Name:

Address:

Postcode:

Telephone:

Facsimile:

Email:

This inspection report has been prepared in the company of:

Adjoining owner/agent

Name:

Address:

Postcode:

Telephone:

Facsimile:

Email:

Subject Property Details:

Address of Property:

Postcode:

Date of Report:

Date of Inspection:

Weather Conditioning at the time of Inspection

Fine

Cloudy

Wet

Windy

Other (Please Specify)

Adjoining property Details:

General description of building (i.e. single storey detached dwelling)

Estimated age years.

Weather conditions on day of inspection:

Foundation (strip footing/stumps or concrete slab):

Floor: Wall:

Windows: Roof:

General summary of inspection:

Areas that were in accessible at time of inspection:

This inspection report is undertaken to comply with the requirements of Section 94 of the Building Act 1993 (Protection of adjoining property)

Owner/Agent Signed: _____ Adjoining Owner/Agent Signed: _____

Print Name: _____ Print Name: _____

Details of Report:

LEGEND: Defect rating

✓ No visible defect X Significant defect N Not applicable

Numbers on checklist refer to items on Summary of Defects list (see over)

THE SITE

Fences			Paths			Driveways			Steps		
Surface drainage			Retaining Walls (non-structural)								

Garage

Walls			Roof Frame			Floor			Roof Cover		
Drainage			Doors								

Shed

Walls			Roof Frame			Floor			Roof Cover		
Drainage			Doors								

EXTERIOR OF BUILDING

Masonry

Brickwork			Mortar			Cracking			Dampness		
Settlement			Flashings			Weepholes					

Timber/Other

Weatherboards			Paint Surface			Flashings			Cement Sheet		
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Windows

Flashings			Moulding			Sills			Fly Screens		
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Chimney

Flashings			Structural			Chimney Pot		
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Balconies, verandahs, patios, decks

Structural			Floor			Walls			Ceilings		
Posts			Steps			Handrails/Balustrade			Cement Sheet		

Roof

Condition			Skylights			Vents			Valleys		
Guttering			Down Pipes								

UNDERFLOOR SPACE

Timber Floor

Stumps			Framing			Dampness			Drainage		
Ventilation			Ant Caps			Services			Debris		

Suspended concrete floor

Concrete Condition			Dampness			Drainage			Ventilation		
Guttering			Debris								

Services

Electrical wiring			Plumbing			Hot water service		
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Summary of Defects:

The items listed below are a summary based on the checklist of pages 2. Items listed below are a record of existing defects as observed. A photo appendix is to also be attached as a record of the items listed below.

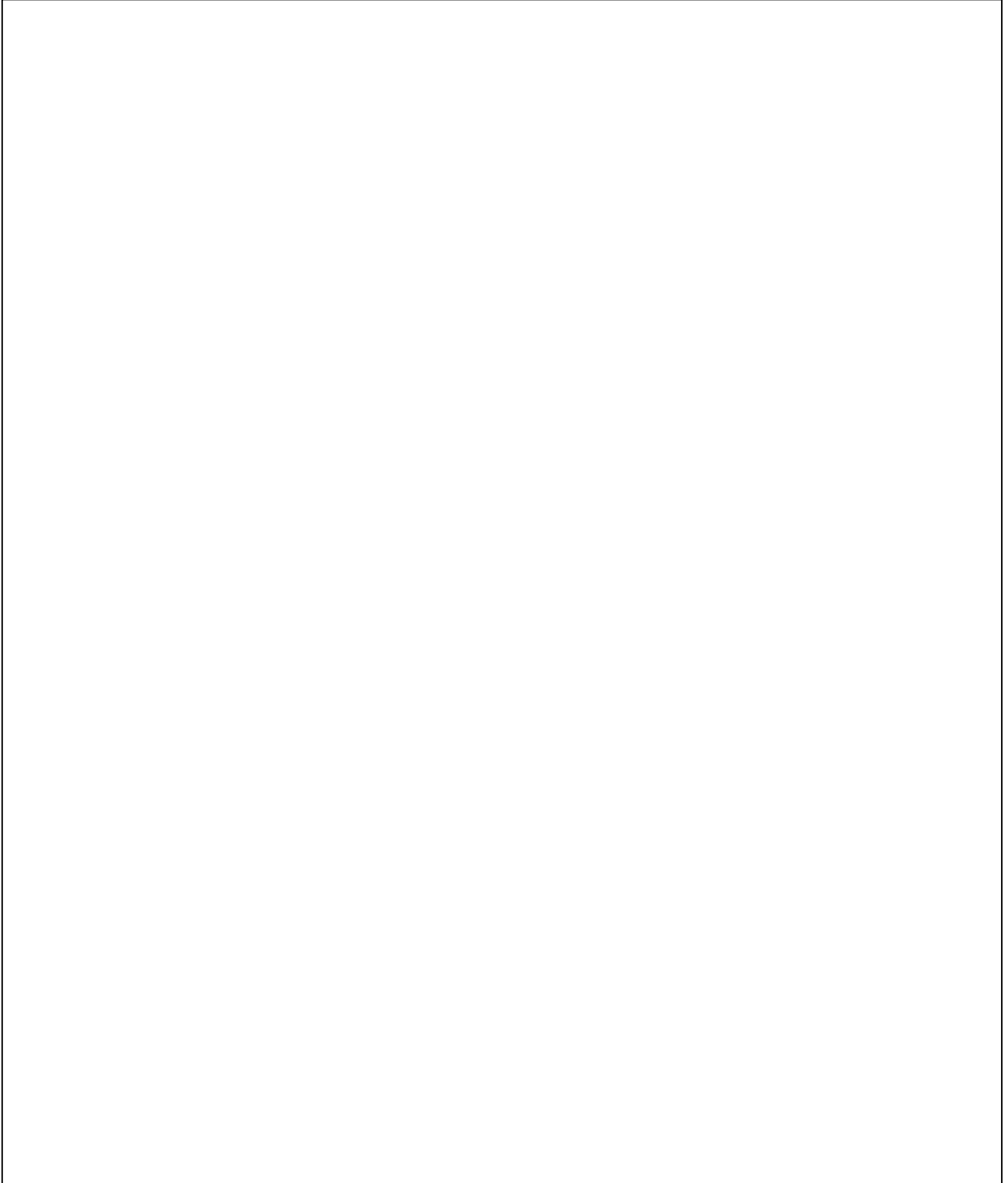
A large, empty rectangular box with a thin black border, occupying the majority of the page below the introductory text. It is intended for the user to list the observed defects.

Photo Appendix: