

DATED

2023

ZAIA YOUSIF ZIA

to

CONTRACT OF SALE OF LAND

Property: 300 Highlander Drive, Craigieburn 3064

FRANK J. HORVAT & CO. PTY.

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Ref: FJH:JR:39895

Date Prepared: 19 May 2023

Contract of Sale of Land

The vendor agrees to sell and the purchaser agrees to buy the property, being the land and the goods, for the price and on the terms set out in this contract.

The terms of this contract are contained in the -

- particulars of sale; and
 - special conditions, if any; and
 - general conditions (which are in standard form: see general condition 6.1)
- in that order of priority.

Property: 300 Highlander Drive, Craigieburn VIC 3064

SIGNING OF THIS CONTRACT

WARNING: THIS IS A LEGALLY BINDING AGREEMENT. YOU SHOULD READ THIS CONTRACT BEFORE SIGNING IT.

Purchasers should ensure that they have received a section 32 statement from the vendor before signing this contract. In this contract, "section 32 statement" means the statement required to be given by a vendor under section 32 of the *Sale of Land Act 1962*.

The authority of a person signing -

- under power of attorney; or
 - as director of a corporation; or
 - as agent authorised in writing by one of the parties --
- must be noted beneath the signature.

Any person whose signature is secured by an estate agent acknowledges being given by the agent at the time of signing a copy of the terms of this contract.

SIGNED BY THE PURCHASER:

..... on..... //2023

Print name(s) of person(s) signing:

.....

State nature of authority, if applicable:

This offer will lapse unless accepted within [] clear business days (3 clear business days if none specified)

In this contract, "business day" has the same meaning as in section 30 of the *Sale of Land Act 1962*

SIGNED BY THE VENDOR:

..... on..... //2023

Print name(s) of person(s) signing: **ZAIA YOUSIF ZIA**

State nature of authority, if applicable:

The **DAY OF SALE** is the date by which both parties have signed this contract.

IMPORTANT NOTICE TO PURCHASERS – COOLING-OFF

Cooling-off period (Section 31 of the *Sale of Land Act 1962*)

You may end this contract within 3 clear business days of the day that you sign the contract if none of the exceptions listed below applies to you.

You must either give the vendor or the vendor's agent written notice that you are ending the contract or leave the notice at the address of the vendor or the vendor's agent to end this contract within this time in accordance with this cooling-off provision.

You are entitled to a refund of all the money you paid EXCEPT for \$100 or 0.2% of the purchase price (whichever is more) if you end the contract in this way.

EXCEPTIONS: The 3-day cooling-off period does not apply if:

- you bought the property at a publicly advertised auction or on the day on which the auction was held; or
- you bought the land within 3 clear business days before a publicly advertised auction was to be held; or
- you bought the land within 3 clear business days after a publicly advertised auction was held; or
- the property is used primarily for industrial or commercial purposes; or
- the property is more than 20 hectares in size and is used primarily for farming; or
- you and the vendor have previously signed a contract for the sale of the same land in substantially the same terms; or
- you are an estate agent or a corporate body.

*This contract is approved as a standard form of contract under section 53A of the *Estate Agents Act 1980* by the Law Institute of Victoria Limited. The Law Institute of Victoria Limited is authorised to approve this form under the *Legal Profession Uniform Law Application Act 2014*.

Table of contents

Particulars of Sale

Special Conditions

General Conditions

1.	ELECTRONIC SIGNATURE.....	7
2.	LIABILITY OF SIGNATORY.....	7
3.	GUARANTEE.....	7
4.	NOMINEE.....	7
5.	ENCUMBRANCES.....	7
6.	VENDOR WARRANTIES.....	7
7.	IDENTITY OF THE LAND.....	8
8.	SERVICES.....	8
9.	CONSENTS.....	8
10.	TRANSFER & DUTY.....	8
11.	RELEASE OF SECURITY INTEREST.....	8
12.	BUILDING WARRANTY INSURANCE.....	9
13.	GENERAL LAW LAND.....	9
14.	DEPOSIT.....	10
15.	DEPOSIT BOND.....	10
16.	BANK GUARANTEE.....	11
17.	SETTLEMENT.....	11
18.	ELECTRONIC SETTLEMENT.....	11
19.	GST.....	12
20.	LOAN.....	13
21.	BUILDING REPORT.....	13
22.	PEST REPORT.....	13
23.	ADJUSTMENTS.....	13
24.	FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING.....	14
25.	GST WITHHOLDING.....	14
26.	TIME & CO OPERATION.....	16
27.	SERVICE.....	16
28.	NOTICES.....	16
29.	INSPECTION.....	16
30.	TERMS CONTRACT.....	16
31.	LOSS OR DAMAGE BEFORE SETTLEMENT.....	17
32.	BREACH.....	17
33.	INTEREST.....	17
34.	DEFAULT NOTICE.....	17
35.	DEFAULT NOT REMEDIED.....	17

NOTICE TO PURCHASERS OF PROPERTY OFF-THE-PLAN

Off-the-plan sales (Section 9AA(1A) of the *Sale of Land Act 1962*)

You may negotiate with the vendor about the amount of the deposit moneys payable under the contract of sale, up to 10 per cent of the purchase price.

A substantial period of time may elapse between the day on which you sign the contract of sale and the day on which you become the registered proprietor of the lot.

The value of the lot may change between the day on which you sign the contract of sale of that lot and the day on which you become the registered proprietor.

Particulars of sale

Vendor's estate agent

Jason Real Estate
201B Melrose Drive, Tullamarine, VIC 3043

Email: contact@jasonrealestate.com.au

Tel: 9338 6411 Mob: Fax: 9338 6548 Ref:

Vendor

Zaia Yousif Zia
Of 12 Peterborough Court, Attwood, VIC 3049

Vendor's legal practitioner or conveyancer

Frank J. Horvat & Co. Pty.
115A Wheatsheaf Road, Glenroy Vic 3046
PO Box 196, Glenroy Vic 3046

Email: julie@frankhorvat.com.au

Tel: (03) 9300 1077 Mob: Fax: Ref: FJH:JR:39895

Purchaser

Name:

Address:

ABN/ACN:

Email:

Purchaser's legal practitioner or conveyancer

Name:

Address:

Email:

Tel: Mob: Fax: Ref:

Land (general conditions 7 and 13)

The land is described in the table below –

Certificate of Title reference				being lot	on plan
Volume	12384	Folio	260	36323	PS845578B
Volume		Folio			

If no title or plan references in the table, the land is as described in the section 32 statement or the register search statement and the document referred to as the diagram location in the register search statement attached to the section 32 statement. The land includes all improvements and fixtures.

Property address

The address of the land is: **300 Highlander Drive, Craigieburn 3064**

Goods sold with the land (general condition 6.3(f)) *(list or attach schedule)*

All fixture and fittings as inspected

Payment

Price	\$		
Deposit	\$	by	(of which \$ has been paid)
Balance	\$	payable at settlement	

Deposit bond

☐ General condition 15 applies only if the box is checked

Bank guarantee

☐ General condition 16 applies only if the box is checked

GST (general condition 19)

Subject to general condition 19.2, the price includes GST (if any), unless the next box is checked

- ☐ GST (if any) must be paid in addition to the price if the box is checked
- ☐ This sale is a sale of land on which a 'farming business' is carried on which the parties consider meets the requirements of section 38-480 of the GST Act if the box is checked
- ☐ This sale is a sale of a going concern' if the box is checked
- ☒ The margin scheme will be used to calculate GST if the box is checked

Settlement (general conditions 17 & 26.2)

is due on the day of 20..... Or earlier by mutual agreement

Lease (general condition 5.1)

☐ At settlement the purchaser is entitled to vacant possession of the property unless the box is checked, in which case the property is sold subject to*:

*(*only one of the boxes below should be checked after carefully reading any applicable lease or tenancy document)*

- ☐ a lease for a term ending on with options to renew, each of years
- OR
- ☐ a residential tenancy for a fixed term ending on
- OR
- ☐ a periodic tenancy determinable by notice

Terms contract (general condition 30)

☐ This contract is intended to be a terms contract within the meaning of the *Sale of Land Act 1962* if the box is checked. *(Reference should be made to general condition 30 and any further applicable provisions should be added as special conditions)*

Loan (general condition 20)

☐ This contract is subject to a loan being approved and the following details apply if the box is checked:

Lender:

(or another lender chosen by the purchaser)

Loan amount: no more than

Approval date:

Building report

☐ General condition 21 applies only if the box is checked

Pest report

☐ General condition 22 applies only if the box is checked

Special Conditions

Instructions: *It is recommended that when adding special conditions:*

- *each special condition is numbered;*
- *the parties initial each page containing special conditions;*
- *a line is drawn through any blank space remaining on the last page; and*
- *attach additional pages if there is not enough space*

See Attached

General Conditions

Contract signing

1. ELECTRONIC SIGNATURE

- 1.1 In this general condition "electronic signature" means a digital signature or a visual representation of a person's handwritten signature or mark which is placed on a physical or electronic copy of this contract by electronic or mechanical means, and "electronically signed" has a corresponding meaning.
- 1.2 The parties consent to this contract being signed by or on behalf of a party by an electronic signature.
- 1.3 Where this contract is electronically signed by or on behalf of a party, the party warrants and agrees that the electronic signature has been used to identify the person signing and to indicate that the party intends to be bound by the electronic signature.
- 1.4 This contract may be electronically signed in any number of counterparts which together will constitute the one document.
- 1.5 Each party consents to the exchange of counterparts of this contract by delivery by email or such other electronic means as may be agreed in writing.
- 1.6 Each party must upon request promptly deliver a physical counterpart of this contract with the handwritten signature or signatures of the party and all written evidence of the authority of a person signing on their behalf, but a failure to comply with the request does not affect the validity of this contract.

2. LIABILITY OF SIGNATORY

Any signatory for a proprietary limited company purchaser is personally liable for the due performance of the purchaser's obligations as if the signatory were the purchaser in the case of a default by a proprietary limited company purchaser.

3. GUARANTEE

The vendor may require one or more directors of the purchaser to guarantee the purchaser's performance of this contract if the purchaser is a proprietary limited company.

4. NOMINEE

The purchaser may no later than 14 days before the due date for settlement nominate a substitute or additional person to take a transfer of the land, but the named purchaser remains personally liable for the due performance of all the purchaser's obligations under this contract.

Title

5. ENCUMBRANCES

- 5.1 The purchaser buys the property subject to:
 - (a) any encumbrance shown in the section 32 statement other than mortgages or caveats; and
 - (b) any reservations, exceptions and conditions in the crown grant; and
 - (c) any lease or tenancy referred to in the particulars of sale.
- 5.2 The purchaser indemnifies the vendor against all obligations under any lease or tenancy that are to be performed by the landlord after settlement.

6. VENDOR WARRANTIES

- 6.1 The vendor warrants that these general conditions 1 to 35 are identical to the general conditions 1 to 35 in the form of contract of sale of land published by the Law Institute of Victoria Limited and the Real Estate Institute of Victoria Pty Ltd in the month and year set out at the foot of this page.
- 6.2 The warranties in general conditions 6.3 and 6.4 replace the purchaser's right to make requisitions and inquiries.
- 6.3 The vendor warrants that the vendor:
 - (a) has, or by the due date for settlement will have, the right to sell the land; and
 - (b) is under no legal disability; and
 - (c) is in possession of the land, either personally or through a tenant; and
 - (d) has not previously sold or granted any option to purchase, agreed to lease or granted a pre-emptive right which is current over the land and which gives another party rights which have priority over the interest of the purchaser; and
 - (e) will at settlement be the holder of an unencumbered estate in fee simple in the land; and
 - (f) will at settlement be the unencumbered owner of any improvements, fixtures, fittings and goods sold with the land.

- 6.4 The vendor further warrants that the vendor has no knowledge of any of the following:
- (a) public rights of way over the land;
 - (b) easements over the land;
 - (c) lease or other possessory agreement affecting the land;
 - (d) notice or order directly or indirectly affecting the land which will not be dealt with at settlement, other than the usual rate notices and any land tax notices;
 - (e) legal proceedings which would render the sale of the land void or voidable or capable of being set aside.
- 6.5 The warranties in general conditions 6.3 and 6.4 are subject to any contrary provisions in this contract and disclosures in the section 32 statement.
- 6.6 If sections 137B and 137C of the *Building Act 1993* apply to this contract, the vendor warrants that:
- (a) all domestic building work carried out in relation to the construction by or on behalf of the vendor of the home was carried out in a proper and workmanlike manner; and
 - (b) all materials used in that domestic building work were good and suitable for the purpose for which they were used and that, unless otherwise stated in the contract, those materials were new; and
 - (c) domestic building work was carried out in accordance with all laws and legal requirements, including, without limiting the generality of this warranty, the *Building Act 1993* and regulations made under the *Building Act 1993*.
- 6.7 Words and phrases used in general condition 6.6 which are defined in the *Building Act 1993* have the same meaning in general condition 6.6.

7. IDENTITY OF THE LAND

- 7.1 An omission or mistake in the description of the property or any deficiency in the area, description or measurements of the land does not invalidate the sale.
- 7.2 The purchaser may not:
- (a) make any objection or claim for compensation for any alleged misdescription of the property or any deficiency in its area or measurements; or
 - (b) require the vendor to amend title or pay any cost of amending title.

8. SERVICES

- 8.1 The vendor does not represent that the services are adequate for the purchaser's proposed use of the property and the vendor advises the purchaser to make appropriate inquiries. The condition of the services may change between the day of sale and settlement and the vendor does not promise that the services will be in the same condition at settlement as they were on the day of sale.
- 8.2 The purchaser is responsible for the connection of all services to the property after settlement and the payment of any associated cost.

9. CONSENTS

The vendor must obtain any necessary consent or licence required for the vendor to sell the property. The contract will be at an end and all money paid must be refunded if any necessary consent or licence is not obtained by settlement.

10. TRANSFER & DUTY

- 10.1 The purchaser must prepare and deliver to the vendor at least 7 days before the due date for settlement any paper transfer of land document which is necessary for this transaction. The delivery of the transfer of land document is not acceptance of title.
- 10.2 The vendor must promptly initiate the Duties on Line or other form required by the State Revenue Office in respect of this transaction, and both parties must co-operate to complete it as soon as practicable.

11. RELEASE OF SECURITY INTEREST

- 11.1 This general condition applies if any part of the property is subject to a security interest to which the *Personal Property Securities Act 2009* (Cth) applies.
- 11.2 For the purposes of enabling the purchaser to search the Personal Property Securities Register for any security interests affecting any personal property for which the purchaser may be entitled to a release, statement, approval or correction in accordance with general condition 11.4, the purchaser may request the vendor to provide the vendor's date of birth to the purchaser. The vendor must comply with a request made by the purchaser under this condition if the purchaser makes the request at least 21 days before the due date for settlement.
- 11.3 If the purchaser is given the details of the vendor's date of birth under condition 11.2, the purchaser must
- (a) only use the vendor's date of birth for the purposes specified in condition 11.2; and
 - (b) keep the date of birth of the vendor secure and confidential.
- 11.4 The vendor must ensure that at or before settlement, the purchaser receives –
- (a) a release from the secured party releasing the property from the security interest; or
 - (b) a statement in writing in accordance with section 275(1)(b) of the *Personal Property Securities Act 2009* (Cth) setting out that the amount or obligation that is secured is nil at settlement; or

- (c) a written approval or correction in accordance with section 275(1)(c) of the *Personal Property Securities Act 2009* (Cth) indicating that, on settlement, the personal property included in the contract is not or will not be property in which the security interest is granted.
- 11.5 Subject to general condition 11.6, the vendor is not obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property -
 - (a) that -
 - (i) the purchaser intends to use predominately for personal, domestic or household purposes; and
 - (ii) has a market value of not more than \$5000 or, if a greater amount has been prescribed for the purposes of section 47(1) of the *Personal Property Securities Act 2009* (Cth), not more than that prescribed amount; or
 - (b) that is sold in the ordinary course of the vendor's business of selling personal property of that kind.
- 11.6 The vendor is obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property described in general condition 11.5 if -
 - (a) the personal property is of a kind that may be described by a serial number in the Personal Property Securities Register; or
 - (b) the purchaser has actual or constructive knowledge that the sale constitutes a breach of the security agreement that provides for the security interest.
- 11.7 A release for the purposes of general condition 11.4(a) must be in writing.
- 11.8 A release for the purposes of general condition 11.4(a) must be effective in releasing the goods from the security interest and be in a form which allows the purchaser to take title to the goods free of that security interest.
- 11.9 If the purchaser receives a release under general condition 11.4(a) the purchaser must provide the vendor with a copy of the release at or as soon as practicable after settlement.
- 11.10 In addition to ensuring a release is received under general condition 11.4(a), the vendor must ensure that at or before settlement the purchaser receives a written undertaking from a secured party to register a financing change statement to reflect that release if the property being released includes goods of a kind that are described by serial number in the Personal Property Securities Register.
- 11.11 The purchaser must advise the vendor of any security interest that is registered on or before the day of sale on the Personal Property Securities Register, which the purchaser reasonably requires to be released, at least 21 days before the due date for settlement.
- 11.12 The vendor may delay settlement until 21 days after the purchaser advises the vendor of the security interests that the purchaser reasonably requires to be released if the purchaser does not provide an advice under general condition 11.11.
- 11.13 If settlement is delayed under general condition 11.12, the purchaser must pay the vendor -
 - (a) interest from the due date for settlement until the date on which settlement occurs or 21 days after the vendor receives the advice, whichever is the earlier; and
 - (b) any reasonable costs incurred by the vendor as a result of the delay - as though the purchaser was in default.
- 11.14 The vendor is not required to ensure that the purchaser receives a release in respect of the land. This general condition 11.14 applies despite general condition 11.1.
- 11.15 Words and phrases which are defined in the *Personal Property Securities Act 2009* (Cth) have the same meaning in general condition 11 unless the context requires otherwise.

12. BUILDING WARRANTY INSURANCE

The vendor warrants that the vendor will provide at settlement details of any current builder warranty insurance in the vendor's possession relating to the property if requested in writing to do so at least 21 days before settlement.

13. GENERAL LAW LAND

- 13.1 The vendor must complete a conversion of title in accordance with section 14 of the *Transfer of Land Act 1958* before settlement if the land is the subject of a provisional folio under section 23 of that Act.
- 13.2 The remaining provisions of this general condition 13 only apply if any part of the land is not under the operation of the *Transfer of Land Act 1958*.
- 13.3 The vendor is taken to be the holder of an unencumbered estate in fee simple in the land if there is an unbroken chain of title starting at least 30 years before the day of sale proving on the face of the documents the ownership of the entire legal and equitable estate without the aid of other evidence.
- 13.4 The purchaser is entitled to inspect the vendor's chain of title on request at such place in Victoria as the vendor nominates.
- 13.5 The purchaser is taken to have accepted the vendor's title if:
 - (a) 21 days have elapsed since the day of sale; and
 - (b) the purchaser has not reasonably objected to the title or reasonably required the vendor to remedy a defect in the title.
- 13.6 The contract will be at an end if:
 - (a) the vendor gives the purchaser a notice that the vendor is unable or unwilling to satisfy the purchaser's objection or requirement and that the contract will end if the objection or requirement is not withdrawn within 14 days of the giving of the notice; and
 - (b) the objection or requirement is not withdrawn in that time.

- 13.7 If the contract ends in accordance with general condition 13.6, the deposit must be returned to the purchaser and neither party has a claim against the other in damages.
- 13.8 General condition 17.1 [settlement] should be read as if the reference to 'registered proprietor' is a reference to 'owner' in respect of that part of the land which is not under the operation of the *Transfer of Land Act 1958*.
-

Money

14. DEPOSIT

- 14.1 The purchaser must pay the deposit:
- (a) to the vendor's licensed estate agent; or
 - (b) if there is no estate agent, to the vendor's legal practitioner or conveyancer; or
 - (c) if the vendor directs, into a special purpose account in an authorised deposit-taking institution in Victoria specified by the vendor in the joint names of the purchaser and the vendor.
- 14.2 If the land is sold on an unregistered plan of subdivision, the deposit:
- (a) must not exceed 10% of the price; and
 - (b) must be paid to the vendor's estate agent, legal practitioner or conveyancer and held by the estate agent, legal practitioner or conveyancer on trust for the purchaser until registration of the plan of subdivision.
- 14.3 The deposit must be released to the vendor if:
- (a) the vendor provides particulars, to the satisfaction of the purchaser; that either
 - (i) there are no debts secured against the property; or
 - (ii) if there are any debts, the total amount of those debts together with any amounts to be withheld in accordance with general conditions 24 and 25 does not exceed 80% of the sale price; and
 - (b) at least 28 days have elapsed since the particulars were given to the purchaser under paragraph (a); and
 - (c) all conditions of section 27 of the *Sale of Land Act 1962* have been satisfied.
- 14.4 The stakeholder must pay the deposit and any interest to the party entitled when the deposit is released, the contract is settled, or the contract is ended.
- 14.5 The stakeholder may pay the deposit and any interest into court if it is reasonable to do so.
- 14.6 Where the purchaser is deemed by section 27(7) of the *Sale of Land Act 1962* to have given the deposit release authorisation referred to in section 27(1), the purchaser is also deemed to have accepted title in the absence of any prior express objection to title.
- 14.7 Payment of the deposit may be made or tendered:
- (a) in cash up to \$1,000 or 0.2% of the price, whichever is greater; or
 - (b) by cheque drawn on an authorised deposit-taking institution; or
 - (c) by electronic funds transfer to a recipient having the appropriate facilities for receipt.
- However, unless otherwise agreed:
- (d) payments may not be made by credit card, debit card or any other financial transfer system that allows for any chargeback or funds reversal other than for fraud or mistaken payment, and
 - (e) any financial transfer or similar fees or deductions from the funds transferred, other than any fees charged by the recipient's authorised deposit-taking institution, must be paid by the remitter.
- 14.8 Payment by electronic transfer is made when cleared funds are received in the recipient's bank account.
- 14.9 Before the funds are electronically transferred the intended recipient must be notified in writing and given sufficient particulars to readily identify the relevant transaction.
- 14.10 As soon as the funds have been electronically transferred the intended recipient must be provided with the relevant transaction number or reference details.
- 14.11 For the purposes of this general condition 'authorised deposit-taking institution' means a body corporate for which an authority under section 9(3) of the *Banking Act 1959* (Cth) is in force.

15. DEPOSIT BOND

- 15.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 15.2 In this general condition "deposit bond" means an irrevocable undertaking to pay on demand an amount equal to the deposit or any unpaid part of the deposit. The issuer and the form of the deposit bond must be satisfactory to the vendor. The deposit bond must have an expiry date at least 45 days after the due date for settlement.
- 15.3 The purchaser may deliver a deposit bond to the vendor's estate agent, legal practitioner or conveyancer within 7 days after the day of sale.
- 15.4 The purchaser may at least 45 days before a current deposit bond expires deliver a replacement deposit bond on the same terms and conditions.

- 15.5 Where a deposit bond is delivered, the purchaser must pay the deposit to the vendor's legal practitioner or conveyancer on the first to occur of:
- (a) settlement;
 - (b) the date that is 45 days before the deposit bond or any replacement deposit bond expires;
 - (c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
 - (d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.
- 15.6 The vendor may claim on the deposit bond without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the issuer satisfies the obligations of the purchaser under general condition 15.5 to the extent of the payment.
- 15.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract, except as provided in general condition 15.6.
- 15.8 This general condition is subject to general condition 14.2 [deposit].

16. BANK GUARANTEE

- 16.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 16.2 In this general condition:
- (a) "bank guarantee" means an unconditional and irrevocable guarantee or undertaking by a bank in a form satisfactory to the vendor to pay on demand any amount under this contract agreed in writing, and
 - (b) "bank" means an authorised deposit-taking institution under the *Banking Act 1959* (Cth).
- 16.3 The purchaser may deliver a bank guarantee to the vendor's legal practitioner or conveyancer.
- 16.4 The purchaser must pay the amount secured by the bank guarantee to the vendor's legal practitioner or conveyancer on the first to occur of:
- (a) settlement;
 - (b) the date that is 45 days before the bank guarantee expires;
 - (c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
 - (d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.
- 16.5 The vendor must return the bank guarantee document to the purchaser when the purchaser pays the amount secured by the bank guarantee in accordance with general condition 16.4.
- 16.6 The vendor may claim on the bank guarantee without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the bank satisfies the obligations of the purchaser under general condition 16.4 to the extent of the payment.
- 16.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract except as provided in general condition 16.6.
- 16.8 This general condition is subject to general condition 14.2 [deposit].

17. SETTLEMENT

- 17.1 At settlement:
- (a) the purchaser must pay the balance; and
 - (b) the vendor must:
 - (i) do all things necessary to enable the purchaser to become the registered proprietor of the land; and
 - (ii) give either vacant possession or receipt of rents and profits in accordance with the particulars of sale.
- 17.2 Settlement must be conducted between the hours of 10.00 a.m. and 4.00 p.m. unless the parties agree otherwise.
- 17.3 The purchaser must pay all money other than the deposit in accordance with a written direction of the vendor or the vendor's legal practitioner or conveyancer.

18. ELECTRONIC SETTLEMENT

- 18.1 Settlement and lodgement of the instruments necessary to record the purchaser as registered proprietor of the land will be conducted electronically in accordance with the Electronic Conveyancing National Law. This general condition 18 has priority over any other provision of this contract to the extent of any inconsistency.
- 18.2 A party must immediately give written notice if that party reasonably believes that settlement and lodgement can no longer be conducted electronically. Special condition 18 ceases to apply from when such a notice is given.
- 18.3 Each party must:
- (a) be, or engage a representative who is, a subscriber for the purposes of the Electronic Conveyancing National Law,

- (b) ensure that all other persons for whom that party is responsible and who are associated with this transaction are, or engage, a subscriber for the purposes of the Electronic Conveyancing National Law, and
 - (c) conduct the transaction in accordance with the Electronic Conveyancing National Law.
- 18.4 The vendor must open the electronic workspace ("workspace") as soon as reasonably practicable and nominate a date and time for settlement. The inclusion of a specific date for settlement in a workspace is not of itself a promise to settle on that date or at that time. The workspace is an electronic address for the service of notices and for written communications for the purposes of any electronic transactions legislation.
- 18.5 This general condition 18.5 applies if there is more than one electronic lodgement network operator in respect of the transaction. In this general condition 18.5 "the transaction" means this sale and purchase and any associated transaction involving any of the same subscribers.
- To the extent that any interoperability rules governing the relationship between electronic lodgement network operators do not provide otherwise:
- (a) the electronic lodgement network operator to conduct all the financial and lodgement aspects of the transaction after the workspace locks must be one which is willing and able to conduct such aspects of the transaction in accordance with the instructions of all the subscribers in the workspaces of all the electronic lodgement network operators after the workspace locks;
 - (b) If two or more electronic lodgement network operators meet that description, one may be selected by purchaser's incoming mortgagee having the highest priority but if there is no mortgagee of the purchaser, the vendor must make the selection.
- 18.6 Settlement occurs when the workspace records that:
- (a) there has been an exchange of funds or value between the exchange settlement account or accounts in the Reserve Bank of Australia of the relevant financial institutions or their financial settlement agents in accordance with the instructions of the parties; or
 - (b) if there is no exchange of funds or value, the documents necessary to enable the purchaser to become registered proprietor of the land have been accepted for electronic lodgement
- 18.7 The parties must do everything reasonably necessary to effect settlement:
- (a) electronically on the next business day; or
 - (b) at the option of either party, otherwise than electronically as soon as possible –
- If, after the locking of the workspace at the nominated settlement time, settlement in accordance with special condition 18.6 has not occurred by 4.00 pm, or 6.00 pm if the nominated time for settlement is after 4.00 pm.
- 18.8 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any missing or mistaken payment and to recover the missing or mistaken payment.
- 18.9 The vendor must before settlement:
- (a) deliver any keys, security devices and codes ("keys") to the estate agent named in the contract,
 - (b) direct the estate agent to give the keys to the purchaser or the purchaser's nominee on notification of settlement by the vendor, the vendors subscriber or the electronic lodgement network operator,
 - (c) deliver all other physical documents and items (other than the goods sold by the contract) to which the purchaser is entitled at settlement, and any keys if not delivered to the estate agent, to the vendor's subscriber or, if there is no vendor's subscriber, confirm in writing to the purchaser that the vendor holds those documents, items and keys at the vendor's address set out in the contract, and
- give, or direct its subscriber to give, all those documents and items and any such keys to the purchaser or the purchaser's nominee on notification by the electronic lodgement network operator of settlement.

19. GST

- 19.1 The purchaser does not have to pay the vendor any amount in respect of GST in addition to the price if the particulars of sale specify that the price includes GST (if any).
- 19.2 The purchaser must pay to the vendor any GST payable by the vendor in respect of a taxable supply made under this contract in addition to the price if:
- (a) the particulars of sale specify that GST (if any) must be paid in addition to the price; or
 - (b) GST is payable solely as a result of any action taken or intended to be taken by the purchaser after the day of sale, including a change of use; or
 - (c) the particulars of sale specify that the supply made under this contract is of land on which a 'farming business' is carried on and the supply (or part of it) does not satisfy the requirements of section 38-480 of the GST Act; or
 - (d) the particulars of sale specify that the supply made under this contract is of a going concern and the supply (or a part of it) does not satisfy the requirements of section 38-325 of the GST Act.
- 19.3 The purchaser is not obliged to pay any GST under this contract until a tax invoice has been given to the purchaser.
- 19.4 If the particulars of sale specify that the supply made under this contract is of land on which a 'farming business' is carried on:
- (a) the vendor warrants that the property is land on which a farming business has been carried on for the period of 5 years preceding the date of supply; and

- (b) the purchaser warrants that the purchaser intends that a farming business will be carried on after settlement on the property.
- 19.5 If the particulars of sale specify that the supply made under this contract is a 'going concern':
 - (a) the parties agree that this contract is for the supply of a going concern; and
 - (b) the purchaser warrants that the purchaser is, or prior to settlement will be, registered for GST; and
 - (c) the vendor warrants that the vendor will carry on the going concern until the date of supply.
- 19.6 If the particulars of sale specify that the supply made under this contract is a 'margin scheme' supply, the parties agree that the margin scheme applies to this contract.
- 19.7 In this general condition:
 - (a) 'GST Act' means *A New Tax System (Goods and Services Tax) Act 1999* (Cth); and
 - (b) 'GST' includes penalties and interest.

20. LOAN

- 20.1 If the particulars of sale specify that this contract is subject to a loan being approved, this contract is subject to the lender approving the loan on the security of the property by the approval date or any later date allowed by the vendor.
- 20.2 The purchaser may end the contract if the loan is not approved by the approval date, but only if the purchaser:
 - (a) immediately applied for the loan; and
 - (b) did everything reasonably required to obtain approval of the loan; and
 - (c) serves written notice ending the contract, together with written evidence of rejection or non-approval of the loan, on the vendor within 2 clear business days after the approval date or any later date allowed by the vendor; and
 - (d) is not in default under any other condition of this contract when the notice is given.
- 20.3 All money must be immediately refunded to the purchaser if the contract is ended.

21. BUILDING REPORT

- 21.1 This general condition only applies if the applicable box in the particulars of sales is checked.
- 21.2 The purchaser may end this contract within 14 days from the days of sale if the purchaser:
 - (a) obtains a written report from a registered building practitioner or architect which discloses a current defect in a structure on the land and designates it as a major building defect;
 - (b) gives the vendor a copy of the report and a written notice ending this contract; and
 - (c) is not in then in default.
- 21.3 All money paid must be immediately refunded to the purchaser if the contract ends in accordance with this general condition.
- 21.4 A notice under this general condition may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.
- 21.5 The registered building practitioner may inspect the property at any reasonable time for the purpose of preparing the report.

22. PEST REPORT

- 22.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 22.2 The purchaser may end this contract within 14 days from the day of sale if the purchaser:
 - (a) obtains a written report from a pest control operator licensed under Victorian law which discloses a current pest infestation on the land and designates it as a major infestation affecting the structure of a building on the land;
 - (b) gives the vendor a copy of the report and a written notice ending this contract; and
 - (c) is not then in default.
- 22.3 All money paid must be immediately refunded to the purchaser if the contract ends in accordance with this general condition.
- 22.4 A notice under this general condition may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.
- 22.5 The pest control operator may inspect the property at any reasonable time for the purpose of preparing the report.

23. ADJUSTMENTS

- 23.1 All periodic outgoings payable by the vendor, and any rent and other income received in respect of the property must be apportioned between the parties on the settlement date and any adjustment paid and received as appropriate.
- 23.2 The periodic outgoings and rent and other income must be apportioned on the following basis:
 - (a) the vendor is liable for the periodic outgoings and entitled to the rent and other income up to and including the day of settlement; and
 - (b) the land is treated as the only land of which the vendor is owner (as defined in the *Land Tax Act 2005*); and

- (c) the vendor is taken to own the land as a resident Australian beneficial owner; and
 - (d) any personal statutory benefit available to each party is disregarded in calculating apportionment.
- 23.3 The purchaser must provide copies of all certificates and other information used to calculate the adjustments under general condition 23, if requested by the vendor.

24. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING

- 24.1 Words defined or used in Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953* (Cth) have the same meaning in this general condition unless the context requires otherwise.
- 24.2 Every vendor under this contract is a foreign resident for the purposes of this general condition unless the vendor gives the purchaser a clearance certificate issued by the Commissioner under section 14-220 (1) of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The specified period in the clearance certificate must include the actual date of settlement.
- 24.3 The remaining provisions of this general condition 24 only apply if the purchaser is required to pay the Commissioner an amount in accordance with section 14-200(3) or section 14-235 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) ("the amount") because one or more of the vendors is a foreign resident, the property has or will have a market value not less than the amount set out in section 14-215 of the legislation just after the transaction, and the transaction is not excluded under section 14-215(1) of the legislation.
- 24.4 The amount is to be deducted from the vendor's entitlement to the contract consideration. The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.
- 24.5 The purchaser must:
- (a) engage a legal practitioner or conveyancer ("representative") to conduct all legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and
 - (b) ensure that the representative does so.
- 24.6 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests and instructions that the representative must:
- (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition if the sale of the property settles;
 - (b) promptly provide the vendor with proof of payment; and
 - (c) otherwise comply, or ensure compliance with, this general condition;
- despite:
- (d) any contrary instructions, other than from both the purchaser and the vendor; and
 - (e) any other provision in this contract to the contrary.
- 24.7 The representative is taken to have complied with the requirements in special condition 24.6 if:
- (a) the settlement is conducted through an electronic lodgement network; and
 - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 24.8 Any clearance certificate or document evidencing variation of the amount in accordance with section 14-235(2) of Schedule 1 to the *Taxation Administration Act 1953* (Cth) must be given to the purchaser at least 5 business days before the due date for settlement.
- 24.9 The vendor must provide the purchaser with such information as the purchaser requires to comply with the purchaser's obligation to pay the amount in accordance with section 14-200 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The information must be provided within 5 business days of request by the purchaser. The vendor warrants that the information the vendor provides is true and correct.
- 24.10 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of late payment of the amount.

25. GST WITHHOLDING

- 25.1 Words and expressions defined or used in Subdivision 14-E of Schedule 1 to the *Taxation Administration Act 1953* (Cth) or in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning in this general condition unless the context requires otherwise. Words and expressions first used in this general condition and shown in italics and marked with an asterisk are defined or described in at least one of those Acts.
- 25.2 The purchaser must notify the vendor in writing of the name of the recipient of the *supply for the purposes of section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) at least 21 days before the due date for settlement unless the recipient is the purchaser named in the contract.
- 25.3 The vendor must at least 14 days before the due date for settlement provide the purchaser and any person nominated by the purchaser under general condition 4 with GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth), and must provide all information required by the purchaser or any person so nominated to confirm the accuracy of the notice.
- 25.4 The remaining provisions of this general condition 25 apply if the purchaser is or may be required to pay the Commissioner an *amount in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) because the property is *new residential premise or *potential residential land in either case falling within the parameters of that section, and also if the sale attracts the operation of section 14-255 of the legislation. Nothing in this general condition 25 is to be taken as relieving the vendor from compliance with section 14-255.

- 25.5 The amount is to be deducted from the vendor's entitlement to the contract *consideration and is then taken to be paid to the vendor, whether or not the vendor provides the purchaser with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.
- 25.6 The purchaser must:
- (a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and
 - (b) ensure that the representative does so.
- 25.7 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests relating to the payment of the amount to the Commissioner and instructions that the representative must:
- (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition on settlement of the sale of the property;
 - (b) promptly provide the vendor with evidence of payment, including any notification or other document provided by the purchaser to the Commissioner relating to payment; and
 - (c) otherwise comply, or ensure compliance, with this general condition;
- despite:
- (d) any contrary instructions, other than from both the purchaser and the vendor; and
 - (e) any other provision in this contract to the contrary.
- 25.8 The representative is taken to have complied with the requirements of general condition 25.7 if:
- (a) settlement is conducted through the electronic lodgement network; and
 - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 25.9 The purchaser may at settlement give the vendor a bank cheque for the amount in accordance with section 16-30 (3) of Schedule 1 to the *Taxation Administration Act 1953* (Cth), but only if:
- (a) so agreed by the vendor in writing; and
 - (b) the settlement is not conducted through an electronic lodgement network.
- However, if the purchaser gives the bank cheque in accordance with this general condition 25.9, the vendor must:
- (c) immediately after settlement provide the bank cheque to the Commissioner to pay the amount in relation to the supply; and
 - (d) give the purchaser a receipt for the bank cheque which identifies the transaction and includes particulars of the bank cheque, at the same time the purchaser gives the vendor the bank cheque.
- 25.10 A party must provide the other party with such information as the other party requires to:
- (a) decide if an amount is required to be paid or the quantum of it, or
 - (b) comply with the purchaser's obligation to pay the amount,
- in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The information must be provided within 5 business days of a written request. The party providing the information warrants that it is true and correct.
- 25.11 The vendor warrants that:
- (a) at settlement, the property is not new residential premises or potential residential land in either case falling within the parameters of section 14-250 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) if the vendor gives the purchaser a written notice under section 14-255 to the effect that the purchaser will not be required to make a payment under section 14-250 in respect of the supply, or fails to give a written notice as required by and within the time specified in section 14-255; and
 - (b) the amount described in a written notice given by the vendor to the purchaser under section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) is the correct amount required to be paid under section 14-250 of the legislation.
- 25.12 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount, except to the extent that:
- (a) the penalties or interest arise from any failure on the part of the vendor, including breach of a warranty in general condition 25.11; or
 - (b) the purchaser's reasonable belief that the property is neither new residential premises nor potential residential land requiring the purchaser to pay an amount to the Commissioner in accordance with section 14-250 (1) of Schedule 1 to the *Taxation Administration Act 1953* (Cth)
- The vendor is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount if either exception applies.

Transactional

26. TIME & CO OPERATION

- 26.1 Time is of the essence of this contract.
- 26.2 Time is extended until the next business day if the time for performing any action falls on a day which is not a business day.
- 26.3 Each party must do all things reasonably necessary to enable this contract to proceed to settlement, and must act in a prompt and efficient manner.
- 26.4 Any unfulfilled obligation will not merge on settlement.

27. SERVICE

- 27.1 Any document required to be served by or on any party may be served by or on the legal practitioner or conveyancer for that party.
- 27.2 A cooling off notice under section 31 of the *Sale of Land Act 1962* or a notice under general condition 20 [loan approval], 21 [building report] or 22 [pest report] may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.
- 27.3 A document is sufficiently served:
 - (a) personally; or
 - (b) by pre-paid post; or
 - (c) in any manner authorised by law or by the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner; whether or not the person serving or receiving the document is a legal practitioner, or
 - (d) by email.
- 27.4 Any document properly sent by:
 - (a) express post is taken to have been served on the next business day after posting, unless proved otherwise;
 - (b) priority post is taken to have been served on the fourth business day after posting, unless proved otherwise;
 - (c) regular post is taken to have been served on the sixth business day after posting, unless proved otherwise;
 - (d) email is taken to have been served at the time of receipt within the meaning of section 13A of the *Electronic Transactions (Victoria) Act 2000*.
- 27.5 In this contract 'document' includes 'demand' and 'notice', 'serve' includes 'give' and 'served' and 'service' have corresponding meanings.

28. NOTICES

- 28.1 The vendor is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made before the day of sale, and does not relate to periodic outgoings.
- 28.2 The purchaser is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made on or after the day of sale that does not relate to periodic outgoings.
- 28.3 The purchaser may enter the property to comply with that responsibility where action is required before settlement.

29. INSPECTION

The purchaser and/or another person authorised by the purchaser may inspect the property at any reasonable time during the 7 days preceding and including the settlement day.

30. TERMS CONTRACT

- 30.1 If this is a 'terms contract' as defined in the *Sale of Land Act 1962*:
 - (a) any mortgage affecting the land sold must be discharged as to that land before the purchaser becomes entitled to possession or to the receipt of rents and profits unless the vendor satisfies section 29M of the *Sale of Land Act 1962*; and
 - (b) the deposit and all other money payable under the contract (other than any money payable in excess of the amount required to so discharge the mortgage) must be paid to a legal practitioner or conveyancer or a licensed estate agent to be applied in or towards discharging the mortgage.
- 30.2 While any money remains owing each of the following applies:
 - (a) the purchaser must maintain full damage and destruction insurance of the property and public risk insurance noting all parties having an insurable interest with an insurer approved in writing by the vendor;
 - (b) the purchaser must deliver copies of the signed insurance application forms, the policies and the insurance receipts to the vendor not less than 10 days before taking possession of the property or becoming entitled to receipt of the rents and profits;
 - (c) the purchaser must deliver copies of any amendments to the policies and the insurance receipts on each amendment or renewal as evidence of the status of the policies from time to time;
 - (d) the vendor may pay any renewal premiums or take out the insurance if the purchaser fails to meet these obligations;
 - (e) insurance costs paid by the vendor under paragraph (d) must be refunded by the purchaser on demand without affecting the vendor's other rights under this contract;
 - (f) the purchaser must maintain and operate the property in good repair (fair wear and tear excepted) and keep the property safe, lawful, structurally sound, weatherproof and free from contaminations and dangerous substances;

- (g) the property must not be altered in any way without the written consent of the vendor which must not be unreasonably refused or delayed;
- (h) the purchaser must observe all obligations that affect owners or occupiers of land;
- (i) the vendor and/or other person authorised by the vendor may enter the property at any reasonable time to inspect it on giving 7 days written notice, but not more than twice in a year.

31. LOSS OR DAMAGE BEFORE SETTLEMENT

- 31.1 The vendor carries the risk of loss or damage to the property until settlement.
- 31.2 The vendor must deliver the property to the purchaser at settlement in the same condition it was in on the day of sale, except for fair wear and tear.
- 31.3 The purchaser must not delay settlement because one or more of the goods is not in the condition required by general condition 31.2, but may claim compensation from the vendor after settlement.
- 31.4 The purchaser may nominate an amount not exceeding \$5,000 to be held by a stakeholder to be appointed by the parties if the property is not in the condition required by general condition 31.2 at settlement.
- 31.5 The nominated amount may be deducted from the amount due to the vendor at settlement and paid to the stakeholder, but only if the purchaser also pays an amount equal to the nominated amount to the stakeholder.
- 31.6 The stakeholder must pay the amounts referred to in general condition 31.5 in accordance with the determination of the dispute, including any order for payment of the costs of the resolution of the dispute.

32. BREACH

A party who breaches this contract must pay to the other party on demand:

- (a) compensation for any reasonably foreseeable loss to the other party resulting from the breach; and
- (b) any interest due under this contract as a result of the breach.

Default

33. INTEREST

Interest at a rate of 2% per annum plus the rate for the time being fixed by section 2 of the *Penalty Interest Rates Act 1983* is payable at settlement on any money owing under the contract during the period of default, without affecting any other rights of the offended party.

34. DEFAULT NOTICE

- 34.1 A party is not entitled to exercise any rights arising from the other party's default, other than the right to receive interest and the right to sue for money owing, until the other party is given and fails to comply with a written default notice.
- 34.2 The default notice must:
 - (a) specify the particulars of the default; and
 - (b) state that it is the offended party's intention to exercise the rights arising from the default unless, within 14 days of the notice being given-
 - (i) the default is remedied; and
 - (ii) the reasonable costs incurred as a result of the default and any interest payable are paid.

35. DEFAULT NOT REMEDIED

- 35.1 All unpaid money under the contract becomes immediately payable to the vendor if the default has been made by the purchaser and is not remedied and the costs and interest are not paid.
- 35.2 The contract immediately ends if:
 - (a) the default notice also states that unless the default is remedied and the reasonable costs and interest are paid, the contract will be ended in accordance with this general condition; and
 - (b) the default is not remedied and the reasonable costs and interest are not paid by the end of the period of the default notice.
- 35.3 If the contract ends by a default notice given by the purchaser:
 - (a) the purchaser must be repaid any money paid under the contract and be paid any interest and reasonable costs payable under the contract; and
 - (b) all those amounts are a charge on the land until payment; and
 - (c) the purchaser may also recover any loss otherwise recoverable.
- 35.4 If the contract ends by a default notice given by the vendor:

- (a) the deposit up to 10% of the price is forfeited to the vendor as the vendor's absolute property, whether the deposit has been paid or not; and
 - (b) the vendor is entitled to possession of the property; and
 - (c) In addition to any other remedy, the vendor may within one year of the contract ending either:
 - (i) retain the property and sue for damages for breach of contract; or
 - (ii) resell the property in any manner and recover any deficiency in the price on the resale and any resulting expenses by way of liquidated damages; and
 - (d) the vendor may retain any part of the price paid until the vendor's damages have been determined and may apply that money towards those damages; and
 - (e) any determination of the vendor's damages must take into account the amount forfeited to the vendor.
- 35.5 The ending of the contract does not affect the rights of the offended party as a consequence of the default.
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SALE OF LAND REGULATIONS 2014
SCHEDULE 1
GENERAL RULES FOR THE CONDUCT OF
PUBLIC AUCTIONS OF LAND

***1.** No bids may be made on behalf of the Vendor of the land.

OR

***1.** The auctioneer may make one or more bids on behalf of the Vendor of the land at any time during the auction.

2. The auctioneer may refuse any bid.

3. The auctioneer may determine the amount by which the bidding is to be advanced.

4. The auctioneer may withdraw the property from sale at any time.

5. The auctioneer may refer a bid to the Vendor at any time before the conclusion of the auction.

6. In the event of a dispute concerning a bid, the auctioneer may re-submit the property for sale at the last undisputed bid or start the bidding again.

7. The auctioneer must not accept any bid or offer for a property that is made after the property has been knocked down to the successful bidder, unless the Vendor or successful bidder at the auction refuses to sign the Contract of sale following the auction.

8. If a reserve price has been set for the property and the property is passed in below that reserve price, the Vendor will first negotiate with the highest bidder for the purchase of the property.

9. Sale by Auction:

The property is offered for sale by auction, subject to the Vendor's reserve price. The Rules for the conduct of the auction shall be as set out in Schedule 1 and Schedule 5 to the Sale of Land Regulations 2014, or any rules prescribed by regulation which modify or replace those Rules.

SALE OF LAND REGULATIONS 2014

SCHEDULE 5

INFORMATION CONCERNING THE CONDUCT OF PUBLIC AUCTIONS OF LAND

1. Meaning of Vendor:

The Vendor is the person who is selling the property that is being auctioned. There may be more than one Vendor. Where there are two or more Vendors, they are selling the property as co-owners

2. Bidding by Co-Owners:

Where there are two or more Vendors of the property, one or some or all of them may bid to purchase the property from their co-owners. The Vendor or Vendors intending to bid to purchase the property can make these bids themselves, or through a representative, but not through the auctioneer.

3. Vendor Bids:

The law of Victoria allows Vendors to choose to have bids made for them by the auctioneer. If this is the case, it will be stated as the first rule applying to the auction. However, these bids cannot be made for a co-owner intending to bid to purchase the property from their co-owner or co-owners.

The auctioneer can only make a Vendor bid if:

- a) the auctioneer declares before bidding starts that the auctioneer can make bids on behalf of a Vendor, and states how these bids will be made; and
- b) the auctioneer states when making the bid that it is a bid for the Vendors. The usual way for an auctioneer to indicate that the auctioneer is making a Vendor bid is to say "Vendor bid" in making the bid.

4. What rules and conditions apply to the auction?

Different rules apply to an auction depending upon whether there are any co-owners intending to bid to purchase the property from their co-owners, and whether Vendor bids can be made. The auctioneer must display the rules that apply at the auction.

It is possible that a Vendor may choose to have additional conditions apply at the auction. This is only allowed if those additional conditions do not conflict with the rules that apply to the auction or any other legal requirement. The additional conditions are usually contained in the Contract of sale.

5. Copies of the rules:

The law requires that a copy of the rules and conditions that are to apply to a public auction of land be made available for public inspection a reasonable time before the auction starts and in any case not less than 30 minutes before the auction starts.

6. Questions:

A person at a public auction of land may ask the auctioneer in good faith a reasonable number of questions about the property being sold, the Contract of sale, the rules under which the auction is being conducted and the conduct of the auction.

7. Forbidden activities at auctions:

The law forbids:

- a) any person bidding for a Vendor other than:
 - i. the auctioneer (who can only make bids for a Vendor who does not intend to purchase the property from their co-owner or co-owners); or
 - ii. a representative of a Vendor who is a co-owner of the property wishing to purchase the property from their co-owner or co-owners.
- b) the auctioneer taking any bid that he or she knows was made on behalf of the Vendor, unless it is made by a Vendor (or their representative) who is a co-owner wishing to purchase the property
- c) the auctioneer acknowledging a bid if no bid was made
- d) any person asking another person to bid on behalf of the Vendor, other than a Vendor who is a co-owner engaging a representative to bid for them
- e) any person falsely claiming or falsely acknowledging that he or she made a bid
- f) an intending bidder (or a person acting on behalf of an intending bidder) harassing or interfering with other bidders at a public auction of land.

Substantial penalties apply to any person who does any of the things in this list

8. Who made the bid?

At any time during a public auction of land, a person at the auction may ask the auctioneer to indicate who made a bid. Once such a request has been made, the auctioneer is obliged by law to comply with such a request before taking another bid.

9. It is an offence to disrupt an auction:

The law forbids an intending bidder or a person acting on behalf of an intending bidder from doing anything with the intention of preventing or causing a major disruption to, or causing the cancellation of, a public auction of land.

10. The cooling off period does not apply to public auctions of land:

If you purchase a property that has been offered for sale by public auction either at the auction or within 3 clear business days before or after the auction, there is no cooling off period.

11. What law applies?

The information in this document is only intended as a brief summary of the law that applies to public auctions of land in Victoria. Most of the laws referred to in this document can be found in the Sale of Land Act 1962 or the Sale of Land (Public Auctions) Regulations 2014. Copies of those laws can be found at the following web site: www.legislation.vic.gov.au under the title "Victorian Law Today".

SPECIAL CONDITIONS

1. Corporation

If the Purchaser is a corporation and intends to nominate a co-Purchaser or substitute Purchaser the Purchaser shall upon demand by the Vendor forthwith deliver to the Vendor an enforceable Guarantee and Indemnity of the full observance and performance by the Purchaser of every obligation of the purchase under this Contract duly executed by each and every Director of the Purchaser and any other person or corporation as may reasonably be required by the Vendor;

The Guarantee and Indemnity will be in a form stipulated by the Vendor as attached to this Contract and will be prepared by or on behalf of the Vendor but at the cost of the Purchaser;

If the duly executed Guarantee and Indemnity is not delivered to the Vendor within seven (7) days of the demand therefore the Purchaser will be deemed to be in default under this Contract.

2. Acceptance of use of Land

- a) The Purchaser shall satisfy himself on the matter of use of the land and shall be deemed to have accepted this Contract with full knowledge and subject to any prohibition or restriction thereon and in particular as to the use of the land whether under or in pursuance of an Act, Ordinance, Regulation, By-law, Town Planning Scheme or Interim Development Order or other Statutory Enactment or Order of Court or otherwise;
- b) Completion of this Contract shall not be conditional or dependent upon any matter referred to in this Special Condition.

3. Condition of Property

3.1. General Condition 31.2, 31.3, 31.4, 31.5 and 31.6 shall not apply to this Contract.

3.2. The property and any chattels are sold:

- a) In their present condition and state of repair;
- b) Subject to all defects latent and patent;
- c) Subject to any infestations and dilapidation;
- d) Subject to all existing water, sewerage, drainage and plumbing services and connections in respect of the property;

3.3. The Purchaser agrees not to terminate, rescind or make any objection requisition or claim for compensation arising out of any of the matters contained in this clause.

3.4. The Purchaser agrees that no failure of any buildings or improvements to comply with any planning or building legislation regulations or by-laws or any planning permit constitutes a defect in the Vendor's title or affects or validity of this Contract.

4. Vendors Agents Representations

The Purchaser acknowledges that the Vendor's Agent has acted as Agent of the Vendor and that no information representation or warranty (save such as are contained in the Vendor's Statement made pursuant to Section 32 of the Sale of Land Act) of the Vendor or the Vendor's Agent was supplied or made with the intention or knowledge that it would be relied upon.

5. Deposit

The deposit moneys payable by the Purchaser shall be paid to either the Vendor's Agent or the Vendor's solicitors, Frank J. Horvat & Co. Pty to be held on trust for the Purchaser as stakeholder pursuant to Section 24 of the Sale of Land Act 1962.

6. Deposit Release

6.1. General Condition 14.3(a) is varied by deleting the words "to the satisfaction of the Purchaser";

6.2. General Condition 14.3(a) (ii) is varied to provide as follows:

"If there are any debts, the total amount of those debts does not exceed the balance due at settlement net of the amount of deposit paid"

6.3. The Purchaser will not call upon the Vendor to provide details of any mortgage or Caveat secured against the property in accordance with the requirements of Section 27 of the Sale of Land Act on Bank letterhead.

7. Restrictions

The Purchaser buys subject to any restrictions imposed by and to the provisions of the Ministry for Planning and Environment and any other town planning acts or schemes.

8. Vendors Lawyers

The Solicitors acting on behalf of the Vendor are Frank J. Horvat & Co. Pty of 115A Wheatsheaf Road, Glenroy VIC, 3046.

9. Stamp Duty: Purchasers buying unequal interest:

- a) If there is more than one (1) Purchaser, it is the Purchaser's responsibility to ensure the Contract correctly records at the date of sale the proportions in which they are buying the property (the proportions);
- b) If the proportions recorded on the Transfer differ from those recorded in the Contract, it is the Purchaser's responsibility to pay any additional duty which may be assessed as a result of the variation.
- c) The Purchasers fully indemnify the Vendor, the Vendor's agent and the Vendor's legal practitioner against any claims or demands which may be made against any or all of them in relation to any additional duty payable as a result of the proportions in the transfer differing from those in the Contract.
- d) This Special Condition will not merge on completion.

10. Purchaser in Default

10.1. Should the Purchaser default in payment of any money due under this Contract, then interest at a rate of 4% per annum plus the rate for the time being fixed by section 2 of the Penalty Interest Rates Act 1983 is payable on any money owing under the Contract during the period of default, without affecting any other rights of the offended party.

The said interest shall be computed from the due date herein provided for the payment of the said money until such moneys are paid and shall be payable by the Purchaser to the Vendor upon

demand without the necessity in writing. The exercise of the Vendor's rights hereunder shall be without prejudice to any other rights, powers and remedies of the Vendor under the Contract or otherwise. General Condition 33 shall not apply to this Contract.

- 10.2. General Condition 32 is amended by adding the following new paragraph at the end of that Condition:-

"The Purchaser acknowledges that the following items constitute a reasonably foreseeable loss':

- a) all costs associated with bridging finance to complete the Vendor's purchase of another property;
- b) expenses payable by the Vendor under any existing loans secured over the property or other property of the Vendor;
- c) accommodation expenses incurred by the Vendor;
- d) the Vendor's legal costs and expenses as between solicitor and client incurred due to the breach;
- e) any commission or other expenses claimed by the Vendor's Agents or other representing relating to sale of the Property; and
- f) penalties and any other expenses payable by the Vendor due to any delay in completion of the purchase of another property".

- 10.3. The "reasonable costs" referred to in General Condition 32(a) includes \$800.00 plus GST for the preparation of a notice of default (or any lesser amount demanded by the Vendor).

11. Adjustments

11.1. Rate and tax adjustments

- a) The Vendor shall pay or discharge all rates, taxes and other outgoings (except insurance premiums on insurances effected by the Purchaser) with respect to the Property up to and including the Settlement Date.
- b) The Purchaser shall pay, adjust or discharge all rates and taxes and other outgoings with respect to the Property from the Day of Settlement.
- c) Rates, taxes and other outgoings shall be apportioned at Completion:
 - i. In the case of those paid by the Vendor, on the amount actually paid;
 - ii. In the case of those levied but unpaid, on the amount payable disregarding any discount for early payment;
 - iii. In the case of those not levied but the amount can be ascertained by advice from the relevant rating and taxing authority, on the amount advised by the relevant rating and taxing authority; and
 - iv. In the case of those not levied and not ascertainable from the relevant rating and taxing authority and where a separate assessment was issued for the Property for the assessment period immediately prior to the Completion Date, on the amount payable in that separate assessment disregarding any discount

for early payment.

11.2. General Condition 23.2(b) shall not apply to this Contract.

11.3. Despite any other provision in this Contract, the parties agree that:

a) For the purpose of Special Condition 11.3 the relevant assessment for land tax is that effected on 31 December of the year preceding the Settlement Date which includes all the titles that comprise the Parent Title (Land Tax Assessment); and

b) Land Tax is adjusted:

i. between the Vendor and the Purchaser on the basis that the amount to be apportioned between them is the proportional land tax applicable to the property and set out in the attached Land Tax Certificate.

11.4. The Statement of Adjustments and supporting certificates must be provided to the Vendors representative at least three business days prior to settlement. Failing to do so will incur a fee payable at settlement by the Purchaser in the sum of \$165.00 to the Vendors representative.

12. Loan

12.1. General Condition 20.2(c) is varied by including the words "and provides the Vendor's Solicitors a letter from a financial institution (not a broker or other source);

12.2. General Condition 20.2(c) is varied by deleting the words "on the Vendor within 2 clear business days after the approval date or any later date allowed by the Vendor:"

13. Late Settlement

If the Purchaser fails to settle on the date scheduled for settlement and settlement is rescheduled the Purchaser will be in default of this Contract and shall pay the Vendor's legal practitioner for any rescheduled settlement on the next or following days which attract a fee of \$350.00 plus GST such additional amount or amounts to be paid at settlement.

14. Contract Variations

14.1. The Purchaser acknowledges and agrees that once the Contract has been fully signed by the parties, the Vendor's legal representative will have entered all key dates into their practice management system, taken note of essential terms negotiated by the parties and allocated appropriate resources to ensure that this Contract settles on time.

14.2. If the Purchaser requests for any variation to the Contract after signing, the Purchaser agrees to pay the Vendor's legal representative on settlement by way of adjustment a cost of \$350.00 plus GST for every variation, including for any extensions of key dates and rescheduling of settlement, with or without defaulting under the Contract.

15. Nomination

15.1. The Purchaser may nominate a substitute Purchaser and may only exercise the Purchaser's rights under General Condition 4 if the Purchaser delivers to the Vendor at least 14 days before settlement a signed notice nominating an additional or substitute Purchaser ("Deed of Nomination"):-

a) properly completed with all of the relevant details;

- b) executed by the Purchaser and the nominated Purchaser ("Nominee");
- c) an amount of \$440.00 inclusive of GST payable to the Vendor's Lawyer at settlement being their costs for advising the Vendor on compliance with this Special Condition;
- d) accompanied by the guarantee and indemnity as required which is attached herewith
- e) includes:
 - i. if the Purchaser is not a Foreign Person, a warranty by the nominee that FIRB Approval is not required for its purchase of the Property from the Vendor. The Purchaser and the Nominee jointly and severally indemnify the Vendor against all Claims and losses which the Vendor may incur or may become liable for (including any consequential loss which the Vendor may incur or become liable for) as a consequence of the Vendor having relied upon the nominee's warranty; or
 - ii. if the Purchaser is a Foreign Purchaser, a copy of the FIRB Approval for its purchase of the Property from the Vendor; and
 - iii. (if the margin scheme applies) a written agreement by the Nominee with the Vendor that the Vendor will apply the margin scheme to calculate the GST payable in respect of the taxable supply for which the consideration of the Price.

15.2. In the event that the Purchaser exercises a nomination within 14 days of settlement an additional fee of \$330.00 will be payable to the Vendor's Lawyers at settlement due to additional costs incurred by the Vendor due to short notice.

16. Contamination of Land

The Purchaser acknowledges that no representations, warranties or indemnities of any kind have been made or given by the Vendor concerning the existence or otherwise of any contamination of or in the property of concerning the risk or any possible harm or detriment which may be caused to any beneficial use of the property and agrees not to make any requisition or claim against the Vendor howsoever arising by reason of or in consequence of or in respect of any contamination or any harm or detriment which may be caused to any beneficial use of the property.

17. Early Possession

In the event that the Vendor allows the Purchaser to take possession of the subject property prior to settlement then the Purchaser shall execute a licence agreement as prepared by the Vendor's representative and shall prior to taking possession pay the reasonable costs associated with the said preparation.

18. Swimming Pool/Spa

Where the subject property includes a swimming pool, spa or pond, the Purchaser acknowledges that they have made their own enquiries regarding its compliance or their obligations as future owners under the provisions of any Building Regulations and have not relied on any representations made by the Vendors or the Agents in this regard.

19. Supply and Connection of Services

The Vendor and Purchaser agree that:

- a) **ELECTRICITY:** The Vendor shall arrange for a final reading for the property. The Purchaser shall be responsible for paying any connection fees and arranging supply of electricity with his/her chosen service provider.
- b) **GAS:** The Vendor shall arrange for a final reading for the property. The Purchaser shall be responsible for paying any connection fees and arranging supply of gas with his/her chosen service provider.
- c) **WATER & SEWERAGE:** The Vendor shall arrange for a final reading for the property. The Purchaser shall be responsible for paying any connection fees and arranging supply of water/sewerage to the property with his/her chosen service provider.
- d) **TELEPHONE:** The Vendor shall arrange for a final reading for the property. The Purchaser shall be responsible for paying any connection fees and arranging supply of telephone services with his/her chosen service provider.

NOTE: In the event that the Vendor has paid for connection fees the Purchaser will reimburse the Vendor for the cost of same.

20. Owner Builder Warranty (if applicable) – BUILDING ACT 1993 – SECT 137C

- 20.1. The following warranties are part of every Contract to which section 137B applies which relates to the sale of a home –
 - a) the Vendor warrants that all domestic building work carried out in relation to the construction by or on behalf of the Vendor of the home was carried out in a proper workmanlike manner; and
 - b) the Vendor warrants that all materials used in that domestic building work were good and suitable for the purpose for which they were used and that, unless otherwise stated in the Contract, those materials were new; and
 - c) the Vendor warrants that that domestic building work was carried out in accordance with all laws and legal requirements, including, without limiting the generality of this warranty, this Act and the regulations.
- 20.2. In addition to the Purchaser under a Contract to which section 137B applies, any person who is a successor in title to the Purchaser may take proceedings for a breach of the warranties listed in subsection (20.1) as if that person were a party to the Contract.

21. FIRB: (Foreign Investment Review Board)

- 21.1. The Purchaser warrants to the Vendor that any approval required under the Foreign Acquisition and Takeovers Act 1975 (as amended) or any real estate policy guidelines of the Commonwealth Government and/or the approval of The Reserve Bank of Australia under the Banking (Foreign Exchange) Regulations to enter into this Contract has been obtained or that a statement of non-objection in connection with the Foreign Acquisition and Takeovers Act 1975 or such guidelines has been obtained. In the event that this warranty is untrue in any respect the Purchaser hereby indemnifies and keeps indemnified the Vendor against any loss (including consequential loss) which the Vendor suffers as result of the Vendor having relied on this warranty at the time of entering into this Contract.
- 21.2. Where the Purchaser is not a resident and ordinarily domiciled in Australia or a foreign company, the Purchaser shall:

- a) within 60 days of request of the Vendor produce to the Vendor adequate proof of the Purchaser's ability to pay the residue of moneys owing in the form of:
 - i. written confirmation from an Australian bank showing funds on deposit being available for the settlement of the Contract;
 - ii. a letter of approval from an Australian Bank in respect of any loan to be taken out by the Purchaser for the settlement of the Contract;
 - iii. any other approval or confirmation approved by the Vendor sufficient to show the ability of the Purchaser to pay the residue owing.
- b) any failure by the Purchaser to comply with the provisions of this clause shall be deemed a material breach of this Contract and the Vendor shall be entitled to rescind this Contract.

22. Christmas & New Year Period

- 22.1. If settlement has not taken place on or before 20 December in the calendar year in which settlement is agreed to occur, then both parties agree that settlement will be set on 15 January of the following calendar year.
- 22.2. Neither party may issue a Default and/or Rescission Notice on the other party between the period of 20 December in the calendar year in which settlement is set and 15 January of the following calendar year, or make any objection, requisition or claim for compensation arising from or in connection with the failure to complete settlement under this Special Condition.

23. Self-Representative Purchaser

In the event that the Purchaser/s will be self-representing then the Purchaser/s will be obliged to provide a Verification of Identity "VOI" prior to settlement in order to comply with Land Registry and ARNECC Model Participation Rules governing Real Estate transactions. The self-represented Purchaser/s is placed on notice that if the VOI is not supplied prior to the settlement date the Vendor/s will not be obliged to settle on the due date provided in this Contract and penalty interest will apply from the due date until the Purchaser/s has provided formal verification of identity in the appropriate format.

24. MSA Levy – (if applicable)

- 24.1. The Purchaser acknowledges that the Property is liable for charges or levies imposed in accordance with the *Melbourne Strategic Assessment (Environment Mitigation Levy) Act 2020* (Vic) ("MSA Act") namely the Melbourne Strategic Assessment ("MSA").
- 24.2. The Purchaser acknowledges that subject to either: -
 - a) Settlement occurring; or
 - b) The Vendor lawfully terminating this Contract due to a breach by the Purchaser in circumstances where the Purchaser has triggered a "Levy event" which has the meaning given to that term in the MSA Act in relation to the Property ("MSA Levy")

the Purchaser in accordance with this Special Condition 24 is and will be wholly and solely liable for payment of the MSA Levy in respect of the Property.
- 24.3. If the MSA Levy arises in respect of the Property prior to Settlement of the Contract and has been levied against either the Vendor or the Purchaser, then the Purchaser must as directed

in writing by the Vendor either: -

- a) Provide the Vendor with proof, to the Vendor's satisfaction, that the Purchaser has reached an arrangement with the relevant Authority in respect of such MSA Levy on or prior to the due date for payment; or
- b) Make payment of the MSA Levy on the due date or no later than at least fourteen (14) days prior to the Settlement Date whichever is the first to occur. The Purchaser must produce evidence of the MSA Levy payment made and as and when requested by the Vendor.

24.4. The Purchaser will have full carriage of all applications submissions and proceedings relating to the MSA and must keep the Vendor at all times fully informed by providing the Purchaser with copies of all applications, submissions, reports and the like including written updates in respect to the exercise of those rights as and when required and as and when requested by the Vendor.

24.5. Notwithstanding anything herein contained to the contrary the Purchaser indemnifies and agrees to keep indemnified the Vendor in respect of any MSA Levy or similar tax, levy, rate or charge imposed by any Authority as a consequence of any one development or subdivision of the Property.

25. GAIC – (if applicable)

25.1. The Purchaser acknowledges that the Property is liable for charges or levies imposed in accordance with the *Planning and Environment Amendment (Growth Areas Infrastructure Contribution) Act 2010* (Vic) ("GAIC Act") namely the Growth Areas Infrastructure Contribution ("GAIC").

25.2. The Purchaser acknowledges that subject to either: -

- a) Settlement occurring; or
- b) The Vendor lawfully terminating this Contract due to a breach by the Purchaser in circumstances where the Purchaser has triggered a GAIC event which, has the meaning given to that term in the *Planning and Environment Act 1987* (Vic) in relation to the Property

the Purchaser in accordance with this Special Condition 25 is and will be wholly and solely liable for payment of GAIC in respect of the Property.

25.3. If GAIC arises in respect of the Property prior to Settlement of the Contract and has been levied against either the Vendor or the Purchaser, then the Purchaser must as directed in writing by the Vendor either: -

- a) Provide the Vendor with proof, to the Vendor's satisfaction, that the Purchaser has reached an arrangement with the State Revenue Office in respect of such GAIC on or prior to the due date for payment; or
- b) Make payment of the GAIC on the due date or no later than at least fourteen (14) days prior to the Settlement Date whichever is the first to occur. The Purchaser must produce evidence of the GAIC payment made and as and when requested by the Vendor.

25.4. The Purchaser will have full carriage of all applications, submissions and proceedings relating to GAIC and must keep the Vendor at all times fully informed by providing the Purchaser with

copies of all applications, submissions, reports and the like including written updates in respect to the exercise of those rights as and when required and as and when requested by the Vendor.

- 25.5. The Purchaser will not lodge any type of application, submission or proposal of any nature with Council for purposes of obtaining any planning permit or approval for their intended development of the property prior to settlement having occurred.
- 25.6. Notwithstanding anything herein contained to the contrary the Purchaser indemnifies and agrees to keep indemnified the Vendor in respect of any GAIC or similar tax, levy, rate or charge imposed by any Authority as a consequence of any one development or subdivision of the Property.

26. Windfall Tax – (if applicable)

The Purchaser is responsible for the payment of any notice, demand or levy imposing any liability on the property without limitation and including but not limited to any liability for the payment of any Windfall Gains Tax (*as that term is defined in the Windfall Gains Tax and State Taxation and other Acts Further Amendment Act 2021*) or any other tax or imposition that does not relate to periodic outgoings made before or after the day of sale noted on the Contract of Sale.

Upon any liability being struck, the Purchaser will promptly pay the liability before the due date. In the event the Purchaser fails to pay the liability by the due date, the Purchaser will be responsible for all outstanding fees, interest and any costs incurred. If the liability is not paid by the due date, the Vendor will charge penalty interest pursuant to the *Penalty Interest Rates Act 1983* (Vic) (currently 10% per annum) per annum, calculated on a daily basis on the balance outstanding for each day payment becomes overdue.

27. Solar Panels

This special condition only applies if there are solar panels installed on the roof of the dwelling constructed on the property hereby sold and the parties agree as follows:

- 27.1 Whether or not any benefits currently provided to the Vendor by agreement with the current energy supplier with respect to feed-in tariff pass with the sale of this property is a matter for enquiry and confirmation by the Purchaser;
- 27.2 The Purchaser agrees that they will negotiate with the current energy supplier or an energy supplier of their choice with respect to any feed-in tariffs for the electricity generated or any other benefits provided by the said solar panels and the purchaser shall indemnify and hold harmless the Vendor against any claims for any benefits whatsoever with respect to the said solar panels; and
- 27.3 The Vendor makes no representation or warranties with respect to the solar panels in relation to their conditions, state of repair, fitness for the purposes for which they were installed, their in-put to the electricity grid or any benefits arising from any electricity generated by the said solar panels.

28. No Merger on Settlement

To the extent that this Contract includes obligations which continue or arise after the Settlement Date, this Contract remains in full force and effect notwithstanding settlement and the provisions of this Contract do not merge with any conveyance, transfer or assignment or the registration of any of the foregoing.

29. If there is any inconsistency between the General Conditions and any Special Condition, then to the extent of any inconsistency the Special Condition will prevail and have priority.

DEED OF GUARANTEE

THIS DEED dated day of 2023

BETWEEN **Zaia Yousif Zia**
of 12 Peterborough Court, Attwood, VIC 3049

(Vendor)

AND

of

(Purchaser)

AND

of

(Guarantor)

IN CONSIDERATION of the vendor having at the request of the guarantor agreed to sell the land described within the contract of sale to the purchaser the guarantor HEREBY GUARANTEES to the vendor the due and punctual payment by the purchaser of the purchase money and interest payable thereon as detailed in the said contract of sale and all other money that is payable or may become payable pursuant thereto, the money hereby secured, AND ALSO the due performance and observance by the purchaser of all and singular the covenants provisions and stipulations contained or implied in the said contract of sale and on the part of the purchaser to be performed and observed AND THE GUARANTOR HEREBY EXPRESSLY ACKNOWLEDGES AND DECLARES that it has examined the contract of sale and has access to a copy thereof and further that this guarantee is given upon and subject to the following conditions:

1. That in the event of the purchaser failing to pay the vendor as and when due the money referred to within the contract the guarantor will immediately pay such money to the vendor;
2. That in the event of the purchaser failing to carry out or perform any of its obligations under the contract the guarantor will immediately carry out and perform the same;
3. The guarantor shall be deemed to be jointly and severally liable with the purchaser, in lieu of being merely a surety for it, for the payment of the purchase money interest and all other money if any payable pursuant to the contract in the performance of the obligations herein contained and it shall not be necessary for the vendor to make any claim or demand on or to take any action or proceedings against the purchaser before calling on the guarantor to pay the money or to carry out and perform the obligations herein contained; and
4. That no time or other indulgence whatsoever that may be granted by the vendor to the purchaser shall in any manner whatsoever affect a liability of the guarantor hereunder and the liability of the guarantor shall continue to remain in full force and effect until all money owing to the vendor have been paid and all obligations have been performed.

EXECUTED AS A DEED

EXECUTED BY	)	
	)	
ACN		
in accordance with Section 127 of the Corporations Act 2001 by being signed by the Authorised person:		Director
		Name:
		Address:
		Secretary
		Name:
		Address:

SIGNED BY THE SAID	)	
	)	
In the presence of:	)	
		Signature
Signature of witness		
Print name of witness		

SIGNED BY THE SAID	)	
	)	
in the presence of:	)	
		Signature
Signature of witness		
Print name of witness		

Due Diligence Checklist

What you need to know before buying a residential property

Before you buy a home, you should be aware of a range of issues that may affect that property and impose restrictions or obligations on you, if you buy it. This checklist aims to help you identify whether any of these issues will affect you. The questions are a starting point only and you may need to seek professional advice to answer some of them. You can find links to organisations and web pages that can help you learn more, by visiting the [Due diligence checklist page on the Consumer Affairs Victoria website](http://consumer.vic.gov.au/duediligencechecklist) (consumer.vic.gov.au/duediligencechecklist).

Urban living

Moving to the inner city?

High density areas are attractive for their entertainment and service areas, but these activities create increased traffic as well as noise and odours from businesses and people. Familiarising yourself with the character of the area will give you a balanced understanding of what to expect.

Is the property subject to an owners corporation?

If the property is part of a subdivision with common property such as driveways or grounds, it may be subject to an owners corporation. You may be required to pay fees and follow rules that restrict what you can do on your property, such as a ban on pet ownership.

Growth areas

Are you moving to a growth area?

You should investigate whether you will be required to pay a growth areas infrastructure contribution.

Flood and fire risk

Does this property experience flooding or bushfire?

Properties are sometimes subject to the risk of fire and flooding due to their location. You should properly investigate these risks and consider their implications for land management, buildings and insurance premiums.

Rural properties

Moving to the country?

If you are looking at property in a rural zone, consider:

- Is the surrounding land use compatible with your lifestyle expectations? Farming can create noise or odour that may be at odds with your expectations of a rural lifestyle.
- Are you considering removing native vegetation? There are regulations which affect your ability to remove native vegetation on private property.
- Do you understand your obligations to manage weeds and pest animals?

Can you build new dwellings?

Does the property adjoin crown land, have a water frontage, contain a disused government road, or are there any crown licences associated with the land?

Is there any earth resource activity such as mining in the area?

You may wish to find out more about exploration, mining and quarrying activity on or near the property and consider the issue of petroleum, geothermal and greenhouse gas sequestration permits, leases and licences, extractive industry authorisations and mineral licences.

Soil and groundwater contamination

Has previous land use affected the soil or groundwater?

You should consider whether past activities, including the use of adjacent land, may have caused contamination at the site and whether this may prevent you from doing certain things to or on the land in the future.

Land boundaries

Do you know the exact boundary of the property?

You should compare the measurements shown on the title document with actual fences and buildings on the property, to make sure the boundaries match. If you have concerns about this, you can speak to your lawyer or conveyancer, or commission a site survey to establish property boundaries.

Planning controls

Can you change how the property is used, or the buildings on it?

All land is subject to a planning scheme, run by the local council. How the property is zoned and any overlays that may apply, will determine how the land can be used. This may restrict such things as whether you can build on vacant land or how you can alter or develop the land and its buildings over time.

The local council can give you advice about the planning scheme, as well as details of any other restrictions that may apply, such as design guidelines or bushfire safety design. There may also be restrictions – known as encumbrances – on the property's title, which prevent you from developing the property. You can find out about encumbrances by looking at the section 32 statement.

Are there any proposed or granted planning permits?

The local council can advise you if there are any proposed or issued planning permits for any properties close by. Significant developments in your area may change the local 'character' (predominant style of the area) and may increase noise or traffic near the property.

Safety

Is the building safe to live in?

Building laws are in place to ensure building safety. Professional building inspections can help you assess the property for electrical safety, possible illegal building work, adequate pool or spa fencing and the presence of asbestos, termites, or other potential hazards.

Building permits

Have any buildings or retaining walls on the property been altered, or do you plan to alter them?

There are laws and regulations about how buildings and retaining walls are constructed, which you may wish to investigate to ensure any completed or proposed building work is approved. The local council may be able to give you information about any building permits issued for recent building works done to the property, and what you must do to plan new work. You can also commission a private building surveyor's assessment.

Are any recent building or renovation works covered by insurance?

Ask the vendor if there is any owner-builder insurance or builder's warranty to cover defects in the work done to the property.

Utilities and essential services

Does the property have working connections for water, sewerage, electricity, gas, telephone and internet?

Unconnected services may not be available, or may incur a fee to connect. You may also need to choose from a range of suppliers for these services. This may be particularly important in rural areas where some services are not available.

Buyers' rights

Do you know your rights when buying a property?

The contract of sale and section 32 statement contain important information about the property, so you should request to see these and read them thoroughly. Many people engage a lawyer or conveyancer to help them understand the contracts and ensure the sale goes through correctly. If you intend to hire a professional, you should consider speaking to them before you commit to the sale. There are also important rules about the way private sales and auctions are conducted. These may include a cooling-off period and specific rights associated with 'off the plan' sales. The important thing to remember is that, as the buyer, you have rights.

Vendor Statement

The vendor makes this statement in respect of the land in accordance with section 32 of the *Sale of Land Act* 1962.

This statement must be signed by the vendor and given to the purchaser before the purchaser signs the contract.

The vendor may sign by electronic signature.

The purchaser acknowledges being given this statement signed by the vendor with the attached documents before the purchaser signed any contract.

Land

300 Highlander Drive, Craigieburn 3064

Vendor's name

Zaia Yousif Zia

Date

/ /

Vendor's
signature

Purchaser's
name

Date

/ /

Purchaser's
signature

Purchaser's
name

Date

/ /

Purchaser's
signature

1 FINANCIAL MATTERS

1.1 Particulars of any Rates, Taxes, Charges or Other Similar Outgoings (and any interest on them)

(a) Their total does not exceed:

\$6,000.00

1.2 Particulars of any Charge (whether registered or not) imposed by or under any Act to secure an amount due under that Act, including the amount owing under the charge

	To	
Other particulars (including dates and times of payments):		

1.3 Terms Contract

This section 1.3 only applies if this vendor statement is in respect of a terms contract where the purchaser is obliged to make 2 or more payments (other than a deposit or final payment) to the vendor after the execution of the contract and before the purchaser is entitled to a conveyance or transfer of the land.

Not Applicable

1.4 Sale Subject to Mortgage

This section 1.4 only applies if this vendor statement is in respect of a contract which provides that any mortgage (whether registered or unregistered), is NOT to be discharged before the purchaser becomes entitled to possession or receipts of rents and profits.

Not Applicable

2 INSURANCE

2.1 Damage and Destruction

This section 2.1 only applies if this vendor statement is in respect of a contract which does NOT provide for the land to remain at the risk of the vendor until the purchaser becomes entitled to possession or receipt of rents and profits.

Not Applicable.

2.2 Owner Builder

This section 2.2 only applies where there is a residence on the land that was constructed by an owner-builder within the preceding 6 years and section 137B of the *Building Act* 1993 applies to the residence.

Not Applicable.

3 LAND USE

3.1 Easements, Covenants or Other Similar Restrictions

- (a) A description of any easement, covenant or other similar restriction affecting the land (whether registered or unregistered): -

Is in the attached copies of title documents.

- (b) Particulars of any existing failure to comply with that easement, covenant or other similar restriction are:

To the best of the vendor's knowledge, there is no existing failure to comply with the terms of any easement, covenant or other similar restriction.

3.2. Road Access

There is NO access to the property by road if the square box is marked with an 'X'

☐

3.3. Designated Bushfire Prone Area

The land is in a designated bushfire prone area under section 192A of the *Building Act* 1993 if the square box is marked with an 'X'

☐

3.4. Planning Scheme

Attached is a certificate with the required specified information.

4 NOTICES

4.1. Notice, Order, Declaration, Report or Recommendation

Particulars of any notice, order, declaration, report or recommendation of a public authority or government department or approved proposal directly and currently affecting the land, being a notice, order, declaration, report, recommendation or approved proposal of which the vendor might reasonably be expected to have knowledge:

Not Applicable.

4.2. Agricultural Chemicals

There are NO notices, property management plans, reports or orders in respect of the land issued by a government department or public authority in relation to livestock disease or contamination by agricultural chemicals affecting the ongoing use of the land for agricultural purposes. However, if this is not the case, the details of any such notices, property management plans, reports or orders, are as follows:

Not Applicable.

4.3. Compulsory Acquisition

The particulars of any notices of intention to acquire that have been served under section 6 of the *Land Acquisition and Compensation Act 1986* are as follows:

Not Applicable.

5 BUILDING PERMITS

Particulars of any building permit issued under the *Building Act 1993* in the preceding 7 years (required only where there is a residence on the land):

Are contained in the attached certificate.

6 OWNERS CORPORATION

This section 6 only applies if the land is affected by an owners corporation within the meaning of the *Owners Corporations Act 2006*.

Not Applicable.

7 GROWTH AREAS INFRASTRUCTURE CONTRIBUTION ("GAIC")

Not Applicable.

8 SERVICES

The services which are marked with an 'X' in the accompanying square box are NOT connected to the land:

Electricity supply ☐	Gas supply ☐	Water supply ☐	Sewerage ☐	Telephone services ☐
---	-------------------------------------	---------------------------------------	-----------------------------------	---

9 TITLE

Attached are copies of the following documents:

9.1 (a) Registered Title

A Register Search Statement and the document, or part of a document, referred to as the 'diagram location' in that statement which identifies the land and its location.

10 SUBDIVISION

10.1. Unregistered Subdivision

This section 10.1 only applies if the land is subject to a subdivision which is not registered.

Not Applicable.

10.2. Staged Subdivision

This section 10.2 only applies if the land is part of a staged subdivision within the meaning of section 37 of the *Subdivision Act 1988*.

Not Applicable.

10.3. Further Plan of Subdivision

This section 10.3 only applies if the land is subject to a subdivision in respect of which a further plan within the meaning of the *Subdivision Act 1988* is proposed.

Not Applicable.

11 DISCLOSURE OF ENERGY INFORMATION

(Disclosure of this information is not required under section 32 of the Sale of Land Act 1962 but may be included in this vendor statement for convenience.)

Details of any energy efficiency information required to be disclosed regarding a disclosure affected building or disclosure area affected area of a building as defined by the *Building Energy Efficiency Disclosure Act 2010* (Cth)

- (a) to be a building or part of a building used or capable of being used as an office for administrative, clerical, professional or similar based activities including any support facilities; and
- (b) which has a net lettable area of at least 1000m²; (but does not include a building under a strata title system or if an occupancy permit was issued less than 2 years before the relevant date);

Not Applicable.

12 DUE DILIGENCE CHECKLIST

(The Sale of Land Act 1962 provides that the vendor or the vendor's licensed estate agent must make a prescribed due diligence checklist available to purchasers before offering land for sale that is vacant residential land or land on which there is a residence. The due diligence checklist is NOT required to be provided with, or attached to, this vendor statement but the checklist may be attached as a matter of convenience.)

- ☐ Vacant Residential Land or Land with a Residence
- ☒ Attach Due Diligence Checklist (this will be attached if ticked)

13 ATTACHMENTS

(Any certificates, documents and other attachments may be annexed to this section 13)

(Additional information may be added to this section 13 where there is insufficient space in any of the earlier sections)

(Attached is an "Additional Vendor Statement" if section 1.3 (Terms Contract) or section 1.4 (Sale Subject to Mortgage) applies)

--



**REGISTER SEARCH STATEMENT (Title Search) Transfer of
Land Act 1958**

Page 1 of 1

VOLUME 12384 FOLIO 260

Security no : 124106214149R
Produced 19/05/2023 10:52 AM

LAND DESCRIPTION

Lot 36323 on Plan of Subdivision 845578B.
PARENT TITLES :
Volume 12221 Folio 584 Volume 12384 Folio 114
Created by instrument PS845578B 17/06/2022

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
ZAIA YOUSIF ZIA of 12 PETERBOROUGH COURT ATTWOOD VIC 3049
AV805984L 30/06/2022

ENCUMBRANCES, CAVEATS AND NOTICES

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

AGREEMENT Section 173 Planning and Environment Act 1987
AR821288B 09/01/2019

AGREEMENT Section 173 Planning and Environment Act 1987
AS370323E 22/07/2019

AGREEMENT Section 173 Planning and Environment Act 1987
AU779816H 07/09/2021

DIAGRAM LOCATION

SEE PS845578B FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 300 HIGHLANDER DRIVE CRAIGIEBURN VIC 3064

DOCUMENT END

REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

Page 1 of 1

VOLUME 12384 FOLIO 260

Security no : 124106214149R
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ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 300 HIGHLANDER DRIVE CRAIGIEBURN VIC 3064

DOCUMENT END



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Document Type	Plan
Document Identification	PS845578B
Number of Pages (excluding this cover sheet)	6
Document Assembled	19/05/2023 10:53

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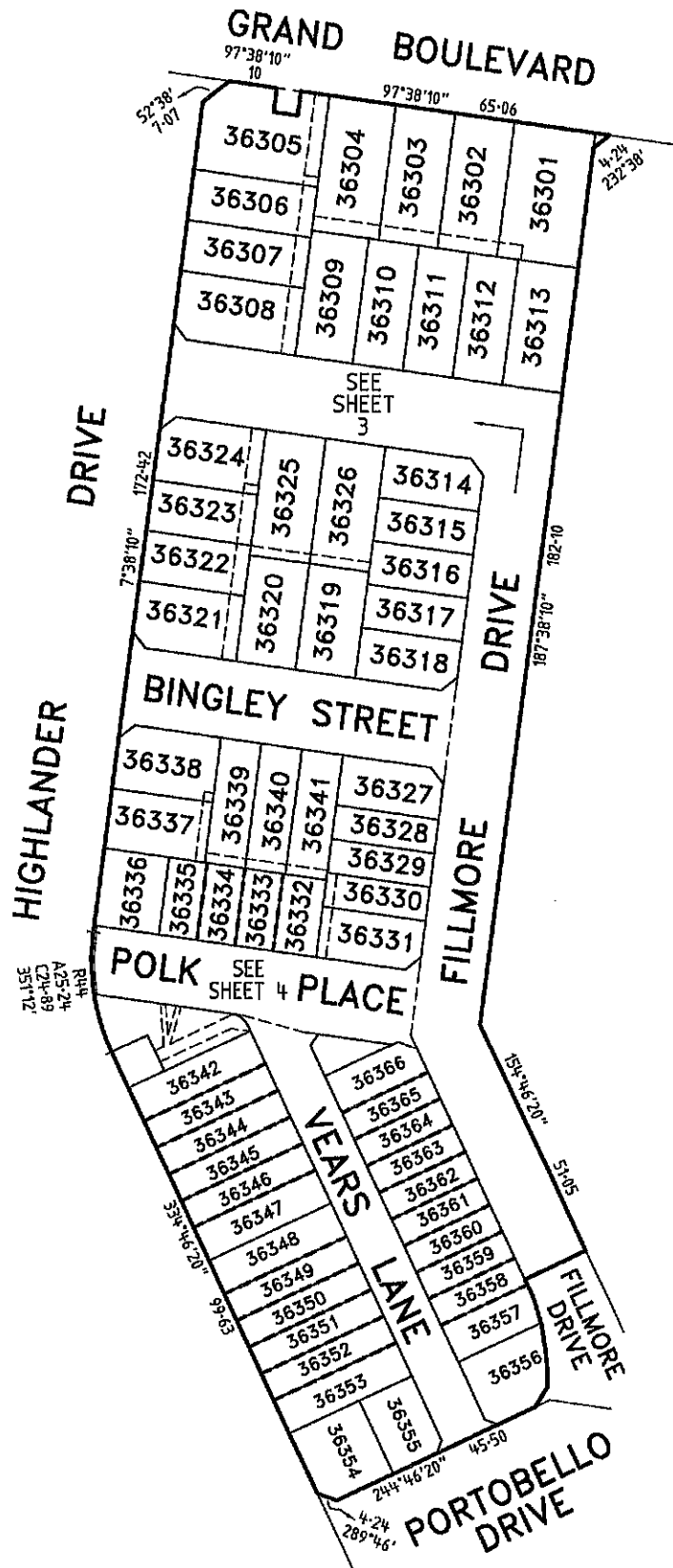
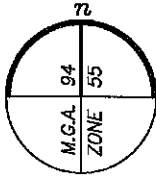
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PLAN OF SUBDIVISION			EDITION 1		PS 845578B	
LOCATION OF LAND PARISH: MICKLEHAM TOWNSHIP: - SECTION: - CROWN ALLOTMENT: - CROWN PORTION: 2A (PART) TITLE REFERENCE: VOL 12221 FOL 584 VOL 12384 FOL 114 LAST PLAN REFERENCE: LOT 5 ON PS831985Q LOT B ON PS840596B POSTAL ADDRESS: (at time of subdivision) 563 GRAND BOULEVARD 270 HIGHLANDER DRIVE CRAIGIEBURN 3064 MGA 94 CO-ORDINATES: E 314 300 ZONE: 55 (approx. centre of land in plan) N 5 839 850			Council Name: Hume City Council Council Reference Number: S009418 Planning Permit Reference: P20226 SPEAR Reference Number: S168897T Certification This plan is certified under section 11 (7) of the Subdivision Act 1988 Date of original certification under section 6: 27/07/2021 Statement of Compliance This is a statement of compliance issued under section 21 of the Subdivision Act 1988 Public Open Space A requirement for public open space under section 18 of the Subdivision Act 1988 has been made and the requirement has been satisfied for: this plan Digitally signed by: Antonino Magazzu for Hume City Council on 09/06/2022			
VESTING OF ROADS AND/OR RESERVES			NOTATIONS			
IDENTIFIER		COUNCIL/BODY/PERSON		STAGING		
ROAD R1 RESERVE No.1 RESERVE No.2 RESERVE No.3 RESERVE No.4		HUME CITY COUNCIL HUME CITY COUNCIL HUME CITY COUNCIL HUME CITY COUNCIL JEMENA ELECTRICITY NETWORKS (VIC) LTD		THIS ~~IS~~ NOT A STAGED SUBDIVISION PLANNING PERMIT NO. P20226		
				SURVEY THIS PLAN IS ~~NOT~~ BASED ON SURVEY THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARKS NO(S) 1 & 2 IN PROCLAIMED SURVEY AREA NO. 74		
				DEPTH LIMITATION DOES NOT APPLY		
				TANGENT POINTS ARE SHOWN THUS: 		
OTHER PUPOSE OF PLAN TO REMOVE THE WHOLE OF DRAINAGE & SEWERAGE EASEMENT E-2 ON PS840596B (NOW CONTAINED IN FILLMORE DRIVE ON THIS PLAN).				LOTS 1 TO 36300 (BOTH INCLUSIVE) HAVE BEEN OMITTED FROM THIS PLAN.		
AGREEMENT BY ALL INTERESTED PARTIES UNDER s.8(1)(k).				AREA OF LAND SUBDIVIDED IS 2.181ha.		
EASEMENT INFORMATION						
LEGEND: E - ENCUMBERING EASEMENT, CONDITION IN CROWN GRANT IN THE NATURE OF AN EASEMENT OR OTHER ENCUMBRANCE A - APPURTENANT EASEMENT						
SUBJECT LAND	PURPOSE	WIDTH (metres)	ORIGIN	LAND BENEFITED/IN FAVOUR OF		
E-1	DRAINAGE	SEE DIAG	THIS PLAN	HUME CITY COUNCIL		
E-2	DRAINAGE SEWERAGE	SEE DIAG SEE DIAG	THIS PLAN THIS PLAN	HUME CITY COUNCIL YARRA VALLEY WATER CORPORATION		
E-3	PARTY WALL	0.20	THIS PLAN	THE RELEVANT ABUTTING LOT ON THIS PLAN		
E-4	SEWERAGE	SEE DIAG	THIS PLAN	YARRA VALLEY WATER CORPORATION		
E-5	SEWERAGE WATER SUPPLY	SEE DIAG SEE DIAG	THIS PLAN THIS PLAN	YARRA VALLEY WATER CORPORATION YARRA VALLEY WATER CORPORATION		
E-6	POWERLINE	SEE DIAG	THIS PLAN - SEC 88 ELECTRICITY INDUSTRY ACT 2000	JEMENA ELECTRICITY NETWORKS (VIC) LTD		
HIGHLANDS - 363		SP20c				
66 LOTS		LICENSED SURVEYOR GREGORY STUART WILLIAMS				
 VERIS AUSTRALIA PTY LTD A Level 3, 1 Southbank Blvd Southbank VIC 3006 T +61 3 7049 8400 E melbourne@veris.com.au W www.veris.com.au		DATE 09/06/22		REFERENCE 329623-ST363		
		VERSION H		DRAWING 329623-ST363-AH		
		Digitally signed by: Gregory S Williams, Licensed Surveyor, Surveyor's Plan Version (H), 09/06/2022, SPEAR Ref: S168897T		ORIGINAL SHEET SIZE A3 SHEET 1 OF 6 SHEETS		
		PLAN REGISTERED		TIME: 12:45pm DATE: 17 / 6 / 2022 Rod Speer Assistant Registrar of Titles		

PLAN OF SUBDIVISION

PS 845578B

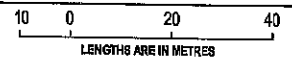


HIGHLANDS - 363

SP20c

LICENSED SURVEYOR GREGORY STUART WILLIAMS

SCALE
1:1000



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Southbank VIC 3006
T | +61 3 7019 8400
E | melbourne@veris.com.au
W | www.veris.com.au

DATE 09/06/22
VERSION H

REFERENCE 329623-ST363
DRAWING 329623-ST363-AH

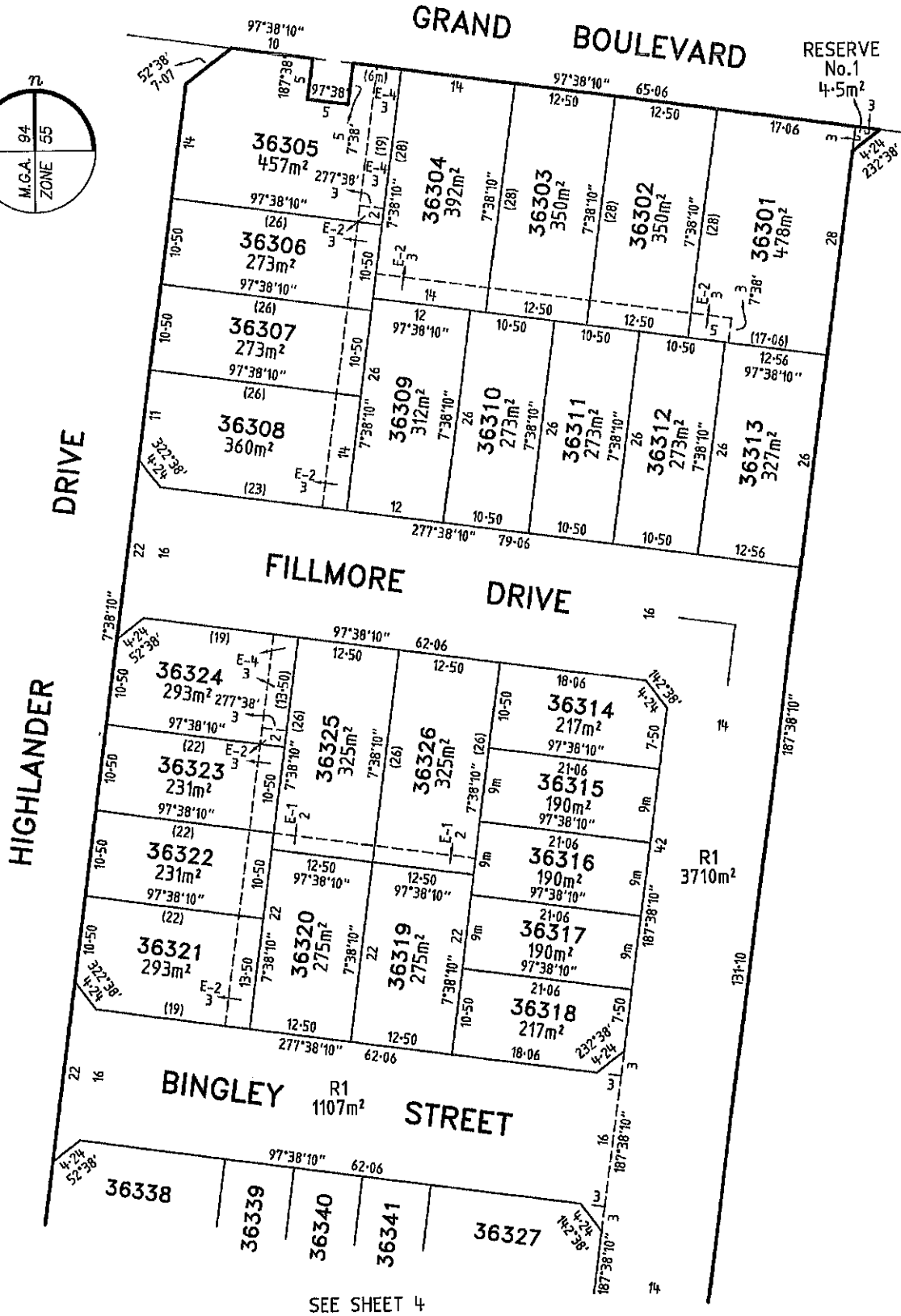
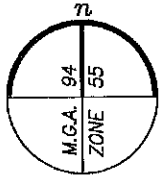
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SHEET 2

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SPEAR Ref: S168897T

PLAN OF SUBDIVISION

PS 845578B



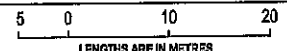
SEE SHEET 4

HIGHLANDS - 363

SP20c

LICENSED SURVEYOR GREGORY STUART WILLIAMS

SCALE
1:500



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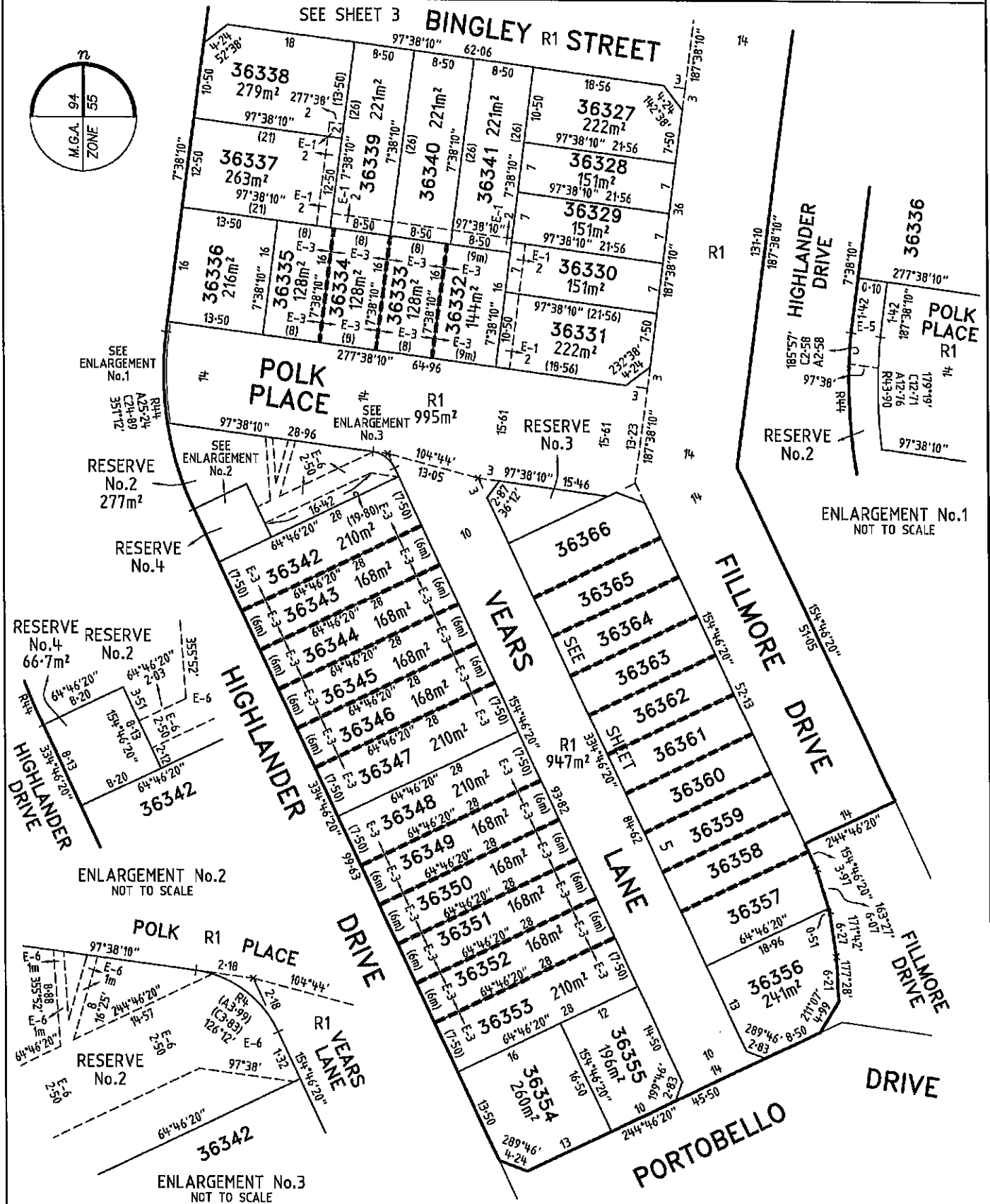
SHEET 3

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PLAN OF SUBDIVISION

PS 845578B



HIGHLANDS - 363

SP20c

LICENSED SURVEYOR GREGORY STUART WILLIAMS

SCALE

1:500

5 0 10 20

LENGTHS ARE IN METRES

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SHEET 4

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09/06/2022,
SPEAR Ref: S168897T

PLAN OF SUBDIVISION**PS 845578B****CREATION OF RESTRICTION 'A'**

THE REGISTERED PROPRIETORS OF THE BURDENED LAND COVENANT WITH THE REGISTERED PROPRIETORS OF THE BENEFITED LAND AS SET OUT IN THE RESTRICTION WITH THE INTENT THAT THE BURDEN OF THE RESTRICTION RUNS WITH AND BINDS THE BURDENED LAND AND THE BENEFIT OF THE RESTRICTION IS ANNEXED TO AND RUNS WITH THE BENEFITED LAND.

TABLE OF BURDENED AND BENEFITED LAND

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
36301	36302, 36312, 36313
36302	36301, 36303, 36311, 36312
36303	36302, 36304, 36310, 36311
36304	36303, 36305, 36306, 36309, 36310

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
36305	36304, 36306
36308	36307, 36309
36309	36304, 36306, 36307, 36308, 36310

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
36313	36301, 36312
36325	36320, 36322, 36323, 36324, 36326
36326	36314, 36316, 36316, 36319, 36325

RESTRICTION:

THE BURDENED LAND CANNOT BE USED EXCEPT IN ACCORDANCE WITH THE PROVISIONS RECORDED IN MCP AA8410

EXPIRY DATE: 01/01/2028

CREATION OF RESTRICTION 'B'

THE REGISTERED PROPRIETORS OF THE BURDENED LAND COVENANT WITH THE REGISTERED PROPRIETORS OF THE BENEFITED LAND AS SET OUT IN THE RESTRICTION WITH THE INTENT THAT THE BURDEN OF THE RESTRICTION RUNS WITH AND BINDS THE BURDENED LAND AND THE BENEFIT OF THE RESTRICTION IS ANNEXED TO AND RUNS WITH THE BENEFITED LAND.

TABLE OF BURDENED AND BENEFITED LAND

BURDENED LOT SUBJECT TO TYPE 'A' OF THE SMALL LOT HOUSING CODE	BENEFITING LOTS ON THIS PLAN
36306	36304, 36305, 36307, 36309
36307	36306, 36308, 36309
36310	36303, 36304, 36309, 36311
36311	36302, 36303, 36310, 36312
36312	36301, 36302, 36311, 36313
36319	36316, 36317, 36318, 36320, 36326

BURDENED LOT SUBJECT TO TYPE 'A' OF THE SMALL LOT HOUSING CODE	BENEFITING LOTS ON THIS PLAN
36320	36319, 36321, 36322, 36325
36321	36320, 36322
36322	36320, 36321, 36323, 36325
36323	36322, 36324, 36325
36324	36323, 36325
36336	36335, 36337

BURDENED LOT SUBJECT TO TYPE 'A' OF THE SMALL LOT HOUSING CODE	BENEFITING LOTS ON THIS PLAN
36337	36335, 36336, 36338, 36339
36338	36337, 36339
36339	36334, 36335, 36337, 36338, 36340
36340	36332, 36333, 36339, 36341
36341	36327, 36328, 36329, 36330, 36332, 36340

RESTRICTION:

THE REGISTERED PROPRIETOR OR PROPRIETORS FOR THE TIME BEING OF ANY BURDENED LOT ON THIS PLAN

- MUST NOT BUILD OR PERMIT TO BE BUILT OR REMAIN ON THE LOT ANY BUILDING OR STRUCTURE THAT HAS NOT BEEN CONSTRUCTED IN ACCORDANCE WITH LOT TYPE 'A' OF THE SMALL LOT HOUSING CODE UNLESS A SPECIFIC PLANNING PERMIT FOR THE SAID DWELLING HAS BEEN OBTAINED FROM THE RESPONSIBLE AUTHORITY.
- SHALL NOT ERECT ANY BUILDINGS ON THE LOT UNLESS THE PLANS FOR SUCH BUILDINGS ARE ENDORSED BY STOCKLAND DEVELOPMENT PTY LTD PRIOR TO THE ISSUE OF THE BUILDING PERMIT, THE REQUIREMENT FOR SUCH ENDORSEMENT CEASING TO HAVE EFFECT ON THE LOT ONE YEAR AFTER AN OCCUPANCY PERMIT UNDER THE BUILDING ACT 1993 IS ISSUED FOR THE WHOLE OF THE DWELLING ON THAT LOT.

EXPIRY DATE: 01/01/2028

CREATION OF RESTRICTION 'C'

THE REGISTERED PROPRIETORS OF THE BURDENED LAND COVENANT WITH THE REGISTERED PROPRIETORS OF THE BENEFITED LAND AS SET OUT IN THE RESTRICTION WITH THE INTENT THAT THE BURDEN OF THE RESTRICTION RUNS WITH AND BINDS THE BURDENED LAND AND THE BENEFIT OF THE RESTRICTION IS ANNEXED TO AND RUNS WITH THE BENEFITED LAND.

TABLE OF BURDENED AND BENEFITED LAND

BURDENED LOT SUBJECT TO TYPE 'B' OF THE SMALL LOT HOUSING CODE	BENEFITING LOTS ON THIS PLAN
36314	36315, 36326
36315	36314, 36316, 36326
36316	36315, 36317, 36319, 36326
36317	36316, 36318, 36319
36318	36317, 36319
36327	36328, 36341
36328	36327, 36329, 36341
36329	36328, 36330, 36341
36330	36329, 36331, 36332, 36341
36331	36330, 36332
36332	36330, 36331, 36333, 36340, 36341
36333	36332, 36334, 36340
36334	36333, 36335, 36339

BURDENED LOT SUBJECT TO TYPE 'B' OF THE SMALL LOT HOUSING CODE	BENEFITING LOTS ON THIS PLAN
36335	36334, 36336, 36337, 36339
36342	36343
36343	36342, 36344
36344	36343, 36345
36345	36344, 36346
36346	36345, 36347
36347	36346, 36348
36348	36347, 36349
36349	36348, 36350
36350	36349, 36351
36351	36350, 36352
36352	36351, 36353
36353	36352, 36354, 36355

BURDENED LOT SUBJECT TO TYPE 'B' OF THE SMALL LOT HOUSING CODE	BENEFITING LOTS ON THIS PLAN
36354	36353, 36355
36355	36353, 36354
36356	36357
36357	36356, 36358
36358	36357, 36359
36359	36358, 36360
36360	36359, 36361
36361	36360, 36362
36362	36361, 36363
36363	36362, 36364
36364	36363, 36365
36365	36364, 36366
36366	36365

RESTRICTION:

THE REGISTERED PROPRIETOR OR PROPRIETORS FOR THE TIME BEING OF ANY BURDENED LOT ON THIS PLAN

- MUST NOT BUILD OR PERMIT TO BE BUILT OR REMAIN ON THE LOT ANY BUILDING OR STRUCTURE THAT HAS NOT BEEN CONSTRUCTED IN ACCORDANCE WITH LOT TYPE 'B' OF THE SMALL LOT HOUSING CODE UNLESS A SPECIFIC PLANNING PERMIT FOR THE SAID DWELLING HAS BEEN OBTAINED FROM THE RESPONSIBLE AUTHORITY.
- SHALL NOT ERECT ANY BUILDINGS ON THE LOT UNLESS THE PLANS FOR SUCH BUILDINGS ARE ENDORSED BY STOCKLAND DEVELOPMENT PTY LTD PRIOR TO THE ISSUE OF THE BUILDING PERMIT, THE REQUIREMENT FOR SUCH ENDORSEMENT CEASING TO HAVE EFFECT ON THE LOT ONE YEAR AFTER AN OCCUPANCY PERMIT UNDER THE BUILDING ACT 1993 IS ISSUED FOR THE WHOLE OF THE DWELLING ON THAT LOT.

EXPIRY DATE: 01/01/2028

HIGHLANDS - 363		SP20c	LICENSED SURVEYOR GREGORY STUART WILLIAMS	SCALE	
 VERIS AUSTRALIA PTY LTD A Level 3, 1 Southbank Blvd Southbank VIC 3006 T +61 3 7019 8400 E melbourne@veris.com.au W www.veris.com.au		DATE 09/06/22	REFERENCE 329623-ST363	ORIGINAL SHEET SIZE A3	
		VERSION H	DRAWING 329623-ST363-AH	SHEET 6	
Digitally signed by: Gregory S Williams, Licensed Surveyor, Surveyor's Plan Version (H), 09/06/2022, SPEAR Ref: S168897T			Digitally signed by: Hume City Council, 09/06/2022, SPEAR Ref: S168897T		



Department of Environment, Land, Water & Planning

Electronic Instrument Statement

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The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, History and Culture. The Victorian Government extends this respect to their Elders, past, present and emerging.

Produced 19/05/2023 10:53:09 AM

Status	Registered	Dealing Number	AU779816H
Date and Time Lodged	07/09/2021 10:12:36 AM		

Lodger Details

Lodger Code	18776H
Name	HARWOOD ANDREWS
Address	
Lodger Box	
Phone	
Email	
Reference	AL - 22003613

APPLICATION TO RECORD AN INSTRUMENT

Jurisdiction	VICTORIA
--------------	----------

Privacy Collection Statement

The information in this form is collected under statutory authority and used for the purpose of maintaining publicly searchable registers and indexes.

Estate and/or Interest

FEE SIMPLE

Land Title Reference

12221/580
12221/583
12221/584
12307/403
12307/404
12307/405

Instrument and/or legislation

RECORD - AGREEMENT - SECTION 173
Planning & Environment Act - section 173

Applicant(s)

Name	HUME CITY COUNCIL
Address	
Street Number	1079
Street Name	PASCOE VALE



Department of Environment, Land, Water & Planning

Electronic Instrument Statement

Street Type	ROAD
Locality	BROADMEADOWS
State	VIC
Postcode	3047

Additional Details

Refer Image Instrument

The applicant requests the recording of this Instrument in the Register.

Execution

1. The Certifier has taken reasonable steps to verify the identity of the applicant or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of	HUME CITY COUNCIL
Signer Name	CLARE MARGARET MCKENNA
Signer Organisation	THE LANTERN LEGAL GROUP PTY LTD
Signer Role	LAW PRACTICE
Execution Date	07 SEPTEMBER 2021

File Notes:

NIL

This is a representation of the digitally signed Electronic Instrument or Document certified by Land Use Victoria.

Statement End.

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Document Identification	AU779816H
Number of Pages (excluding this cover sheet)	16
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HARWOOD ANDREWS

SECTION 173 AGREEMENT PLANNING AND ENVIRONMENT ACT 1987

HUME CITY COUNCIL

Responsible Authority

- and -

STOCKLAND HIGHLANDS PTY LTD

ACN 097 352 200

Registered Land Owner

in relation to land at:

**200D, 200E A 200F OLIVERS ROAD, MICKLEHAM
513 AND 563 GRAND BOULEVARD, CRAIGIEBURN
270 HIGHLANDER DRIVE, CRAIGIEBURN**

1KXP:21904115

Harwood Andrews
ABN 98 076 868 034
Level 5, 707 Collins Street,
Melbourne 3008, Victoria, Australia
DX 30970 Stock Exchange
PO Box 633 Collins Street West Vic 8007

T 03 9620 9399 F 03 9620 9288

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THIS AGREEMENT is made the 22 day of July 2021

PARTIES:

1. Hume City Council of 1079 Pascoe Vale Road, Broadmeadows, Victoria, 3047
(Council)
2. Stockland Highlands Pty Ltd ACN 097 352 200 of Level 25, 133 Castlereagh Street, NSW, 2000
(Owner)

RECITALS:

- R.1. Council is the responsible authority for the administration and enforcement of the Planning Scheme pursuant to the provisions of the Act.
- R.2. Council is also the collecting agency and the development agency under the DCP.
- R.3. Council enters into this Agreement in its capacity as a responsible authority and in its capacity as a collecting agency and development agency.
- R.4. The Owner is the registered proprietor of the Land.
- R.5. The Land is located within the Urban Growth Zone – Schedule 1 (UGZ1) and is also subject to the Development Contributions Plan – Schedule 1 (DCPO1) under the Planning Scheme. DCPO1 applies the DCP to the Land.
- R.6. The DCP sets out the contributions expected from individual landholders within the area covered by the DCP to fund infrastructure and services required as a result of the development of the area covered by the DCP.
- R.7. The DCP provides that:
 - a. where the collecting agency agrees in writing, infrastructure projects funded by the DCP may be provided by developers with a credit being provided to the developer against its development contribution liability;
 - b. if the collecting agency agrees to the provision of works and/or land in lieu of the payment of the Levy, the land owner must enter into an agreement under section 173 of the Act in respect of the proposed provision of works and/or land in lieu to specify implementation requirements; and
 - c. Project OS03 may be provided as land in kind.
- R.8. Council has issued the Permit for the staged multi-lot subdivision of the Land. The Permit requires the Owner to pay the Levy in accordance with the DCP. The Permit also requires the Owner to enter into an agreement with the responsible authority pursuant to section 173 of the Act to provide for any infrastructure or land identified in the DCP that is to be provided in lieu of payment of the Levy required under the Permit.
- R.9. The Owner has requested, and Council has agreed, that the Owner provide Project OS03 in exchange for a Credit against its liability to pay the Levy subject to the terms of this Agreement.
- R.10. Council has agreed that it will:
 - (a) provide the Owner with a Credit equal to the value of Project OS03; and

- 2 -

- (b) if the Credit exceeds the amount of the Owner's Total Levy Liability, reimburse the Owner the difference between the Credit and the Total Levy Liability. The parties have agreed that once the Credit has been exhausted or reimbursed, the Owner will be required to pay the Levy in cash for each Stage subsequently developed in accordance with the Permit and the DCP.

R.11. This Agreement is entered into between the Council and the Owner pursuant to section 173 of the Act for the purposes set out in the Recitals to this Agreement and to achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Land.

NOT A CONTRACT

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS

In this Agreement unless inconsistent with the context or subject matter:

- 1.1. **Act** means the *Planning and Environment Act 1987* (Vic).
- 1.2. **Agreed Value** means the value in Australian dollars identified in clause 4.1 and Schedule 1 of this Agreement for Project OS03 and includes all transfer costs, costs of plans of subdivision, registration fees and the like.
- 1.3. **Agreement** means this Agreement and any agreement executed by the parties varying or expressed to be supplemental to this Agreement.
- 1.4. **Council** means Hume City Council or its successors as the authority responsible for administering and enforcing the Planning Scheme or acting as the collecting agency for the purposes of section 46H of the Act and the DCP and includes its agents, officers, employees, servants, workers and contractors.
- 1.5. **Credit** means a credit against the Levy payable identified in clause 4 and Column C of Schedule 1 of this Agreement.
- 1.6. **Current Address for Service**
 - 1.6.1. for Council means the address shown under the heading "Parties" in this Agreement, or any other principal office address listed on the website of Council; and
 - 1.6.2. for the Owner means the address shown under the heading "Parties" in this Agreement or any other address provided by the Owner to the Council for any purpose or purposes relating to the Land.
- 1.7. **Current Email Address for Service**
 - 1.7.1. for Council means contactus@hume.vic.gov.au, or any other email address listed on the website of Council; and
 - 1.7.2. for the Owner means any email address provided by the Owner to the Council for the express purpose of electronic communication regarding this Agreement.
- 1.8. **DCP** means the Cragieburn R2 Precinct Development Contributions Plan, as amended from time to time, being an incorporated document within the Planning Scheme.
- 1.9. **Endorsed Plan** means any plan endorsed under the Permit.
- 1.10. **Excluded Stages** means Stages 296 and 297 and 354 and 355.
- 1.11. **Final Stage** means the last Stage of the subdivision of the Land excluding Excluded Stages.
- 1.12. **GAIC** means the Growth Areas Infrastructure Contribution under the Act.
- 1.13. **GST** has the meaning under the GST Act.
- 1.14. **GST Act** means the *New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended from time to time.

- 4 -

- 1.15. **Land** means the land known as 200D, 200E and 200F Olivers Road, Mickleham, being the land described in Certificates of Title Volume 12307 Folio 403, Volume 12307 Folio 404, Volume 12307 Folio 405 (otherwise known as Lots D, E and F on PS835693H) and the land known as 513 and 563 Grand Boulevard, Craigieburn and 270 Highlander Drive, Craigieburn, being the land described in Certificates of Title Volume 12221 Folio 580, Volume 12221 Folio 583 and Volume 12221 Folio 584 (otherwise known as Lots 1, 4 and 5 on PS831985Q) and any reference to the Land includes any lot created by the subdivision of the Land or any part of it.
- 1.16. **Levy** means the development infrastructure levy that is required to be paid per net developable hectare of residential land upon development of the Land calculated and adjusted in accordance with the DCP.
- 1.17. **Lot** means a lot on the Endorsed Plan.
- 1.18. **Mortgagee** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as Mortgagee of the Land or any part of it.
- 1.19. **Overprovision Payment** means a single cash payment by Council to the Owner in an amount equivalent to the difference between the amount of the Credit and the amount of the Total Levy Liability.
- 1.20. **Owner** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as the proprietor or proprietors of an estate in fee simple of the Land or any part of it and includes a Mortgagee in possession.
- 1.21. **Owner's Obligations** means the covenants, promises, agreements, indemnities, undertakings and warranties given by the Owner under this Agreement including the specific obligations imposed under clauses 3 and 4.
- 1.22. **party or parties** means the Owner and the Council under this Agreement as appropriate.
- 1.23. **Permit** means Planning permit P20253 issued by Council on 27 July 2017 as amended from time to time.
- 1.24. **Project OS03** means the acquisition of 4.336 hectares of land for the central active playing field 2 as described in the DCP and identified in Column A and B of Schedule 1 of this Agreement.
- 1.25. **Planning Scheme** means the Hume Planning Scheme and any successor instrument or other planning scheme which applies to the Land.
- 1.26. **Residential Lot** means a lot created as a result of the subdivision of the Land which in the opinion of Council is of a size and dimension that it is intended to be developed as a housing lot without further subdivision.
- 1.27. **Stage** is a reference to a stage of subdivision of the Land as identified in the Endorsed Plan.
- 1.28. **Statement of Compliance** means a statement of compliance issued under the *Subdivision Act 1988*.
- 1.29. **Tax Act** means the *Taxation Administration Act 1953* (Cth) as amended from time to time.
- 1.30. **Total Levy Liability** means the total of the amount of the Levy that the Owner was liable to pay for each Stage (except any Excluded Stages for which an election has not been made under clause 4.4) determined for each such Stage prior to the issue of Statement of Compliance by Council in accordance with clause 4.5.1 of this Agreement.
- 1.31. **Tribunal** means the Victorian Civil and Administrative Tribunal.

2. INTERPRETATION

In the interpretation of this Agreement unless inconsistent with the context or subject matter:

- 2.1. The singular includes the plural and the plural includes the singular.
- 2.2. A reference to a gender includes a reference to all other genders.
- 2.3. Words (including defined expressions) denoting persons will be deemed to include all trusts, bodies and associations, corporate or unincorporated, and vice versa.
- 2.4. A reference to a person includes a reference to a firm, corporation, association or other entity and their successors in law.
- 2.5. A reference to a statute includes any statute amending, consolidating or replacing that statute and includes any subordinate instruments made under that statute.
- 2.6. The Recitals to this Agreement are and will be deemed to form part of this Agreement including any terms defined within the Recitals.
- 2.7. References to the parties will include their transferees, heirs, assigns, and liquidators, executors and legal personal representatives as the case may be.
- 2.8. Reference to a document or agreement includes reference to that document or agreement as changed, novated or replaced from time to time.
- 2.9. Where a word or phrase is given a definite meaning in this Agreement, a part of speech or other grammatical form for that word or phrase has a corresponding meaning.
- 2.10. Where a word or phrase is not defined in this Agreement, it has the meaning as defined in the Act, or, if it is not defined in the Act, it has its ordinary meaning.

3. PROJECT OS03

- 3.1. The Owner agrees that it must transfer to or vest in Council the land comprised in Project OS03 prior to the timeframe set out in column D in Schedule 1 of this Agreement or such later date approved in writing by Council.
- 3.2. Prior to the transfer or vesting of the land comprised in Project OS03 in Council, the Owner must ensure that:
 - 3.2.1. It has complied with clauses 8, 9 and 10 of this Agreement;
 - 3.2.2. all land comprising Project OS03 is:
 - 3.2.2.1. free from contamination to the best of the Owner's knowledge subject to the Owner agreeing that it will be deemed to know of contamination if:
 - 3.2.2.1.1. It is aware of the contamination; or
 - 3.2.2.1.2. It would reasonably be expected to be aware of contamination if it had made reasonable enquires relevant to the contamination, including making reasonable enquiries of officers, employees and other persons who could reasonably be expected have information relevant to the matter;

- 6 -

- 3.2.2.2. free of all encumbrances including any easements created for services purposes (including sewerage, drainage and other public services) and wetland purposes unless Council has provided its prior written consent to an easement of this kind;
- 3.2.2.3. sown to grass; and
- 3.2.2.4. fenced as required

all at the cost of the Owner and to the satisfaction of Council.

- 3.3. As part of the development of the Land and prior to the issue of a Statement of Compliance in respect of the final Stage¹ of the development of the Land, the Owner must ensure that all land comprised in Project OS03:

- 3.3.1. is serviceable, including connections to water, gas, electricity, telephone and mains sewer; and
- 3.3.2. provides at least two road frontages;

all at the cost of the Owner and to the satisfaction of Council.

- 3.4. Where the works required by clause 3.3 are undertaken by the Owner after the land in Project OS03 has been vested in Council, the Owner must undertake the works in accordance with any conditions of access to the land specified by Council in writing.

4. CREDIT

- 4.1. Council agrees that it will provide the Owner a Credit equal to the total credit amount in column C of Schedule 1 of this Agreement.
- 4.2. The Parties agree that the amount of the Credit identified in clause 4.1. and Schedule 1 of this Agreement represents the full cost of the acquisition of Project OS03 as identified in the DCP and adjusted in accordance with the DCP on 1 July 2020 and shall not be subject to any further adjustment.
- 4.3. Subject to clause 4.4, Council agrees that the Owner will not be required to pay the Levy in cash for a Stage until
 - 4.3.1. the Credit has been exhausted, which is to be determined in accordance with clause 4.5.; or
 - 4.3.2. Council has paid the Overprovision Payment in accordance with clause 4.6.
- 4.4. Clause 4.3 does not apply to an Excluded Stage unless, prior to the issue of a Statement of Compliance for the Excluded Stage and for the Final Stage, the Owner elects to use the Credit to offset its liability to pay the Levy for the Excluded Stage by notifying Council in writing of this election.
- 4.5. Prior to the issue of a Statement of Compliance by Council for a Stage, Council must:
 - 4.5.1. calculate the Levy payable for such Stage as at that date; and

¹ Here final Stage means the final stage as shown on Endorsed Plan. It does not reflect Final Stage as defined in this Agreement.

- 7 -

4.5.2. In respect of a Stage other than an Excluded Stages for which an election has not been made under clause 4.4, deduct the amount calculated under 4.5.1 from the Credit until the Credit has been exhausted or the Overprovision Payment made.

4.6. Where the amount of the Credit exceeds the Total Levy Liability, Council must provide the Owner with the Overprovision Payment within 3 months of the later of the following events:

- (a) The vesting of the land comprised in Project OS03 in Council; and
- (b) The issue of a Statement of Compliance for the Final Stage

5. PROVISION OF INFORMATION BY OWNER

5.1. The Owner must include in a request for a Statement of Compliance for a Stage, the following information in relation to that Stage:

- 5.1.1. the net developable hectares of land included in the Stage;
- 5.1.2. the Levy payable in relation to the Stage;
- 5.1.3. the amounts previously deducted from the Credit in relation to previous Stages;
- 5.1.4. the amount of the Overprovision Payment that has been made if such payment has been made;
- 5.1.5. if the Overprovision Payment has not been made:
 - (a) the amount of Credit to be deducted in relation to the Stage; and
 - (b) the amount of the Credit remaining following deduction in relation to the Stage/s.

6. AGREED VALUE

Council and the Owner agree that:

- 6.1. the Agreed Value is intended to replace the market value of any other method of calculating compensation payable to a person under the *Land Acquisition and Compensation Act 1986* and the Act in respect of the Project OS03;
- 6.2. upon payment being made in accordance with this Agreement whether as a monetary amount or by a Credit in respect of the Agreed Value or any other amount agreed to be paid under this Agreement in respect of any land, no other compensation is payable for the effect of severance or for solatium as those terms or concepts are understood in the context of the *Land Acquisition and Compensation Act 1986* or for any other category of or form of loss or compensation in respect of Project OS03.

7. FURTHER COVENANTS OF THE OWNER

The Owner warrants and covenants with Council that:

- 7.1. It is the registered proprietor (or entitled to be so) of the Land.

- 8 -

- 7.2. Save as shown in the certificate of title to the Land, there are no mortgages, liens, charges, easements or other encumbrances or any rights inherent in any person affecting the Land or any part of it and not disclosed by the usual searches.
- 7.3. Neither the Land nor any part of it is subject to any right obtained by adverse possession or subject to any easements, rights or encumbrances mentioned in section 42 of the *Transfer of Land Act 1958* (Vic).
- 7.4. It will not sell, transfer, dispose of, assign, mortgage or otherwise part with possession of the Land or any part of it without first providing to its successors a copy of this Agreement.
- 7.5. It will within 28 days of written demand pay to the Council the Council's reasonable costs (including legal or other professional costs) and expenses of and incidental to the:
- 7.5.1. negotiation, preparation, execution and recording of this Agreement;
 - 7.5.2. assessment, negotiation, preparation, execution and recording of any proposed amendment to this Agreement; and
 - 7.5.3. determination of whether any of the Owner's obligations have been undertaken to the satisfaction of the Council or to give consent to anything under this Agreement.
- 7.6. To the extent that such costs and expenses constitute legal professional costs, the Council may at its absolute discretion have these costs assessed by the Law Institute of Victoria and in that event the parties will be bound by the amount of that assessment, with any fee for obtaining such an assessment being borne equally by the Council and the Owner. Such costs payable by the Owner will include the costs and disbursements associated with the recording, cancellation or alteration of this Agreement in the Register.
- 7.7. It will do all that is necessary to enable the Council to make application to the Registrar of Titles to record this Agreement in the Register in accordance with the Act, including the signing of any further agreement, acknowledgment or other document.
- 7.8. Until such time as this Agreement is recorded in the Register, the Owner must ensure that successors in title will give effect to this Agreement, and do all acts and sign all documents which will require those successors to give effect to this Agreement, including executing a deed agreeing to be bound by the terms of this Agreement.
8. **GST**
- 8.1. Expressions used in this Agreement that are defined in the GST Act have the same meaning as given to them in the GST Act, unless expressed to the contrary.
- 8.2. Except where express provision is made to the contrary, and subject to this clause, any consideration that may be provided under this Agreement is exclusive of any GST. If a party makes a taxable supply in connection with this Agreement for a consideration which represents its value, then the recipient of the taxable supply must also pay, at the same time and in the same manner as the value is otherwise payable, the amount of any GST payable in respect of the taxable supply.
- 8.3. To the extent that one party is required to reimburse another party for costs incurred by the other party, those costs do not include any amount in respect of GST for which the other party is entitled to claim an input tax credit.

- 9 -

- 8.4. A party's right to payment of GST is subject to a tax invoice being delivered to the recipient of the taxable supply.

9. GAIC

- 9.1. All land transferred to or vested in Council must have any liability for GAIC discharged prior to it being transferred to or vested in Council and to the extent that it is not, the Owner shall remain liable to Council for any GAIC liability incurred by Council.
- 9.2. The Owner must provide a certificate of release under section 201SY of the Act confirming the release of land referred to in clause 9.1 from GAIC.

10. CGT

- 10.1. The Parties agree that the words defined or used in Subdivision 14-D of Schedule 1 of the Tax Act have the same meaning in this clause unless the context requires otherwise.
- 10.2. The Owner acknowledges and agrees that if Council is required to pay the Commissioner an amount in accordance with Subdivision 14-D of Schedule 1 of the Tax Act for any transfer to or vesting of land by the Owner in Council under this Agreement (**the Amount**);
- 10.2.1. at least 60 days prior to the transfer to or vesting of such land in Council, the Owner must provide Council with a clearance certificate issued by the Commissioner under section 14-220 (1) of Schedule 1 to the Tax Act, which must be valid for the period within which the relevant land is to be vested in or transferred to Council and must be issued in the exact name of the Owner; or
- 10.2.2. where a clearance certificate is not provided in accordance with clause 10.2.1:
- (a) if the land is to be transferred or vested in Council in exchange for a cash payment to the Owner, then the Amount is to be deducted from the total cash payment;
- (b) if the land is to be transferred or vested in Council in exchange for non-cash consideration, the Owner must pay the Amount to Council at least 30 days prior to the transfer to or vesting of the land in Council; and
- (c) if the land is to be transferred or vested in Council in exchange for part cash payment and part non-cash consideration, then the Amount is to be deducted from the total cash payment and to the extent that the total cash payment is less than the Amount, the Owner must pay the difference to Council at least 30 days prior to the transfer to or vesting of the land in Council.
- 10.3. The Owner acknowledges and agrees that it must provide Council with all information and assistance necessary to enable Council to comply with its obligation to make a payment under Subdivision 14-D of Schedule 1 of the Tax Act in respect to the transfer to or vesting of land in Council under this Agreement.
- 10.4. The Owner indemnifies Council against any interest, penalty, fine or other charge or expense incurred by Council arising from a failure by Council to pay the Amount in

- 10 -

accordance with Subdivision 14-D of Schedule 1 of the Tax Act as a result of the Owner's failure to comply with its obligations under this clause of the Agreement.

11. FURTHER ASSURANCE

The parties to this Agreement will do all things necessary (including signing any further agreement, acknowledgement or document) to give full effect to the terms of this Agreement and to enable this Agreement to be recorded in the Register in accordance with the Act.

12. AMENDMENT

This Agreement may be amended only in accordance with the requirements of the Act.

13. NO WAIVER

No waiver by any party of any default in the strict and literal performance of or compliance with any provision, condition or requirement in this Agreement will be deemed to be a waiver of strict and literal performance of and compliance with any other provision, condition or requirement of this Agreement nor to be a waiver of or in any way release any party from compliance with any provision, condition or requirement in the future nor will any delay or omission of any party to exercise any right under this Agreement in any manner impair the exercise of such right accruing to it thereafter.

14. NO FETTERING OF POWERS OF RESPONSIBLE AUTHORITY

The parties acknowledge and agree that this Agreement does not fetter or restrict the power or discretion of the Responsible Authority to make any decision or impose any requirements or conditions in connection with the granting of any planning approval or certification of any plans of subdivision applicable to the Land or relating to any use or development of the Land.

15. INTEREST ON OVERDUE MONEYS

Any amount due under this Agreement but unpaid by the due date incurs interest at the rate prescribed under section 227A of the *Local Government Act 1989* (Vic) and any payment made shall be first directed to payment of interest and then principal amount owing.

16. NOTICES

16.1. All notices and other communications under this Agreement will be sent by prepaid mail, by hand delivery, email or by facsimile to the Current Addresses for Service, Current Email Address for Service or Current Number for Service of the parties, and may be sent by an agent of the party sending the notice. Each notice or communication will be deemed to have been duly received:

16.1.1. not later than two business days after being deposited in the mail with postage prepaid;

16.1.2. when delivered by hand;

16.1.3. if sent by email, at the time of receipt in accordance with the *Electronic Transactions (Victoria) Act 2000* (Vic); or

16.1.4. if sent by facsimile transmission upon completion of that transmission and production of a transmission report stating that the facsimile was sent to the addressee's facsimile number.

- 11 -

17. COSTS ON DEFAULT

If the Owner defaults in the performance of any obligations under this Agreement It will pay to the Council its reasonable costs of action taken to achieve compliance with this Agreement.

18. INVALIDITY OF ANY CLAUSE

Notwithstanding anything to the contrary in this Agreement, if any provision of this Agreement will be invalid and not enforceable in accordance with its terms, all other provisions which are self-sustaining and capable of separate enforcement without regard to the invalid provisions will be and continue to be valid and enforceable in accordance with those terms.

19. AGREEMENT BINDING ON SUCCESSORS OF OWNERS

This Agreement will extend to and bind the Owner's successors, assigns, administrators, transferees and legal personal representatives and the obligations imposed upon them will also be binding on their successors, transferees, purchasers, mortgagees and assigns as if each of them had separately executed this Agreement.

20. JOINT OBLIGATIONS

In the case of each party that consists of more than one person (including in that expression any corporation) each of those persons covenants, agrees and declares that all of the covenants, agreements, declarations and consents contained in this Agreement and made and given by that party have been entered into, made and given and are binding upon that person both severally and also jointly with the other person or persons constituting that party.

21. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

22. COUNTERPARTS

22.1. This Agreement may be executed in counterparts. Each counterpart is an original but the counterparts together are one and the same agreement. This Agreement is binding on the parties on the exchange of the executed counterparts. A copy of the original executed counterpart sent by facsimile machine or email:

22.1.1. must be treated as an original counterpart;

22.1.2. is sufficient evidence of the execution of the original; and

22.1.3. may be produced in evidence for all purposes in place of the original.

23. COMMENCEMENT AND ENDING OF AGREEMENT

23.1. This Agreement will commence:

23.1.1. on the date that it bears; or

23.1.2. if it bears no date, on the date it is recorded in the Register.

23.2. This Agreement will end:

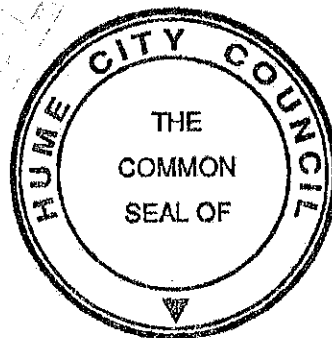
- 12 -

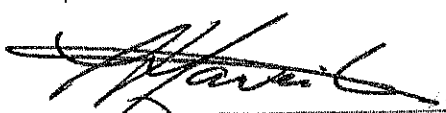
- 23.2.1. in respect of a Residential Lot, upon the issue of a Statement of Compliance for the subdivision of the Residential Lot;
- 23.2.2. In respect of all other land this Agreement will end when:
- (a) Council has paid the Overprovision Payment under clause 4.6 of this Agreement; and
 - (b) the Owner has complied with all of the Owner's obligations under this Agreement; or
 - (c) otherwise by agreement between the parties in accordance with section 177(2) of the Act.
- 23.3. As soon as reasonably practicable after the Agreement has ended, Council will at the Owner's request and at the Owner's cost, apply to the Registrar of Titles under section 183(1) of the Act to cancel the recording of the Agreement.

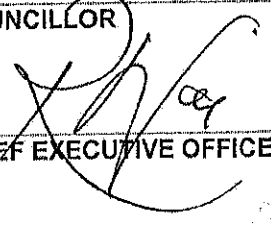
EXECUTED AS A DEED

Signed, sealed and delivered as a deed by the Parties.

THE COMMON SEAL of HUME CITY COUNCIL
was hereto affixed on the 22/7/21
in the presence of:




COUNCILLOR


CHIEF EXECUTIVE OFFICER

Interim

Power of attorney execution clause to be inserted.

- 13 -

EXECUTED AS A DEED

Signed, sealed and delivered as a deed by the Parties.

THE COMMON SEAL of HUME CITY COUNCIL

was hereto affixed on the

in the presence of:

.....
COUNCILLOR

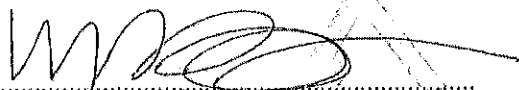
.....
CHIEF EXECUTIVE OFFICER

Signed sealed and delivered for Stockland
Highlands Pty Ltd ACN 097 352 200 by its attorney
under a power of attorney dated

18 July 2018

(insert date of power of attorney)

(who has no notice of revocation of that power of
attorney as at the date of signature) in the presence of:

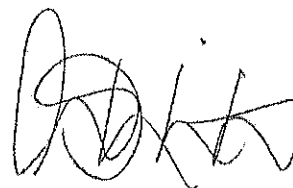


.....
Signature of witness

MICHELLE MADELINE PHIBBS
Solicitor of the Supreme Court
of New South Wales

.....
Print full name of witness

Signature of attorney



Print full name of attorney **ANDREW WHITSON**
CEO, COMMUNITIES

Schedule 1 –Project OS03

A - DCP Project Number and description	B - Extent of DCP Project	C - Credit	D - Timing of delivery
Project OS03 - acquisition of land from Property 10 for central active playing field as described in the DCP.	4.336 hectares	\$11,392,500	Prior to the issue of a Statement of Compliance for the Stage creating the 120th lot on land shown as Subdivision Plan SP33 or 1 December 2021, whichever is earlier.
TOTAL	4.336 hectares	\$11,392,500	



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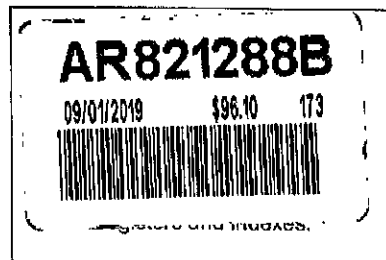
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Application by a responsible authority for the making of a recording of an agreement

Section 181 Planning and Environment Act 1987



Lodged by:

Name: MADDOCKS

Phone: 03 9258 3555

Address: COLLINS SQUARE, TOWER TWO, LEVEL 25, 727 COLLINS STREET MELBOURNE
VIC 3008

Ref: MHM:7451217

Customer Code: 1167E

The responsible authority having made an agreement referred to in section 181(1) of the Planning and Environment Act 1987 requires a recording to be made in the Register.

Land: (volume and folio)

VOLUME 11942 FOLIO 032

Responsible authority: (full name and address, including postcode)

HUME CITY COUNCIL OF 1079 PASCOE VALE ROAD, BROADMEADOWS, VICTORIA

Section and act under which agreement is made:

SECTION 173 OF THE PLANNING AND ENVIRONMENT ACT 1987

A copy of the agreement is attached to this application

Signing:

35271702A

181PEA

Page 1 of 2

THE BACK OF THIS FORM MUST NOT BE USED

Land Use Victoria contact details: see www.delwp.vic.gov.au/property>Contact us

(7451217: 23242227_1)

**Application by a responsible authority for the
making of a recording of an agreement**
Section 181 Planning and Environment Act 1987

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Certifications

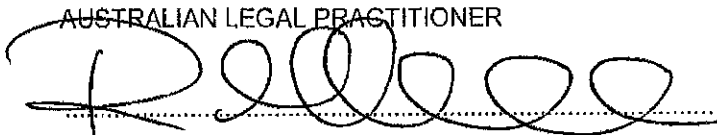
1. The Certifier has taken reasonable steps to verify the identity of the applicant.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of: HUME CITY COUNCIL

Signer Name: Roland McCall

Signer Organisation: MADDOCKS

Signer Role: AUSTRALIAN LEGAL PRACTITIONER

Signature: 

Execution Date: 8 January 2019

35271702A

181PEA

Page 2 of 2

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AR821288B

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140 William Street
Melbourne Victoria 3000 Australia

Telephone 61 3 9258 3555
Facsimile 61 3 9258 3666

info@maddocks.com.au
www.maddocks.com.au

DX 259 Melbourne

**Agreement under section 173
of the Planning and Environment Act 1987**

Subject Land: 475C Mt Ridley Road, Craigieburn

Purpose of agreement: WIK for Infrastructure Projects

Hume City Council
and

Stockland Highlands Pty Limited
ACN 097 352 200

Interstate offices
Canberra Sydney

Affiliated offices around the world through the
Advoc network - www.advoc.com

AR821288B

09/01/2019 \$96.10 173



Contents

1.	Definitions	3
2.	Interpretation	6
3.	Purposes of Agreement	6
4.	Reasons for the Agreement	7
5.	Agreement required	7
6.	Owner's specific obligations	7
6.1	Payment of Development Contribution	7
6.2	Construction of Infrastructure Projects	7
6.3	Time for completion of Infrastructure Projects	7
6.4	Obligation to complete Infrastructure Projects once commenced	8
6.5	Infrastructure Project Value	8
6.6	Designs of the Infrastructure Projects	8
6.7	Construction of the Infrastructure Projects	8
6.8	Standard of work	9
6.9	Access to land	9
6.10	Certificate of Practical Completion	9
6.11	Bank Guarantee	10
6.12	Additional Infrastructure Project obligations	10
6.13	Transfer of Ownership	11
6.14	Maintenance of Infrastructure Projects	11
6.15	Localised Infrastructure	11
7.	Credit and processing of credits	11
7.1	Credit	11
7.2	Exhaustion of Credit	11
8.	Owner's further obligations	12
8.1	Transaction costs	12
8.2	Notice and registration	12
8.3	Further actions	12
8.4	Council's costs to be paid	12
8.5	Time for determining satisfaction	12
8.6	Interest for overdue money	13
8.7	Notification of compliance with Owner's obligations	13
9.	Agreement under section 173 of the Act	13
10.	Owner's warranties	13
11.	Successors in title	13
12.	General matters	13
12.1	Notices	13
12.2	No waiver	14
12.3	Severability	14
12.4	No fettering of Council's powers	14
12.5	Inspection of documents	14
12.6	Governing law	14
13.	GST	14
14.	GAIC	14
15.	Commencement of Agreement	15
16.	Ending of Agreement	15

AR821288B



Schedule 1	Infrastructure Projects	16
Schedule 2	Subject Land.....	17
Schedule 3	Functional Layout Plans	18

AR821288B



Agreement under section 173 of the Planning and Environment Act 1987

Dated

8/11/19

Parties

Name	Hume City Council
Address	1079 Pascoe Vale Road, Broadmeadows, Victoria
Short name	Council
Name	Stockland Highlands Pty Limited
Address	Level 25, 133 Castlereagh Street, Sydney, New South Wales 2000
Short name	Owner

Background

- A. Council is the responsible authority for the Planning Scheme.
- B. Council is also the Collecting Agency and the Development Agency under the Development Contributions Plan.
- C. Council enters into this Agreement in its capacity as the responsible authority and in its capacity as both the Collecting Agency and the Development Agency.
- D. The Owner is or is entitled to be the registered proprietor of the Subject Land.
- E. The Development Contributions Plan applies to the Subject Land. It specifies the contributions required to fund infrastructure necessary as a result of the development of the area for urban purposes.
- F. The Owner has asked Council for permission to carry out certain Infrastructure Projects.
- G. Council has agreed the Owner will carry out the Infrastructure Projects in return for a Credit against its development contribution liability under the Development Contributions Plan.

1. Definitions

In this Agreement unless the context admits otherwise:

Act means the *Planning and Environment Act 1987*.

Agreement means this Agreement and includes this Agreement as amended from time to time.

AR821288B



Approved Plans means the Designs of an Infrastructure Project as approved by Council under clause 6.6 of this Agreement.

Australian Standard means any Australian Standard issued from time to time by Standards Australia Ltd.

Bank Guarantee means a bank guarantee or other form of security to the satisfaction of Council for an amount equal to 5% of the value of the civil works components for each Infrastructure Project.

Certificate of Practical Completion means a certificate in writing prepared by Council stating an Infrastructure Project has been completed to the satisfaction of Council.

Collecting Agency has the same meaning as in the Act.

Construction Program means a program relating to the construction of any Infrastructure Project and without limiting the generality of its content, the Construction Program may include key milestones at which time Council in its capacity as the Development Agency must be able to inspect the construction and progression of the Infrastructure Project.

Crédit means a credit in the amount of the Infrastructure Project Value as the case may be against the Owner's liability to pay the Development Infrastructure Levy for the Subject Land.

Current Address means:

- (a) for Council, the address shown on page one of this Agreement, or any other address listed on Council's website; and
- (b) for the Owner, the address shown on page one of this Agreement or any other address provided by the Owner to Council for any purpose relating to the Subject Land.

Current Email means:

- (a) for Council, contactus@hume.vic.gov.au, or any other email address listed on Council's website; and
- (b) for the Owner, legal4@stockland.com.au or any other email address provided by the Owner to Council for the express purpose of electronic communication regarding this Agreement.

Designs means the detailed design and engineering plans and specifications of an Infrastructure Project which must be generally in accordance with the Functional Layout Plans.

Development Agency has the same meaning as in the Act.

Development Contributions Plan means the Craigieburn R2 Precinct Development Contributions Plan, being an incorporated document in the Planning Scheme.

Development Infrastructure Levy means the development infrastructure levy that is required to be paid upon the development of the Subject Land calculated and adjusted in accordance with the Development Contributions Plan.

Endorsed Plan means the subdivision plan and development plan for 8 Polo Place SP20c endorsed with the stamp of Council from time to time as the plan forming part of the Planning Permit.

AR821288B

09/04/2019

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173



Extent of Infrastructure Project means the proportion of the Infrastructure Project specified in the relevant column of the table to Schedule 1 of this Agreement, to be carried out by the Owner in accordance with this Agreement.

Functional Layout Plans means the plans attached to Schedule 3 of this Agreement.

GAIC means the Growth Areas Infrastructure Charge under the Act.

GST Act means the *New Tax System (Goods and Services Tax) Act 1999* (Cth), as amended from time to time.

Indexation means an annual adjustment to an amount carried out in accordance with the method set out in the Development Contributions Plan.

Infrastructure Project means an infrastructure project specified and described in the relevant columns of the table to Schedule 1 of this Agreement.

Infrastructure Project Value means the Infrastructure Project Value specified in the relevant column of the table to Schedule 1 of this Agreement.

Localised Infrastructure means works, services or facilities necessitated by the subdivision or the development of land including but not limited to providing utility services such as water supply, stormwater drainage, sewerage, gas and electricity services, telecommunications infrastructure and local roads, bridges, culverts and other water crossings, any required associated traffic control measures and devices. For the purpose of this Agreement, Localised Infrastructure does not include the infrastructure required for the Infrastructure Projects or other infrastructure that is in the nature of regional or state infrastructure.

Maintenance Period mean a period of 3 months for all civil works and 2 years for all landscaping works from the date of the issue of the Certificate of Practical Completion.

Milestone for the commencement of the Infrastructure Project means the time specified in the relevant column of the table to Schedule 1 of this Agreement.

Milestone for the completion of the Infrastructure Project means the time specified in the relevant column of the table to Schedule 1 of this Agreement.

Owner means the person registered or entitled from time to time to be registered as proprietor of an estate in fee simple of the Subject Land and includes a mortgagee-in-possession.

Owner's obligations includes the Owner's specific obligations and the Owner's further obligations sections of this Agreement.

Party or Parties means the parties to this Agreement but does not include a person who has transferred or otherwise disposed of all of their interests in the Subject Land.

Planning Permit means planning permit no. P20226, as amended from time to time, issued on 14 August 2017, authorising the subdivision on the Subject Land in accordance with the Endorsed Plan.

Planning Scheme means the Hume Planning Scheme and any other planning scheme applying to the Subject Land.

Residential Lot means a lot created by the subdivision of the Subject Land which, in the opinion of Council, is of a size and dimension intended to be developed as a housing lot without further subdivision.

AR821288B

09/01/2019

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173



Schedule means the schedule to this Agreement.

Stage is a reference to stages 331, 332, 333, 334, 335, 336, 337 and 338 as shown on the Endorsed Plan.

Statement of Compliance means a statement of compliance issued by Council under the *Subdivision Act 1988*.

Subject Land means all of the land described in Schedule 2 and any reference to the Subject Land in this Agreement includes any lot created by the subdivision of the Subject Land or any part of it.

2. Interpretation

In this Agreement unless the context admits otherwise:

- 2.1 the singular includes the plural and vice versa;
- 2.2 a reference to a gender includes all genders;
- 2.3 a reference to a person includes a reference to a firm, corporation or other corporate body and that person's successors in law;
- 2.4 any agreement, representation, warranty or indemnity by 2 or more persons (including where 2 or more persons are included in the same defined term) binds them jointly and severally;
- 2.5 a term used has its ordinary meaning unless that term is defined in this Agreement. If a term is not defined in this Agreement and it is defined in the Act, it has the meaning as defined in the Act;
- 2.6 a reference to an Act, regulation or the Planning Scheme includes any Act, regulation or amendment amending, consolidating or replacing the Act, regulation or Planning Scheme;
- 2.7 the Background forms part of this Agreement;
- 2.8 the Owner's obligations take effect as separate and several covenants which are annexed to and run at law and equity with the Subject Land; and
- 2.9 any reference to a clause, page, condition, attachment or term is a reference to a clause, page, condition, attachment or term of this Agreement.

3. Purposes of Agreement

The Parties acknowledge and agree the purposes of this Agreement are to:

- 3.1 facilitate the future development of the Subject Land in accordance with an approved Development Plan;
- 3.2 record the terms and conditions on which Council agrees to the Owner undertaking the Infrastructure Projects; and
- 3.3 achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

AR821288B

09/01/2019

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4. Reasons for the Agreement

The Parties acknowledge and agree Council has entered into this Agreement for the following reasons:

- 4.1 Council would not have consented to the Owner undertaking the Infrastructure Projects instead of paying the Development Infrastructure Levy without setting out the terms and conditions of this Agreement; and
- 4.2 The Owner has elected to enter into this Agreement in order to record Council's agreement to provide a Credit to the Owner against its Development Infrastructure Levy for having carried out the Infrastructure Projects as works in lieu.

5. Agreement required

The Parties acknowledge and agree this Agreement will continue to be required unless Council confirms in writing that it is no longer required.

6. Owner's specific obligations

6.1 Payment of Development Contribution

The Parties acknowledge and agree that:

- 6.1.1 subject to the Owner's entitlement to a Credit, the Owner is not required to pay the Development Infrastructure Levy in cash on a stage-by-stage basis; and
- 6.1.2 any component of the Development Infrastructure Levy in respect of the Subject Land which is not offset by an entitlement to a Credit under this Agreement must be paid to Council before the Statement of Compliance is issued for the subdivision of the Subject Land as a result of which the obligation to pay the Development Infrastructure Levy in cash arises.

6.2 Construction of Infrastructure Projects

The Owner covenants and agrees to design and construct the Infrastructure Projects:

- 6.2.1 in accordance with the relevant Approved Plans;
- 6.2.2 prior to the relevant Milestone for the completion of the Infrastructure Project, unless a later date is approved by Council in writing under clause 6.3.2(a);
- 6.2.3 in accordance with any Construction Program approved by Council; and
- 6.2.4 otherwise to the satisfaction of Council.

6.3 Time for completion of Infrastructure Projects

The Owner covenants and agrees that:

- 6.3.1 if the Owner does not commence the construction of an Infrastructure Project within the relevant Milestone for the commencement of the Infrastructure Project;
or

AR821288B

09/01/2019

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173



6.3.2 If the Owner does not construct and complete an Infrastructure Project by the relevant Milestone for the completion of the Infrastructure Project,

Council may:

- (a) in its capacity as the Collecting Agency, in writing, extend the timeframe; or
- (b) in its capacity as Council, refuse to Issue any Statements of Compliance in respect of the development of the Subject Land until the Infrastructure Project is completed to the satisfaction of Council in its capacity as the Development Agency.

6.4 Obligation to complete Infrastructure Projects once commenced

The Owner covenants and agrees that when the Owner commences works associated with an Infrastructure Project, the Owner must complete the Infrastructure Project in accordance with this Agreement regardless of whether the total cost of completing the Infrastructure Project exceeds the Infrastructure Project Value.

6.5 Infrastructure Project Value

The Parties acknowledge and agree the Infrastructure Project Value is a fixed amount that is not subject to Indexation.

6.6 Designs of the Infrastructure Projects

The Owner covenants and agrees that:

- 6.6.1 the Owner must, at the full cost of the Owner, prepare the Designs of the Infrastructure Projects to the satisfaction of Council and submit the Designs to Council for approval;
- 6.6.2 the Designs must be generally in accordance with the Functional Layout Plans attached in **Error! Reference source not found.** of this Agreement;
- 6.6.3 the approval of the Designs will be reflected in a set of plans and specifications endorsed by Council as the Approved Plans;
- 6.6.4 the Owner must obtain all necessary permits and approvals for the Infrastructure Projects; and
- 6.6.5 prior to awarding any contract for the Infrastructure Projects, the Owner must submit to Council for Council's approval:
 - (a) a copy of the terms and conditions of the contract to be awarded; and
 - (b) a copy of the proposed Construction Program.

6.7 Construction of the Infrastructure Projects

The Owner covenants and agrees to:

- 6.7.1 complete each Infrastructure Project:
 - (a) in accordance with the Approved Plans approved by Council in respect of that Infrastructure Project; and
 - (b) to the satisfaction of Council.

AR821288B



6.7.2 In carrying out the Infrastructure Projects:

- (a) the Owner is responsible for all design and construction risks relating to the Infrastructure Projects; and
- (b) Council has no responsibility for any costs incurred by the Owner beyond the Infrastructure Project Value.

6.8 Standard of work

In addition to any other requirement in this Agreement, the Owner agrees all work for an Infrastructure Project must:

- 6.8.1 accord with the Approved Plans;
- 6.8.2 be fit and structurally sound, fit for purpose and suitable for its intended use;
- 6.8.3 comprise best industry practice to the extent required by the Approved Plans;
- 6.8.4 not encroach upon any land other than the land shown in the Approved Plans; and
- 6.8.5 comply with any relevant current Australian Standard unless otherwise agreed in writing by Council in its capacity as the Development Agency.

6.9 Access to land

6.9.1 Before accessing land owned by Council or a third party for the purpose of constructing an Infrastructure Project or undertaking any maintenance or repair of defects in respect of the Infrastructure Project in accordance with this Agreement, the Owner must satisfy Council or if requested by a third party, that person, that the Owner has:

- (a) consent of the owner of land to access such land; and
- (b) satisfied any condition of such consent.

6.9.2 The Owner must put in place all proper occupational health and safety plans as may be required under any law of the State of Victoria for that purpose.

6.9.3 Subject to the Owner satisfying any conditions of consent to access land owned by Council, Council will provide all reasonable access as may be required to its land in order to enable an Infrastructure Project to be constructed and completed, maintained or repaired in accordance with this Agreement.

6.10 Certificate of Practical Completion

The Owner covenants and agrees that:

- 6.10.1 the issue of a Certificate of Practical Completion by Council is subject to compliance with this Agreement;
- 6.10.2 upon the completion of an Infrastructure Project, the Owner must notify Council and any other relevant authority;
- 6.10.3 within 14 days of receiving notice of the completion of an Infrastructure Project from the Owner, Council will arrange for it and any other relevant authority to promptly inspect the Infrastructure Project and determine whether Council will issue a Certificate of Practical Completion;

AR821288B



- 6.10.4 prior to Council being required to issue a Certificate of Practical Completion, the Owner must provide to Council:
- (a) a copy of any maintenance information, operational manual or other material reasonably required for the ongoing operation and maintenance of the Infrastructure Project;
 - (b) a copy of any certificate, consent or approval required by any authority for the carrying out, use or occupation of the Infrastructure Project;
- 6.10.5 If Council is not satisfied with the Infrastructure Project, Council may refuse to issue a Certificate of Practical Completion provided Council:
- (a) identifies in what manner the Infrastructure Project is not satisfactorily completed; and
 - (b) identifies what must be done to satisfactorily complete the Infrastructure Project;
- 6.10.6 following the issue of the Certificate of Practical Completion for an Infrastructure Project the Owner:
- (a) is responsible for the maintenance of the Infrastructure Project in good order, condition and repair to the satisfaction of Council for the Maintenance Period; and
 - (b) is responsible for the repair of any defects during the Maintenance Period.
- 6.10.7 Council may, notwithstanding a minor non-compliance or minor non-completion, determine to issue a Certificate of Practical Completion if Council in its capacity as Development Agency is satisfied the proper construction of the Infrastructure Project can be secured or otherwise guaranteed to its satisfaction.

6.11 Bank Guarantee

The Owner covenants and agrees that:

- 6.11.1 prior to the issue of a Certificate of Practical Completion for an Infrastructure Project, the Owner must provide Council with a Bank Guarantee in respect of that Infrastructure Project;
- 6.11.2 if the Owner fails to comply with a written direction from Council to undertake maintenance to an Infrastructure Project, Council may at its absolute discretion use the Bank Guarantee to correct any defects; and
- 6.11.3 the Bank Guarantee will be returned to the Owner on the expiry of the Maintenance Period for the civil works components for each Infrastructure Project, less any amount applied to correcting any defects in the Infrastructure Project.

6.12 Additional Infrastructure Project obligations

The Owner covenants and agrees that if the Owner fails to comply with any of its obligations set out in this clause 6 or any variation consented to in writing by Council, Council may withhold issuing a Statement of Compliance in respect of any subdivision of the Subject Land until such time as the Owner has complied with such obligations.

AR821288B



6.13 Transfer of Ownership

The Owner covenants and agrees the ownership of an Infrastructure Project will be transferred to Council upon the issue of a Certificate of Practical Completion.

6.14 Maintenance of Infrastructure Projects

Following the transfer of ownership in accordance with clause 6.13, and upon completion of the Maintenance Period, Council will be responsible for all ongoing repairs and maintenance of the Infrastructure Projects.

6.15 Localised Infrastructure

The Parties acknowledge and agree that:

- 6.15.1 this Agreement is intended to relate only to the infrastructure that is funded by the Development Contributions Plan and not Localised Infrastructure;
- 6.15.2 compliance with the obligations in this Agreement does not relieve the Owner of any obligation imposed by Council or a tribunal to provide Localised Infrastructure including any obligations imposed as a requirement in a planning permit for the subdivision or development of the Subject Land; and
- 6.15.3 for the purposes of this Agreement, Localised Infrastructure does not include the infrastructure required for the Infrastructure Projects or other infrastructure that is in the nature of regional or state infrastructure.

7. Credit and processing of credits

7.1 Credit

The Parties acknowledge and agree that:

- 7.1.1 from the commencement of this Agreement, the Owner will be entitled to a Credit equal to the Infrastructure Project Value;
- 7.1.2 the Owner will not be required to pay the Development Infrastructure Levy in cash until the Credit has been exhausted, determined as set out in clause 7.1.3; and
- 7.1.3 prior to the issue of a Statement of Compliance by Council for a Stage, Council must:
 - (a) calculate the Development Infrastructure Levy payable for such Stage(s) as at that date; and
 - (b) deduct the amount calculated under clause (a) from the Credit until the Credit has been exhausted.

7.2 Exhaustion of Credit

When the amount of the Development Infrastructure Levy payable in relation to a Stage exceeds the amount of the Credit remaining:

- 7.2.1 in relation to the Stage, the Owner must pay in cash an amount equal to the amount of the Development Infrastructure Levy payable in relation to that Stage that exceeds the amount of the Credit remaining prior to the issue of a Statement of Compliance; and

AR821288B



- 7.2.2 in relation to subsequent Stages, the Owner must pay the Development Infrastructure Levy in cash prior to the issue of a Statement of Compliance for each Stage or as otherwise agreed by Council.

8. Owner's further obligations

8.1 Transaction costs

Where the Owner is required to transfer or vest land, the Owner is responsible for the payment of all costs and disbursements associated with that transfer or vesting as the case may be.

8.2 Notice and registration

The Owner must bring this Agreement to the attention of all prospective occupiers, purchasers, lessees, licensees, mortgagees, chargees, transferees and assigns.

8.3 Further actions

The Owner:

- 8.3.1 must do all things necessary to give effect to this Agreement;
- 8.3.2 consents to Council applying to the Registrar of Titles to record this Agreement on the certificates of title of the Subject Land in accordance with section 181 of the Act; and
- 8.3.3 agree to do all things necessary to enable Council to do so, including:
 - (a) sign any further agreement, acknowledgment or document; and
 - (b) obtain all necessary consents to enable the recording to be made.

8.4 Council's costs to be paid

The Owner must pay to Council within 14 days after a written request for payment, Council's reasonable and proper costs and expenses (including legal expenses) relating to this Agreement, including:

- 8.4.1 preparing, drafting, finalising, signing, recording and enforcing this Agreement;
- 8.4.2 preparing, drafting, finalising and recording any amendment to this Agreement;
- 8.4.3 determining whether any of the Owner's obligations have been undertaken to Council's satisfaction; and
- 8.4.4 preparing, drafting, finalising and recording any document to give effect to the ending of this Agreement.

8.5 Time for determining satisfaction

If Council makes a request for payment under clause 8.4, the Parties agree Council will not decide whether the Owner's obligation has been undertaken to Council's satisfaction, or whether to grant the consent sought, until payment has been made to Council in accordance with the request.

AR821288B



8.6 Interest for overdue money

- 8.6.1 The Owner must pay to Council interest in accordance with section 227A of the *Local Government Act 1989* on any amount due under this Agreement that is not paid by the due date.
- 8.6.2 If interest is owing, Council will apply any payment made to interest and any balance of the payment to the principal amount.

8.7 Notification of compliance with Owner's obligations

The Owner must notify Council of its compliance with all of the Owner's obligations.

9. Agreement under section 173 of the Act

Without limiting or restricting the respective powers to enter into this Agreement, and insofar as it can be so treated, this Agreement is made as a deed in accordance with section 173 of the Act.

10. Owner's warranties

The Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Subject Land which may be affected by this Agreement.

11. Successors in title

Until such time as a memorandum of this Agreement is recorded on the certificates of title of the Subject Land, the Owner must require successors in titles to:

- 11.1 give effect to this Agreement; and
- 11.2 enter into a deed agreeing to be bound by the terms of this Agreement.

12. General matters

12.1 Notices

A notice or other communication required or permitted to be served by a Party on another Party must be in writing and may be served:

- 12.1.1 personally on the other Party;
- 12.1.2 by leaving it at the other Party's Current Address;
- 12.1.3 by posting it by prepaid post addressed to the other Party at the other Party's Current Address; or
- 12.1.4 by email to the other Party's Current Email.

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12.2 No waiver

Any time or other indulgence granted by Council to the Owner or any variation of this Agreement or any judgment or order obtained by Council against the Owner does not amount to a waiver of any of Council's rights or remedies under this Agreement.

12.3 Severability

If a court, arbitrator, tribunal or other competent authority determines that any part of this Agreement is unenforceable, illegal or void then that part is severed with the other provisions of this Agreement remaining operative.

12.4 No fettering of Council's powers

This Agreement does not fetter or restrict Council's power or discretion to make decisions or impose requirements or conditions in connection with the grant of planning approvals or certification of plans subdividing the Subject Land or relating to use or development of the Subject Land.

12.5 Inspection of documents

A copy of any planning permit, document or plan referred to in this Agreement is available for inspection at Council offices during normal business hours upon giving the Council reasonable notice.

12.6 Governing law

This Agreement is governed by and is to be construed in accordance with the laws of Victoria.

13. GST

13.1 In this clause words that are defined in the GST Act have the same meaning as their definition in that Act.

13.2 Except as otherwise provided by this clause, all consideration payable under this Agreement in relation to any supply is exclusive of GST.

13.3 If GST is payable in respect of any supply made by a supplier under this Agreement, subject to clause 13.4 the recipient will pay to the supplier an amount equal to the GST payable on the supply at the same time and in the same manner as the consideration for the supply is to be provided under this Agreement.

13.4 The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST payable under clause 13.3.

14. GAIC

All land transferred to or vested in Council must have any liability for GAIC discharged prior to it being transferred to or vested in Council and to the extent it is not, the Owner will remain liable to Council for any GAIC liability incurred by Council.

AR821288B



15. Commencement of Agreement

This Agreement commences on the date specified on page one or if no date is specified on page one, the date Council executes this Agreement.

16. Ending of Agreement

- 16.1 This Agreement ends when the Owner has complied with all of the Owner's obligations.
- 16.2 Notwithstanding clause 16.1, the Owner may request in writing Council's consent to end the Agreement in respect of Residential Lots in any Stage upon the issue of a Statement of Compliance in respect of that Stage.
- 16.3 Council will not unreasonably withhold its consent to a written request made under clause 16.2 if it is satisfied the obligations in this Agreement are secured to its satisfaction.
- 16.4 On the issue of a Statement of Compliance for a plan of subdivision for Residential Lots created over the Subject Land or earlier by agreement with Council, the Agreement ends in respect of that part of the Subject Land in the plan of subdivision in accordance with section 177(2) of the Act provided that at all times, the Agreement must remain registered on the balance of the Subject Land.
- 16.5 Once this Agreement ends as to part of the Subject Land in accordance with clause 16.4 Council will, within a reasonable time, following a request from the Owner and at the cost of the Owner, execute all documents necessary to apply to the Registrar of Titles under section 183 of the Act to cancel the recording of this Agreement on the register as to that part of the Subject Land.
- 16.6 On completion of all the Owner's obligations in accordance with this Agreement, Council must as soon as practicable following the ending of this Agreement and at the request and at the cost of the Owner, execute all documents necessary to apply to the Registrar of Titles under section 183 of the Act to cancel the recording of this Agreement on the register.



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173



page 16

Schedule 1 Infrastructure Projects

DCP Project no.	Description of Infrastructure Project	Extent of Infrastructure Project	Proportion of total DCP project value	Infrastructure Project Value	Credit Value	Milestone for the commencement of the Infrastructure Project	Milestone for the completion of the Infrastructure Project
RD01	Mount Ridley Road upgrade – construction to urban standard (interim cross-section standard for 1250 metres).	Part of DCP Project No. RD01, being the construction of 849-metres of road located between the eastern boundary of the Trillium Estate and the eastern boundary of the Craigieburn R2 precinct.	63.01% of the total DCP project value.	\$764,496 This figure is not subject to any Indexation adjustment from the date of commencement of this Agreement.	\$764,496 This figure is not subject to any Indexation adjustment from the date of commencement of this Agreement.	Within 12 months from the date of commencement of this Agreement.	Prior to the issue of a Statement of Compliance for Stage 336.
RD02	Intersection – Mount Ridley Road and north-south arterial (Roundabout).	DCP Project No. RD02.	100% of the total DCP project value.	\$1,417,080 This figure is not subject to any Indexation adjustment from the date of commencement of this Agreement.	\$1,417,080 This figure is not subject to any Indexation adjustment from the date of commencement of this Agreement.	Within 12 months from the date of commencement of this Agreement.	Prior to the issue of a Statement of Compliance for Stage 336.

AR821288B

09/01/2019

\$98.10

173

**Schedule 2 Subject Land**

Address	Land description	Registered Proprietor	Address of Registered Proprietor	Mortgage Y/N
475C Mt Ridley Road, Craigieburn, Victoria	Volume 11942, Folio 032 Lot CC on Plan of Subdivision 807620V	Stockland Highlands Pty Limited	Level 25, 133 Castlereagh Street, Sydney, NSW 2000	N



Maddocks

Schedule 3 Functional Layout Plans

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