

DATED

2023

IRFAN HANNA KUNDA

to

CONTRACT OF SALE OF REAL ESTATE

Property: Lot 1206, 23 Tramway Avenue, Wollert VIC 3750



**Domayne Conveyancing
Conveyancing Firm**
C/- Domayne Conveyancing Pty Ltd
PO BOX 2050
GREENVALE VIC 3059
Tel: 0414958866
Ref: SA:23668

Contract of sale of land

Property: 23 TRAMWAY AVENUE, WOLLERT 3750

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Contract of sale of land

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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 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.

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

Approval

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*.

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WARNING TO ESTATE AGENTS

DO NOT USE THIS CONTRACT FOR SALES OF 'OFF THE PLAN' PROPERTIES UNLESS IT HAS BEEN PREPARED BY A LEGAL PRACTITIONER

WARNING: YOU SHOULD CONSIDER THE EFFECT (IF ANY) THAT THE WINDFALL GAINS TAX MAY HAVE ON THE SALE OF LAND UNDER THIS CONTRACT.

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

in that order of priority

SIGNING OF THIS CONTRACT

WARNING: THIS IS A LEGALLY BINDING CONTRACT. 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

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

State nature of authority, if applicable:

Not Applicable

SIGNED BY THE PURCHASER:

on

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

State nature of authority, if applicable:

Not 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

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

Irfan Hanna Kunda

State nature of authority, if applicable:

Not Applicable

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

Table of contents

Particulars of sale

Special conditions

General conditions

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

Particulars of sale**Vendor's estate agent**

Name:
Address:
Email:
Tel: Mob: Fax: Ref:

Vendor

Name:
Address:
ABN/ACN:
Email:

Vendor's legal practitioner or conveyancer

Name:
Address:
Email:
Tel: Mob: Fax: Ref:

Purchaser's estate agent

Name:
Address:
Email:
Tel: Mob: Fax: Ref:

Purchaser

Name:
Address:
ABN/ACN:
Email:

Purchaser

Name:
Address:
ABN/ACN:
Email:

Purchaser's legal practitioner or conveyancer

Name:
Address:
Email:
Tel: Fax: DX: Ref:

Land (general conditions 7 and 13)

The land is described in the table below -

Certificate of Title reference		being lot	on plan
Volume: <input type="text"/>	Folio: <input type="text"/>	<input type="text"/>	<input type="text"/>

If no title or plan references are recorded 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:

Goods sold with the land (general condition 6.3(f)) (list or attach schedule)**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 condition 17 & 26.2)is due on

unless the land is a lot on an unregistered plan of subdivision, in which case settlement is due on the later of:

- the above date; and
- the 14th day after the vendor gives notice in writing to the purchaser of registration of the plan of subdivision.

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.*

A SPECIAL CONDITION OPERATES IF THE BOX NEXT TO IT IS CHECKED OR THE PARTIES OTHERWISE AGREE IN WRITING. There are to be NO changes made to these special conditions without prior written consent by the Vendors Representative Domayne Covneyancing.



Special condition 1 – Payment

General condition 14 is replaced with the following:

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 sold is a lot 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 the registration of the plan of subdivision.
- 14.3 The purchaser must pay all money other than the deposit:
(a) to the vendor, or the vendor's legal practitioner or conveyancer; or
(b) in accordance with a written direction of the vendor or the vendor's legal practitioner or conveyancer.
- 14.4 Payments may be made or tendered:
(a) up to \$1,000 in cash; 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) payment 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.
- 14.5 At settlement, the purchaser must pay the fees on up to three cheques drawn on an authorised deposit-taking institution. If the vendor requests that any additional cheques be drawn on an authorised deposit-taking institution, the vendor must reimburse the purchaser for the fees incurred.
- 14.6 Payment by electronic funds transfer is made when cleared funds are received in the recipient's bank account.
- 14.7 Before the funds are electronically transferred the intended recipient must be notified in writing and given sufficient particulars to readily identify the relevant transaction.
- 14.8 As soon as the funds have been electronically transferred the intended recipient must be provided with the relevant transaction number or reference details.
- 14.9 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.
- 14.10 For the purpose 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.



Special condition 2 – Acceptance of title

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.



Special condition 3 – Tax invoice

General condition 19 is replaced with the following:

- 19.3 If the vendor makes a taxable supply under this contract (that is not a margin scheme supply) and:
(a) the price includes GST; or

- (b) the purchaser is obliged to pay an amount for GST in addition to the price (because the price is "plus GST" or under general condition 19.1(a), (b) or (c)), the purchaser is not obliged to pay the GST included in the price, or the additional amount payable for GST, until a tax invoice has been provided.



Special condition 4 – Adjustments

Adjustment must be prepared on behalf of the Purchasers and provided to the Purchasers not less than 3 days prior to the due date of settlement and any failure to do so, will cause the Purchasers to pay administration fee to the Purchasers of \$220 for the delay in receiving the Statement of Adjustments.

Land tax adjustment - Despite any other provision in this Contract, for the purposes of the Statement of the Adjustments, land tax shall be adjusted on the following basis:

- (a) Land tax shall be calculated on an aggregate basis (pursuant to the Land Tax Act 2005 (Vic)) and the Purchaser shall pay land tax on a proportional basis as assessed by the State Revenue Office of Victoria in respect of the Land (including any trust and surcharges imposed) which shall be adjusted at the date of settlement; and
(b) Any personal statutory benefit available to the Vendor is disregarded in calculation of the adjustment.



Special condition 5 – Service

General condition 27 is replaced with the following:

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 document being a cooling off notice under section 31 of the *Sale of Land Act 1962* or a notice under general condition 20 (ending the contract if the loan is not approved) 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 authorized 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 The expression 'document' includes 'demand' and 'notice', and 'service' includes 'give' in this contract.



Special condition 6 – Electronic conveyancing

6.1 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*. The parties may subsequently agree in writing that this special condition 8 applies even if the box next to it is not checked. This special condition 8 has priority over any other provision to the extent of any inconsistency.

6.2 A party must immediately give written notice if that party reasonably believes that settlement and lodgement can no longer be conducted electronically. Special condition 8 ceases to apply from when such a notice is given.

6.3 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*.

6.4 The vendor must open the Electronic Workspace ("workspace") as soon as reasonably practicable. The inclusion of a specific date for settlement in a workspace is not of itself a promise to settle on that date. The workspace is an electronic address for the service of notices and for written communications for the purposes of any electronic transactions legislation.

6.5 The vendor must nominate a time of the day for locking of the workspace at least 7 days before the due date for settlement.

6.6 Settlement occurs when the workspace records that:

- (a) the exchange of funds or value between financial institutions in accordance with the instructions of the parties has occurred; 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.

6.7 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 6.6 has not occurred by 4.00 pm, or 6.00 pm if the nominated time for settlement is after 4.00 pm.

6.8 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.

6.9 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 vendor's subscriber or the Electronic 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 Network Operator of settlement.

☒ **Special condition 7 – Condition of the Property**

- 7.1 The land and buildings (if any) as sold hereby and inspected by the purchasers are sold on the basis of existing improvements thereon and the purchaser shall not make any requisition or claim any compensation for any deficiency or defect in the said improvements as to their suitability for occupation or otherwise including any requisition in relation to the issue or non-issue of Building Permit and/ or completion of inspections by the relevant authorities in respect of any improvements herein.
- 7.2 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;
 - (e) Subject to any non-compliance, that is disclosed herein, with the Local Government Act or any Ordinance under that Act in respect of any building on the land; and
 - (f) Subject to all easements, covenants, leases, encumbrances, appurtenant easements and encumbrances and restrictions (if any) as set out herein or attached hereto whether known to the Vendor or not. The purchaser should make his own enquiries whether any structures or buildings are constructed over any easements prior to signing the contract, otherwise the purchaser accepts the location of all buildings and shall not make any claim in relation there to.
- 7.3 The purchaser acknowledges and agrees that the purchaser has made its own independent enquires on all matters and does not rely on anything stated by or on behalf of the Vendor.
- 7.4 The purchaser agrees not to seek to terminate rescind or make any objection requisition or claim for compensation arising out of any of the matters covered by this clause.
- 7.5. No failure of any buildings or improvements to comply with any planning or building legislation regulations or bylaws or any planning permit constitutes a defect in the vendor's title or affects the validity of this contract.
- 7.6 The purchaser further acknowledges that any improvements on the property may be subject to or require compliance with Victorian Building Regulations, Municipal By-Laws, relevant statutes and/or other regulations thereunder and any repealed laws under which the improvements were or should have been constructed. Any failure to comply with any one or more of those laws or regulations shall not be deemed to constitute a defect in title and the purchaser shall not claim any compensation whatsoever nor require the vendor to comply with any of the abovementioned laws and regulations or carry out any final inspections including any requirement to fence any pool or spa or install smoke detectors. The purchaser shall not make any requisition or claim any compensation for any deficiency or defect in the said improvements as to their suitability for occupation or otherwise including any requisition in relation to the issue or non-issue of Building Permits and/or completion of inspections by the relevant authorities in respect of any improvements herein. The purchaser agrees not to seek to terminate, rescind or make any objection, requisition or claim for compensation in relation to anything referred to in this special condition.

☒ **Special condition 8 – Deposit**

In the event that the purchaser fails to pay the full deposit on the due date, this contract is voidable at the option of the vendor.

☒ **Special condition 9 – Loan**

The purchaser acknowledge that should this contract be subject to finance and in the event that finance is not approved then the purchaser must provide written proof on a formal decline letter generated by the lender or lending institution to which the finance was applied by the purchaser.

Any decline letters from brokers or any loan originator are not accepted. Failure to comply of this special condition will render the contract of sale unconditional.

Any requests an extension or variation to the Finance Due Date, the Purchaser must pay the Vendor' representative \$1 0 at the settlement for each request.

☒ **Special condition 10 – Default Costs Payable**

Also. general conditions 35.4 of the contract of sale is added:

Should the settlement is not completed on due date by the purchaser, the purchaser will liable for Vendor's losses including but not limited to:

10.1 Interests on any loan secured on the property from the original settlement date until the property can settle.

10.2 Penalties, interest and charges incurred as a result of not being settle a purchase of another property.

10.3 Any extra costs involved accommodation costs; storage costs incurred by the Vendor.

10.4 Default administration fees are payable to Vendor's Representative in the amount of \$ 0 including GST for each and every default;

10.5 The purchaser acknowledge that the default interest rate is payable at 18% per annum payable by the purchaser to the Vendor at the settlement date;

☐ **Special condition 11 - Plan of Subdivision**

1. The purchaser acknowledges that as at the Day of Sale if the Plan of Subdivision has not been registered by the Registrar of Titles pursuant to Part 4 of the Subdivision Act or Section 97 of the Transfer of Land Act (as the case may be).
2. The Vendor shall as it own cost and expense procure registration of the Plan of Subdivision.
3. If the Plan of Subdivision is not registered within 24 months after the day of sale, the Purchaser may after the expiration of that 18 months but before the plan of subdivision is so registered rescind this contract by notice in writing to the other party and the Deposit shall then be repaid to the Purchaser in full.
4. The Vendor reserves the right to make alteration to the Plan of subdivision necessary to secure its approval by the Registrar of Titles and (subject to the provisions of Section 9AC of the Sale of Land Act) the purchaser shall make no objection or requisition or claim any compensation in respect of any excess or deficiency whether in areas, boundaries, measurements, occupations, or otherwise on the ground that the plan of subdivision as registered by the Registrar of Titles does not agree in measurement or otherwise with the Plan of Subdivision or the Property as inspected by the Purchaser.
5. The Purchaser undertakes that he/she will not lodge a Caveat against the Title to the land hereby sold pending approval of the Plan of Subdivision by the Registrar of titles.

☒ **Special condition 12 - Nomination**

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.

The purchaser has to pay the professional fees to Vendor's Conveyancer of \$ 0 including GST for the nomination.

☒ **Special condition 13 – Rescheduled Settlement**

Without limiting any other rights of the Vendor, if the purchaser fails to settle on the due date for settlement as set out in the particulars of this Contract (Due Date) or requests an extension or variation to the Due Date, the Purchaser must pay the Vendor' representative \$330 including GST at the settlement for each request.

☒ **Special condition 14 - SWIMMING POOL AND/OR SPA**

In the event there is a swimming pool and/or spa situated on the property the Vendor discloses that the swimming pool and/or spa including the barrier and fencing may not comply with current regulations and or legislation. The Vendor will not be responsible for arranging or ensuring compliance of the spa/pool or installation of the barrier (if applicable) and will not be required to provide the compliance certificate prior to settlement. The Purchaser accepts the spa/pool in its present state and repair.

☒ **Special condition 15 – Building Reports**

The general conditions 21.2 and 22.2 has been changed from 14 days to 7 days only.

☒ **Special condition 16 - Owners Corporate Certificate to be provided**

If the contract has Owners Corporate Certificate to be provided, the purchaser must acknowledge this and is not agreeable to rescind, object to request, make a claim or terminate the contract based on this condition. The Owners Corporate Certificate will be provided in a timely manner and made available to the purchaser and purchasers representative as soon as it is issued.

Special condition 17 - Loss or Damage Before Settlement

n	n	n	n
n	n	n	
n	n	n	
n	n	n	

Special Condition 18 - Execution of Annexure D - Re-sale Deed

The sale of this property is subject to the execution of the On-sale Deed by the purchaser/s.



Maddocks

Lawyers
Collins Square, Tower Two
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Melbourne VIC 3008
Australia

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www.maddocks.com.au

DX 259 Melbourne

On-Sale Deed

Property: 23 Tramway Avenue, Wollert, VIC 3750

Vendor

Greenwells Wollert Pty Ltd
ACN 128 803 092

and

Purchaser

Irfan Hanna Kunda

and

(New Owner)

(New Guarantor)



Schedule

1. **Date of this On-Sale Deed** The _____ day of _____ 20
2. **Vendor:** Greenwells Wollert Pty Ltd ACN 128 803 092 of Level 4 108 Power Street, Hawthorn, VIC 3122 Australia
3. **Purchaser:** Irfan Hanna Kunda of 344 Gordons Road, South Morang, VIC 3752
4. **Guarantor:** Not Applicable
5. **First Purchaser:** Irfan Hanna Kunda and Magda Kunda of 344 Gordons Road, South Morang, VIC 3752
6. **New Owner:**
of
Phone:
Email Address:
7. **New Guarantor:**
of
8. **Property:** Lot 1206 on the Plan, being the land contained in Certificate of Title Volume 12392 Folio 967 now known as 23 Tramway Avenue, Wollert, VIC 3750
9. **Contract of Sale:** The Contract of Sale for the Property between the Vendor and the Purchaser dated 30 April 2021
- 10 **Plan:** PS821106F

The Parties set out in the schedule.

Name	Vendor
Name	Purchaser
Name	Guarantor
Name	First Purchaser
Name	New Owner
Name	New Guarantor

- A. The Vendor and the First Purchaser entered into a Contract of Sale for the Property.
- B. The First Purchaser subsequently nominated the Purchaser under the Contract of Sale as substitute purchaser for the Property.
- C. The Vendor and the Purchaser settled the Property on the Settlement Date.
- D. The Purchaser, with the Vendor's consent, has on-sold the Property to the New Owner.
- E. The New Guarantor (if applicable) has agreed to guarantee the New Owner's obligations under this Deed.
- F. In accordance with the Contract of Sale, the parties enter into this Deed to document the terms on which the Vendor consents to the on-sale.

1. Definitions

In this document unless expressed or implied to the contrary:

Claim means any and all claims, actions, disputes, differences, demands, proceedings, accounts, interest, costs (whether or not the subject of a court order), loss, expenses and debts or liabilities of any kind (including those which are prospective or contingent and those the amount of which is not ascertained) of whatever nature and however arising.

Contract of Sale means the contract of sale specified in Item 9.

Deed means this On-Sale Deed.

Design Guidelines means the design guidelines annexed to the Contract of Sale, as amended from time to time, if any.

Vendor means the company specified in Item 2.

2.2.5 if the New Owner sells, transfers or otherwise deals with its interest in the Property at any time prior to construction of the Dwelling (as defined in the Contract of Sale), the New Owner will require any purchaser or transferee from the New Owner to

2.3 The Purchaser warrants that it has included in its contract of sale with the New Owner, the Special Conditions, and has attached to its contract of sale with the New Owner any Design Guidelines referred to in the Contract of Sale.

2.4 The Purchaser, the First Purchaser and the Guarantor agree to keep the Vendor indemnified against all Claims incurred by the Vendor and arising in respect of the matters set out in this Deed (including a failure by the Purchaser or the New Owner to comply with the provisions of this Deed).

- 3.3.1 not seek to recover any money from the New Owner until the Vendor has been paid all moneys owing from the New Owner under this Deed;
- 3.3.2 not prove in the bankruptcy or winding up of the New Owner unless the Vendor has been paid all moneys owing to the Vendor by the New Owner under this Deed; and
- 3.3.3 pay to the Vendor any money which the Vendor has been unable to retain as a preferential payment received from the New Owner.

4. Deed supplementary

This Deed is supplementary to the Contract of Sale and will be interpreted having regard to the provisions of the Contract of Sale.

5. Continued operation

The parties agree and confirm that the Contract of Sale remains effective and unaltered.

6. Severance

Any provision of this Deed that is illegal or unenforceable may be severed from this Deed and the remaining provisions of this Deed continue in force.

7. Counterparts

This Deed may be executed in a number of counterparts. All counterparts taken together will be taken to constitute one agreement.

8. Legal Costs

The Purchaser must pay the Vendor's legal costs and expenses in relation to the negotiation, preparation and execution of this document in the amount of \$495 inclusive of GST.

9. Interpretation

9.1 Governing Law and Jurisdiction

This Deed is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria and waives any right to object to proceedings being brought in those courts.

9.2 Persons

In this Deed, a reference to:

9.2.1 a person includes a firm, partnership, joint venture, association, corporation or other corporate body;

9.2.2 a person includes the legal personal representatives, successors and permitted assigns of that person; and

9.2.3 any body which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference to the body which most closely serves the purposes or objects of the first-mentioned body.

If a party consists of more than one person, this Deed binds them jointly and each of them severally.

In this Deed:

- 9.4.1 a reference to this or other document includes the document as varied or replaced regardless of any change in the identity of the parties;
- 9.4.2 a reference to a clause, schedule, appendix or annexure is a reference to a clause, schedule, appendix or annexure in or to this document all of which are deemed part of this Deed;
- 9.4.3 a reference to writing includes all modes of representing or reproducing words in a legible, permanent and visible form;
- 9.4.4 headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this Deed; and
- 9.4.5 where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning.

In this Deed, a reference to:

- 9.5.1 the singular includes the plural and vice versa; and
- 9.5.2 a gender includes the other genders.

10. Electronic Execution and Exchange

10.1 Electronic Delivery

If a party delivers an executed counterpart of this Deed by facsimile or other electronic means the delivery will be deemed to be an effective delivery of an originally executed counterpart and the party will still be obliged to deliver an originally executed counterpart to the other party within 7 days of the date of this Deed, but the failure to do so will not affect the validity or effectiveness of this Deed.

10.2 Consent to Electronic Execution

Each party consents to the signing of this Deed by electronic means. The parties agree to be legally bound by this Deed signed in this way.

10.3 Electronic Means

The Vendor reserves the right to sign this Deed by electronic means, including by use of software or an online service for this purpose.

EXECUTED by the parties as a deed

EXECUTED by **Greenwells Wollert Pty Ltd ACN 128 803 092** by its Attorney Stephen James Fairbairn pursuant to Power of Attorney dated 7 July 2022 who states that no notice of revocation of the Power of Attorney has been received, in the presence of:

Witness

Signed sealed and delivered by Irfan Hanna Kunda)
in the presence of:)

Witness



NEW OWNER

SIGNED SEALED AND DELIVERED by _____)
)
)
in the presence of: _____

.....
Witness

SIGNED SEALED AND DELIVERED by _____)
)
)
in the presence of: _____

.....
Witness

Executed by _____)
ACN _____ in accordance with)
s 127(1) of the *Corporations Act 2001*:

.....
Signature of Director

.....
Print full name



NEW GUARANTOR

SIGNED SEALED AND DELIVERED by)
)
)

in the presence of:

.....
Witness

SIGNED SEALED AND DELIVERED by)
)
)

in the presence of:

.....
Witness

INFORMATION ONLY

SPECIAL CONDITIONS

1. Definitions and Interpretation

1.1 Definitions

In these Special Conditions:

Act means the *Subdivision Act* 1988 (Vic).

Additional Restrictions includes all easements, encumbrances, rights, privileges, restrictions on use, covenants, dedications of land, agreements (including the entering into of any agreement under section 173 of the *Planning & Environment Act* 1987 (Vic) including any agreement required under the Planning Permit), or other Approval, leases, licences, other occupation rights and arrangements relating to all or part of the land comprised in the Development which are described in Special Conditions 5.1 and 14.3 and which are:

- (a) required by an Authority;
- (b) required by a condition of an Approval;
- (c) reasonably and properly required for the Development;
- (d) necessary to satisfy a Requirement; or
- (e) required by NBN Co Limited.

Approval means any permit, licence, consent, certificate or other approval obtained or required to be obtained from an Authority in relation to the Development or any lot on the Plan and includes an approval from the Design Review Panel under Special Condition 15.

Authority means any government or any public, statutory, service authority, governmental, semi-governmental, local governmental, municipal or judicial body, entity or authority and includes a Minister of the Crown (in any right), and any person, body, entity or authority exercising a power pursuant to an Act of Parliament.

Balance means the balance of the Price payable by the Purchaser.

Bank means:

- (a) an Australian-owned bank;
- (b) a foreign subsidiary bank; or
- (c) a branch of a foreign bank,

on the list, current on the Day of Sale, of authorised deposit-taking institutions regulated by the Australian Prudential Regulation Authority.

Business Day means any day which is not a Saturday, Sunday or proclaimed public holiday in the State of Victoria.

Claim means any and all claims, actions, disputes, differences, demands, proceedings, accounts, interest, costs (whether or not the subject of a court order), loss, expenses and debts or liabilities of any kind (including those which are prospective or contingent and those the amount of which is not ascertained) of whatever nature and however arising.

Construction Date means the dates for construction of the Dwelling referred to in Special Condition 16.8.

Contract means this contract of sale and includes all enclosures and annexures.

Day of Sale means the date by which both parties have signed this Contract.

Deposit means an amount equal to the proportion of the price that is set out as the deposit in the particulars of sale.

Design Guidelines means the design, development and use controls for the Development titled "Lyndarum North Design Guidelines" and as amended from time to time, for the purposes of achieving the expressly stated objectives of the guidelines which will be generally in accordance with the design guidelines attached to Annexure C and may be referred to in the Plan.

Design Review Panel means a panel appointed by the Vendor for the purposes of assessing compliance by lot owners with the Design Guidelines.

Development means all of the land in the Plan and any surrounding land developed, being developed or to be developed by the Vendor in stages and known as Lyndarum North, Wollert.

Development Infrastructure means development infrastructure and amenities that may (or may not) form part of the Development including without limitation arterial and other roads, interchanges, overpasses, noise barriers, telecommunication towers and associated equipment, electrical substations and associated equipment (including pylons and other equipment to be located in the transmission easement that is to traverse the Development), town centre, libraries, bus stations, schools, health facilities, child care facilities, supermarkets, bicycle paths, walking trails, wetlands, woodlands, parks, sports reserves and open spaces and any infrastructure contemplated by an applicable development contributions plan and/or the Precinct Structure Plan.

Dwelling means a permanent dwelling for residential purposes.

Fence Works means the fencing works to be carried out by the Purchaser in accordance with Special Condition 18.

FIRB means the Foreign Investment Review Board.

General Conditions means the general conditions contained in this Contract.

GST means GST within the meaning of the GST Act.

GST Act means the goods and services tax system which is Australian law under the *A New Tax System (Goods and Services Tax) Act 1999* and associated legislation or any amendment or replacement of that Act or legislation.

Guarantee means the guarantee and indemnity in the form set out in Annexure A.

Hazardous Materials includes all hazardous substances and any pollutant or contaminant defined as such in (or for the purposes of) any federal, state or local statute, law, ordinance, rule or regulation, regulating or imposing liability of standards of conduct or concerning any such substance or material.

Head Contract means the contract of sale between the Head Vendor as vendor and the Vendor as purchaser dated 10 April 2017 for the purchase of the Head Contract Parcel.

Head Contract Parcel means the land contained in certificate of title volume 10531 folio 176 and known as Lot 1 on PS434044J.

Head Vendor means Cesil Nominees Pty Ltd (ACN 005 189 015).

Interest means the interest (if any) that accrues on the Deposit less the taxes, charges and fees charged on, or attracted by, the Deposit or by the interest earned on it.

Insolvency Event means, in relation to a party, any of the following events:

- (a) a party, being an individual, commits an act of bankruptcy;
- (b) a party becomes insolvent;
- (c) a receiver, receiver and manager, administrator, controller, provisional liquidator or liquidator is appointed to a party or a party enters into a scheme of arrangement with its creditors or is wound up;
- (d) a party assigns any of its property for the benefit of creditors or any class of them;
- (e) an encumbrancee takes any step towards taking possession or takes possession of any assets of a party or exercises any power of sale;
- (f) any security interest becomes enforceable or is enforced against the party;
- (g) the party has a judgment or order given against it in an amount exceeding \$10,000 or the equivalent in another currency and that judgment or order is not satisfied or quashed or stayed within 20 Business Days after being given; or
- (h) any event that is analogous or having a substantially similar effect to any of the events specified in this definition.

Land means the land sold by the Vendor to the Purchaser pursuant to this Contract.

Landscaper means the landscaper engaged by the Purchaser to undertake the Landscaping Works.

Landscaping Works means soft landscaping of all of the land between the Dwelling, the title boundaries of the Property and the nature strips adjacent to the Property including the driveway, letter box and fencing of the Property in accordance with the Design Guidelines to the Vendor's reasonable satisfaction.

Law means any law (including principles of law or equity established by decisions of courts) that applies in Victoria, and any rule, regulation, ordinance, order, by-law, local law, statutory instrument, control, restriction, direction or notice made under a law by any Authority.

Lot or Lots means a lot or lots on the Plan.

MCPs means any memorandum of common provisions which incorporate some or all of the Plan Restrictions and/or the Restrictive Covenant.

NBN Building Ready Specifications means specifications governing the building requirements for connection of a dwelling house to the national broadband fibre optic network as may be provided by the Vendor or as otherwise available at the website www.nbnco.com.au as amended from time to time.

Network Infrastructure means the national broadband fibre optic network infrastructure.

Occupancy Permit means an occupancy permit issued under the *Building Act* 1993 (Vic) for the Property.

Outgoings means all rates, taxes, assessments, fees and other outgoings and includes land tax, levies, fire insurance premiums, but excludes any supplementary rates or taxes or other such rates assessed in respect of the Property after the Settlement Date which are the responsibility of the Purchaser.

Parent Title means the land comprised in certificates of title volume 12075 folio 766, volume 10531 folio 176 and volume 12210 folio 506.

Plan means the proposed Plan of Subdivision number defined in the 'Land' section of the Particulars of Sale, a copy of which is included in the Vendor's Statement and includes any amendments or alterations made to the Plan and any Plan Restrictions.

Planning Permit means planning permit number 716991 dated 23 November 2019, a copy of which is attached to the Vendor Statement and includes any variation, replacement or amendment thereto.

Plan Restrictions means any restrictive covenants or other restrictions noted on the Plan which will be created upon Registration of the Plan.

Planning Scheme means Whittlesea Planning Scheme.

Precinct Structure Plan means the precinct structure plan affecting the Site to be adopted by the Responsible Authority and as at the Day of Sale known as the Wollert Precinct Structure Plan April 2015 Exhibition version.

Price means the price specified in the 'Payment' section of the particulars of sale.

Property means the property sold pursuant to this Contract. The terms Land, Lot, Property are used intermittently throughout this Contract, however, they all mean the property sold pursuant to this Contract.

Property Controls means all existing and future planning, environmental, building and similar controls relating to the use or development of the Property, including (as applicable), the Planning Scheme, any Plan Restrictions, the Design Guidelines, the Restrictive Covenant, the MCP (if any), the Precinct Structure Plan and this Contract.

Purchaser means the purchaser specified in the particulars of sale.

Purchaser Rights means:

- (a) making requisitions;
- (b) claiming compensation;
- (c) rescinding or purporting to rescind;
- (d) calling the Vendor to amend title or to bear any cost of doing so;
- (e) delaying settlement;
- (f) avoiding any of its obligations; and
- (g) making any other Claims,

under or in connection with this Contract.

Registered or Registration means registration of the Plan by the Registrar under the *Subdivision Act 1988*.

Registrar means the Registrar of Titles of Victoria.

Registration Period means the period commencing on the Day of Sale and expiring 24 months after the Day of Sale.

Related Body Corporate has the same meaning given to that term in the *Corporations Act 2001* (Cth).

Required Rating means:

- (a) a financial strength rating of A1 or higher from Moody's; or
- (b) a financial strength rating of A+ or higher from S&P.

Requirement means any notice, order, direction, requirement, statute, ordinance, proclamation, regulation, scheme, permit, by-law or other regulatory requirement, present or future, affecting or relating to the Property, the use of the Property or the Development irrespective of whether the Requirement is addressed to the Vendor, the Purchaser or any other person.

Responsible Authority means the City of Whittlesea.

Restrictions means any or all of the Plan Restrictions, the Restrictive Covenant, or MCPs.

Restrictive Covenant means the covenant to be incorporated on the instrument of transfer as outlined in Special Condition 15.7 of this Contract.

Settlement Date means the date on which the Balance must be paid.

Site means the whole of the land comprised in the Plan.

Special Conditions means these Special Conditions.

Staged Development means the Development effected in stages.

Subsequent Stage Land means all the land that is, or may be, included in the Development except for the land in the Plan.

Takeovers Act means the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

Utilities means water, recycled water, sewerage, drainage, gas, electricity, telecommunications and other like services (including if applicable the national broadband network) and includes all installations, pits, pipes, wires, fibre optic cables, mains, connections and machinery relating to those services (if any).

Vendor means the vendor specified in the particulars of sale.

Vendor's Agent means the estate agent or estate agents for the Vendor, if any, whose details are set out in the particulars of sale.

Vendor's Statement means a statement made under Section 32 of the *Sale of Land Act 1962* (Vic). A copy of the Vendor's Statement for this Contract is attached.

Works means all design, building, construction and Landscaping Works that the Purchaser intends to complete on the Land to construct a Dwelling.

1.2 Interpretation

In this Contract:

- 1.2.1 a reference to:
 - (a) any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any statutory instrument issued under, that legislation or legislative provision;
 - (b) the singular includes the plural and vice versa;
 - (c) an individual or person includes a corporation, firm, authority, government or government authority and vice versa;

- (d) any gender includes the other genders;
 - (e) a party to this Contract includes that party's executors, administrators, successors and permitted assigns; and
 - (f) a condition, annexure or schedule is a reference to a condition, annexure or schedule of this Contract.
- 1.2.2 including and singular expressions are not words of limitation;
- 1.2.3 headings are for convenience and reference only and do not affect the meaning or interpretation of this Contract;
- 1.2.4 if the whole or any part of a provision of this Contract is invalid or unenforceable, the validity or enforceability of the remaining provisions will not be affected; and
- 1.2.5 any obligation on the part of two or more persons under this Contract binds all of them jointly and each of them severally, unless expressed to be only several.
- 1.3 The obligations imposed and the benefits conferred under this Contract on each of the parties are binding upon and enure for the benefit of the respective parties and each of their respective successors in title, legal personal representatives and permitted assigns.
- 1.4 If an act must be done on a specified day which is not a Business Day, the act must be done on the Business Day immediately after that specified day.
- 1.5 If a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable.
- 1.6 If it is not possible to read down a provision as required in Special Condition 1.5, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Contract.

2. Amendments to General Conditions

- 2.1 The Purchaser and the Vendor agree that if there is:
 - 2.1.1 any conflict arising between the Plan Restrictions, the Special Conditions, the Design Guidelines, the MCPs and the General Conditions, the ranking in priority will be as follows:
 - (a) first, the MCPs;
 - (b) second, the Plan Restrictions;
 - (c) third, these Special Conditions;
 - (d) fourth, the General Conditions; and
 - (e) fifth, the Design Guidelines; or
 - 2.1.2 any inconsistency between this Special Condition and any other Special Condition then, except in the case of manifest error, to the extent of any inconsistency the provisions of any other Special Condition will prevail and have priority over this Special Condition.
- 2.2 Without limiting the specific provisions of any other Special Condition, the General Conditions are amended as set out in this Special Condition 2.
- 2.3 The General Conditions (GC) are amended as follows:

2.3.1 GC2.1 is deleted and replaced with the following: 'The vendor warrants that these general conditions 1 to 28 (other than this general condition 2.1) are identical to the general conditions 1 to 28 in the standard form of contract of sale of real estate prescribed by the Estate Agents (Contracts) Regulations 2008 for the purposes of section 53A of the Estate Agents Act 1980 prior to the revocation of the Estate Agents (Contracts) Regulations 2008 on 11 August 2018'.

2.3.2 GC6 is amended by inserting the following sentences at the end of the General Condition:

'The vendor is not required to effect settlement until 10 days after the transfer of land is given to the vendor's solicitor if the purchaser fails to give the transfer of land in accordance with this General Condition. The purchaser will be deemed to default in payment of the balance from the date settlement is due under the contract to the date settlement takes place if, pursuant to this General Condition, the vendor effects settlement after the date settlement is due under the contract.'

2.3.3 GC 7 is deleted and replaced with the following:

'7. Release of security interest

7.1 This general condition applies if any part of the property is subject to a Security Interest registered under the *Personal Property Securities Act* 2009 (Cth). Words and phrases used in general condition 7 which are defined in the *Personal Property Securities Act* 2009 (Cth) have the same meaning in general condition 7.

7.2 If a Security Interest in respect to any part of the Property is registered in the Personal Property Securities Register, the vendor must ensure that at or before settlement, the purchaser receives a release from the secured party releasing the property that is subject to the security interest from the security interest.

7.3 The vendor is not obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of any personal property that is required by the Personal Property Securities Regulations 2009 to be described in a registration by a serial number and is not described by serial number in the Personal Property Securities Register.

7.4 If the purchaser receives a release under general condition 7.2, the purchaser must provide the vendor with a copy of the release at or as soon as practicable after settlement.

7.5 The purchaser must not grant a Security Interest over any part of the property prior to the settlement date. The purchaser must indemnify and hold harmless the vendor against all claims, damages or loss incurred by the vendor as a consequence of the Purchaser granting a Security Interest over any part of the property in breach of this condition.

7.6 If the land is sold subject to a lease and the vendor has registered a security interest over any part of the property being sold or the tenant's property, the vendor must transfer the security interest to the purchaser on the settlement date and execute all documents necessary to facilitate registration of the transfer of the security interest.'

2.3.4 GC8 is deleted.

2.3.5 GC10.1 (b)(i) is amended to read:

'provide all title documents necessary to enable the Purchaser to become the registered proprietor of the land; and '.

2.3.6 GC10.3 is deleted and replaced with:

'10.3 Settlement must be conducted between the hours of 10.00a.m. and 3.00p.m. unless the parties agree otherwise. A settlement which occurs

after 3pm will, unless the vendor agrees otherwise, be treated as having occurred at 9am on the following business day.'

2.3.7 GC11.1(c) is deleted.

2.3.8 GC11.2 is amended by inserting an additional sentence as follows:

'Unless the price includes GST, the reference to "the price" in this general condition 11.2 refers to the price plus any GST payable on the price.'

2.3.9 GC11.5 is amended to read:

'For the purposes of this general condition 'authorised deposit taking institution' means a 'Bank'.

2.3.10 GC11.6 is amended by changing the reference to 'three cheques' to 'five bank cheques'.

2.3.11 GC13 is amended as follows:

(a) the following words are inserted at the end of GC13.2:

The purchaser must pay an amount that it is required to pay under this general condition in full and without deduction, set-off, withholding or counterclaim.

(b) The following words are inserted at the end of CG13.6:

The parties agree that the margin scheme may apply with respect to some Lots created upon Registration of the Plan and the parties will apply the margin scheme if directed to do so by the Vendor prior to settlement.

(c) the following new sub-paragraph is added to GC13.8:

(c) any term used in this general condition has the meaning given in the GST Act.

(d) the following new paragraphs are added as GC13.9 and 13.10:

13.9 Despite any other provision of this contract, if either party is required to reimburse to the other any costs, expenses or other amounts that the other party has incurred in connection with this contract, the amount to be reimbursed must be reduced by any part of that amount which is recoverable by the other party by way of input tax credit, partial input tax credit or other like set-off.

13.10 The amount recoverable on account of GST under this general condition by the Vendor will include any fines, penalties, interest and other charges incurred as a consequence of late payment or other default by the Purchaser under this general condition.

2.3.12 Insert a new GC 17.4 as follows:

'17.4 Notwithstanding general conditions 17.1, 17.2 and 17.3, the purchaser, or its solicitor, conveyancer or agent, must not serve any document, notice or demand on the vendor, its solicitor, conveyancer or agent by email.'

2.3.13 GC18 is amended by adding an additional sentence as follows:

"18.1 The Purchaser must not nominate an additional or substitute purchaser under this Contract subject to general condition 18.2.

- 18.2 The Purchaser may nominate an additional or substitute purchaser if the nominee is either a:
- a) husband (including de facto), wife (including de facto), mother, father, brother, sister, son or daughter of the Purchaser; or
 - b) company of which the Purchaser is a director or shareholder who controls more than 50% of the shares within the company; or
 - c) custodian or trustee relating to the Purchaser's superannuation fund,
- provided that:
- d) the nominee is not a Foreign Person for the purposes of the Takeovers Act as set out in Special Condition 26; and
 - e) the nominee has not purchased (either as an original purchaser or as a nominee) 2 or more lots in the Development that remain unsettled at the time the nomination occurs.
- 18.3 If the Purchaser nominates in accordance with general condition 18.2, the named purchaser remains personally liable for the due performance of all the purchaser's obligations under this Contract.
- 18.4 Any nomination under general condition 18.2 must be made at least 10 days before the settlement date. If the Purchaser wishes to nominate it must deliver to the Vendor's legal representative or conveyancer:
- (a) a nomination deed in the form attached to this Contract as Annexure D executed by the nominee and the Purchaser;
 - (b) if the nominee is a custodian or trustee as referred to in general condition 18.2, satisfactory evidence that it relates to the Purchaser's superannuation fund;
 - (c) if the nominee is a corporation to which general condition 20 applies, a Guarantee which complies with the requirements of general condition 18 but includes changes necessary by reason of the nomination;
 - (d) a written acknowledgment from the guarantors that the nomination of the nominee does not vitiate the guarantors' obligations;
 - (e) a written statement from the Purchaser and the nominee whereby the Purchaser and the nominee:
 - (i) warrant to the vendor that:
 - (A) the nominee is not obliged by the *Takeovers Act* to furnish notice to the Treasurer of its intention to acquire an interest in the Property; or
 - (B) the nominee has prior to the date of the nomination deed obtained FIRB approval pursuant to the *Takeovers Act* for the acquisition of the Property and a copy of such approval is provided with the statement; and
 - (ii) agree that if the warranty in General Condition 18(e)(i) is breached, the Purchaser and the nominee must indemnify the vendor against any penalties, fines, legal costs, claims, losses or damages which the vendor suffers as a direct or indirect result of a breach of that warranty; and
 - (f) a cheque payable by the nominee to the Vendor's legal practitioner or conveyancer for \$320 plus GST in respect of the legal costs payable by the nominee under the nomination deed."

2.3.14 GC19 is amended to read as follows:

'Any signatory for a proprietary limited company purchaser or a trust 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 or a trust'.

2.3.15 GC20 is deleted and replaced with the following:

'If the purchaser is a company other than a public company or if the purchaser nominates a substitute purchaser which is a company other than a public company, the purchaser must procure the execution of the Guarantee by:

- (a) each of its directors; or
- (b) a listed company of which the purchaser is a subsidiary,

at the purchaser's expense and deliver it to the vendor together with the executed contract.'

2.3.16 GC21 is amended to read:

'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 settlement date.'

2.3.17 GC24.4 to 24.6 (inclusive) are deleted.

2.3.18 GC25 is amended by adding the following new paragraph at the end of the general condition:

'The purchaser acknowledges that without limitation the following items constitute 'a reasonably foreseeable loss':

- (a) expenses payable by the vendor under any existing loans secured over the property or other property of the vendor;
- (b) if the default results in settlement being delayed after 31 December in any calendar year, any additional land tax incurred by the vendor as a result of the land being included in the vendor's land tax assessment for the next calendar year;
- (c) the vendor's legal costs and expenses as between solicitor and client incurred due to the breach, including the cost of issuing any default notice agreed at \$850 plus GST; and
- (d) any commission or other expenses claimed by the Vendor's Agents or other representatives relating to sale of the property.'

2.3.19 GC26 is amended by inserting '6%' instead of '2%'.

2.3.20 GC28.4(a) is amended to read as follows:

'an amount equal to 10% of the price is forfeited to the vendor as the vendor's absolute property.

2.3.21 GC28 is amended by including a new paragraph 28.6 as follows:

'Unless the price includes GST, the reference to 'the price' in this GC28 refers to the price plus any GST payable on the price.'

3. Deposit

- 3.1 The Deposit must not exceed 10 per cent of the Price. The Deposit must be paid to the Vendor's solicitor named in this Contract to be held on trust for the Purchaser in the Vendor's solicitor trust account until the Registration of the Plan.
- 3.2 If the due date for the payment of the Deposit is not completed in the particulars of sale then the parties agree that the Deposit is immediately due and payable to the Vendor on the Day of Sale.
- 3.3 The Vendor and the Purchaser authorise the Vendor's solicitor to invest the Deposit and agree that any Interest which accrues on the Deposit money will be paid to the party entitled to the Deposit on the date on which the Deposit is released to that party.
- 3.4 Upon registration of the Plan the Deposit will be held or invested by the Vendor's solicitor upon the terms set out in this Special Condition as stakeholder for the parties.
- 3.5 Within 7 days after the Day of Sale, the Purchaser must give the Purchaser's tax file number either to the Vendor's solicitor or to the Vendor's solicitor's bank. If the Purchaser gives its tax file number to the Vendor's solicitor's bank it must, as soon as it has done so, give the Vendor's solicitor verification of this.
- 3.6 If the Purchaser breaches Special Condition 3.5, and then becomes entitled to a refund of the Deposit, the Purchaser must within 7 days of becoming entitled to a refund of the Deposit, provide the Purchaser's tax file number either to the Vendor's solicitor or to the Vendor's solicitor's bank prior to receiving the Interest, whereupon the Interest will be payable to the Purchaser.
- 3.7 The Purchaser and the Vendor must not make any Claim on the Vendor's solicitor for any matter arising out of this Special Condition 3.

4. Registration of Plan

- 4.1 This Contract is subject to the condition subsequent that the Plan is registered by the Registrar within the Registration Period.
- 4.2 The Vendor must at its own cost endeavour to procure registration of the Plan by the Registrar within the Registration Period. The obligation arising pursuant to this special condition 4.2 does not require the Vendor to carry out, manage or arrange the carrying out of domestic building work as defined in the *Domestic Building Contracts Act 1995* (Vic).
- 4.3 If the Plan is not registered by the Registrar within the Registration Period then, prior to the Plan being registered:
 - 4.3.1 the Purchaser has the right to rescind this Contract by giving notice in writing to that effect to the Vendor; or
 - 4.3.2 the Vendor may give the Purchaser notice in writing in accordance with section 10B of the Sale of Land Act that it intends to rescind the Contract in 28 days (**Rescission Date**) subject to obtaining the Purchaser's consent. If the Purchaser consents to the rescission in writing prior to the Rescission Date, then this Contract is rescinded effective on the Rescission Date. If the Purchaser consents to the rescission after the Rescission Date, the Contract is rescinded effective on the date the Purchaser gives consent.
- 4.4 The Vendor discloses to the Purchaser the following:
 - 4.4.1 the Vendor is required to give notice to the Purchaser of the proposed rescission of the Contract under this special condition;
 - 4.4.2 the Purchaser has the right to consent to the proposed rescission of the Contract but is not obliged to consent;

- 4.4.3 the Vendor has the right to apply to the Supreme Court of Victoria for an order permitting the Vendor to rescind the Contract; and
- 4.4.4 the Supreme Court of Victoria may make an order permitting the rescission of the Contract if satisfied that making the order is just and equitable in all the circumstances.
- 4.5 If this Contract is rescinded pursuant to special condition 4.3:
 - 4.5.1 the Vendor must refund to the Purchaser all deposit money paid under this Contract; and
 - 4.5.2 unless otherwise provided for in this Contract, neither party has any Claim against the other under this Contract or arising from or out of the rescission of this Contract including the failure of the Vendor to procure Registration of the Plan.

5. Amendments to Plan

- 5.1 The Vendor may make such minor alterations to the Plan that:
 - 5.1.1 may be necessary to:
 - (a) accord with surveying practice; or
 - (b) alter the Plan so that the land in the Plan is developed in stages or so that the Lots being sold under this Contract are combined into one lot or retained as separate Lots, the Purchaser acknowledging that any such alteration does not materially affect the Lots to which this Contract relates; or
 - (c) comply with any Requirement or any requirement, recommendation or requisition of an Authority or of a consultant to the Vendor or a combination of them (including without limitation the size and location of any reserves and any changes arising from the Precinct Structure Plan); or
 - 5.1.2 in the opinion of the Vendor, are required for the development, use, occupation, proper management or adequate servicing of the Site or any part of it.
- 5.2 The Purchaser acknowledges and agrees that section 10(1) of the *Sale of Land Act* 1962 does not apply to this Contract in respect of:
 - 5.2.1 any alterations to the Plan made by the Vendor pursuant to Special Condition 5.1; and
 - 5.2.2 the final location of an easement shown on the certified Plan.
- 5.3 The Purchaser will accept the Property described on the Plan as ultimately registered notwithstanding that there may be minor variations or discrepancies between the Lot or Lots hereby sold under this Contract and any other Lot or Lots on the registered Plan.
- 5.4 The Purchaser must not to make any objection, requisition or exercise any of the Purchaser's Rights because of:
 - 5.4.1 any amendment or alteration to the Plan or the Plan Restrictions which does not materially affect the Purchaser;
 - 5.4.2 any amendment to the Plan Restrictions contemplated by Special Condition 5.1;
 - 5.4.3 any alleged misdescription of the Land or deficiency in its area or measurements;
 - 5.4.4 any renaming of roads on the Plan;

- 5.4.5 any renumbering , reconfiguration or consolidation of stages or Lots on the Plan; or
- 5.4.6 the creation of additional Lots or reserves on the Plan (which may be adjacent to the Land); or
- 5.4.7 an alteration to the Plan:
 - (a) which results in a change to the area of the Property of less than 5%; or
 - (b) contemplated by Special Condition 14.2;
 - (c) the reconfiguration and/or consolidation of Lots (other than the Purchaser's Lot) including Lots beside the Purchaser's Lot; or
 - (d) any change to the Plan Restrictions for the furtherance of the Development.

5.5 For the purposes of Special Condition 5.4, the Purchaser agrees that those changes contemplated are a minor variation or discrepancy and do not materially affect the Purchaser.

5.6 The Vendor and the Purchaser agree and acknowledge that, for the avoidance of doubt, the provisions of this Special Condition 5 are subject to section 9AC of the *Sale of Land Act* 1962 (Vic).

6. Caveat or priority notice

6.1 The Purchaser must not lodge or cause or allow any person claiming through it or acting on its behalf to lodge on the Purchaser's behalf any caveat or priority notice in relation to the Property prior to the Settlement Date.

6.2 The Purchaser acknowledges that this special condition is an essential term of this Contract.

6.3 The Purchaser must indemnify the Vendor for all loss or damage which the Vendor suffers as a direct or indirect result of a breach by the Purchaser of this special condition 6. This does not prejudice any other rights that the Vendor may have in respect of a breach by the Purchaser of this special condition 6.

6.4 The Purchaser appoints the Vendor's Solicitors as its attorney to withdraw any such caveat or priority notice or to sign a withdrawal of such caveat or priority notice. This appointment survives the rescission or termination of this Contract by either party.

7. Disclosure of Surface Level Works

7.1 The Vendor notifies the Purchaser pursuant to section 9AB of the *Sale of Land Act* 1962 that details of all works affecting the natural surface level of the Lot sold or any land abutting the Lot in the same subdivision as the Lot which:

7.1.1 have been carried out on the land after the certification of the Plan before the date of this Contract; or

7.1.2 are at the date of this Contract being carried out, or at the date of this Contract are proposed to be carried out on that land,

are set out in the plan of surface level works attached as Annexure B to this Contract.

7.2 The Purchaser acknowledges and agrees that the Vendor does not make any representation as to:

7.2.1 the classification of soil used for fill (including any reports on fill levels that may (or may not) be produced by the Vendor at any time); or

7.2.2 the physical and/or geotechnical characteristics of the Land,

and the Purchaser must rely on its own enquires and investigations in respect of such fill classification.

7.3 The Purchaser will not exercise any Purchaser Rights by reason of anything contemplated by this Special Condition 7.

8. Utilities

8.1 The Purchaser acknowledges that the Property is sold subject to all Utilities (if any) affecting the Land.

8.2 The Purchaser will not exercise any Purchaser Rights by reason of:

8.2.1 any Utility which is a joint service with any other land or building;

8.2.2 any Utility servicing the Property or any other property passing through, under or over the Land whether subject to a registered easement or otherwise;

8.2.3 any Authority or any other person or property which may have the benefit of any right or easement over the Land in respect of Utilities; or

8.2.4 any Utilities that are not available to the Property at the Settlement Date (as the timing and works installing such Utilities at the Development are outside the control of the Vendor).

8.3 The Purchaser acknowledges that:

8.3.1 the Utilities may be laid outside the boundary of the Property and it will be the responsibility of the Purchaser to connect those Utilities to the Property, including a payment of any connection fee when those connections are available;

8.3.2 it is responsible for complying with any of NBN Co Limited's requirements for the connection of the national broadband network to the Property.

8.4 The Purchaser must not exercise any Purchaser Rights as a result of anything contained in this Special Condition 8.

9. Hazardous Materials

9.1 On and from the Settlement Date, the Purchaser:

9.1.1 agrees to keep the Vendor indemnified against:

(a) the presence of Hazardous Materials on the Property and anything incidental to them and agrees to comply with all relevant legislation, all Property Controls and the requirements of any relevant Authority in respect of them; and

(b) all Claims resulting in any way from the existence of Hazardous Materials on or emanating from the Property, including actions based on injury to any person or property; and

9.2 waives all Purchaser Rights in relation to any of the matters referred to in this Special Condition and agrees that those matters do not affect the Vendor's title to the Property.

10. Staged Development

10.1 The Purchaser acknowledges that:

- 10.1.1 the Land forms part of the Development by the Vendor, which will occur in stages;
- 10.1.2 the Development may or may not include superlots including Lots capable of accommodating medium and/or high density housing and retirement homes;
- 10.1.3 the Development may or may not include any mix of the Development Infrastructure and such infrastructure to be delivered as part of the Development (including without limitation the Development Infrastructure) may or may not be delivered:
- (a) in accordance with works in kind under a section 173 agreement in respect of developer contributions;
 - (b) any other section 173 agreements the Vendor may be required to enter into;
 - (c) by the Vendor or any other relevant Authority; or
 - (d) as otherwise agreed by the Vendor in its absolute discretion subject to any Property Controls and the Planning Permit;
- 10.1.4 the Vendor who is, or is entitled to be, registered proprietor of the Subsequent Stage Land, reserves the right in its absolute discretion to develop or to refrain from developing the Subsequent Stage Land. The Vendor gives notice to the Purchaser that the Vendor or the Vendor's successors in title may, at any time in future:
- (a) subdivide the Subsequent Stage Land;
 - (b) carry out or permit the carrying out of building works on the Subsequent Stage Land;
 - (c) construct or cause to be constructed improvements including, without limitation, any Development Infrastructure and any other structures, buildings, roads, footpaths and access-ways over any part or parts of the Subsequent Stage Land;
 - (d) apply to relevant Authorities for any Approval required to develop the Subsequent Stage Land;
 - (e) make, or cause to be made, amendments to the Precinct Structure Plan and, as a consequence, the Development Infrastructure contained therein; or
 - (f) refrain from doing any or all of these things;
- 10.1.5 the Vendor cannot and does not give any assurances as at the Day of Sale as to:
- (a) the nature of the Development (including the type and extent of Development Infrastructure that may (or may not) be included in the Development);
 - (b) the timetable for carrying out the Development or the construction and delivery of any Development Infrastructure, including whether any such Development Infrastructure will be completed before the Settlement Date;
 - (c) the manner in which the Development will be carried out; and/or
 - (d) the nature, shape, design, final location or layout of any Development Infrastructure;

- 10.1.6 as some Development Infrastructure may be delivered by an Authority or other third party, the extent of the Development Infrastructure delivered is outside the control of the Vendor; and
- 10.1.7 some Development Infrastructure (including without limitation electrical pylons within the proposed transmission easement that is proposed to traverse the Development and telecommunications towers and associated equipment) may:
- (a) be visible from the Property; and
 - (b) affect views from the Property and may be audible from the Property.
- 10.2 The Purchaser must (whether before or after the Settlement Date) do all things and execute all documents as may be reasonably required by the Vendor to give effect to provisions of this Special Condition 10.
- 10.3 The Purchaser covenants with the Vendor that it will not, nor cause anybody on its behalf to either directly or indirectly hinder, delay, impede, object or prevent the Vendor exercising the rights set out in Special Conditions 10.1 and 11.1.
- 10.4 The Purchaser must not object to or oppose or procure any other person to object to or oppose any application which the Vendor or any person with the authority of the Vendor makes or any planning or other approval required to vary the Development or to carry out any part of the Development (including delivery of the Development Infrastructure).
- 10.5 The Purchaser indemnifies and will keep indemnified the Vendor against all claims, damages and costs for which the Vendor may suffer due to a breach of Special Conditions 10.3 and 10.4. The Purchaser agrees that the indemnity will not merge on completion.
- 10.6 The Purchaser must not exercise any Purchaser Rights in connection with this Special Condition, and this Special Condition will not merge on settlement but will continue in full force and effect.
- 11. Vendor may conduct activities**
- 11.1 The Purchaser acknowledges that both before and after the Settlement Date, but only for as long as the Vendor remains an owner of a Lot or Lots at the Development, the Vendor and persons authorised by the Vendor may:
- 11.1.1 conduct selling activities from the Development and/or the Site; and/or
 - 11.1.2 place and maintain on and outside the Development and/or the Site (excluding the Property) signs in connection with those selling activities; and/or
 - 11.1.3 place and maintain on and about the Development and/or the Site an office or facility or both for the Vendor and its representatives.
- 11.2 The Purchaser waives all rights to make or take any objection to the methods used by the Vendor and persons authorised by the Vendor in its efforts to sell by public auction or otherwise the remaining Lots in the Development including without limitation the use of signs and public auctions provided that the Vendor must at all times display reasonable consideration for the comfort and convenience of the Purchaser.
- 11.3 The Purchaser covenants with the Vendor that upon the Purchaser or any of the Purchaser's tenants being entitled to possession or occupation of the Property, they must do all things necessary to cooperate with the marketing and selling of the other Lots by the Vendor. The Purchaser agrees (and the Purchaser must cause the Purchaser's tenants to comply) that they must not cause any nuisance which may hinder the marketing and sale of the Lots.
- 11.4 If the Purchaser wishes to sell or lease their Property, the Purchaser agrees not to erect any signs including advertising boards on the Property without the Vendor's prior written consent. The Purchaser acknowledges and agrees that the Vendor may remove any such signs that

are erected on the Property at the Purchaser's cost, if such sign is not installed in compliance with this Special Condition 11.

- 11.5 This Special Condition 11 will not merge on settlement, but will continue in full force and effect.

12. Additional Construction

If construction of the Development has not been completed on the Settlement Date, the Purchaser must not at any time after the Settlement Date:

- 12.1.1 object to the carrying out of any works on the Development by any party;
- 12.1.2 object to the dust, noise or other discomforts that may arise during the course of completion of these works; or
- 12.1.3 institute or prosecute any action or proceeding for injunctions or damages arising out of or connected with the completion of these works,

provided they do not materially or unreasonably affect the Purchaser's use and enjoyment of the Property and, if material and unreasonable, the Purchaser has provided the Vendor with reasonable notice prior to exercising the rights contemplated by this Special Condition.

13. Completion of Development

- 13.1 The Purchaser acknowledges that at the Settlement Date some buildings within the Site or the Development may not have commenced construction or be incomplete and the Vendor or the builders may need access to the Site to carry out construction or rectification works to other buildings on the Site or the Development which may include:
- 13.1.1 excavation works relating to the foundations of the dwellings and laying of concrete slabs;
 - 13.1.2 roadworks, servicing and drainage works;
 - 13.1.3 landfill works;
 - 13.1.4 construction of retaining walls; and
 - 13.1.5 landscape works.
- 13.2 The Purchaser must not exercise any of the Purchaser Rights including making any requisition or objection or seeking to claim damages or delaying settlement of this Contract or bringing any proceedings against the Vendor, or any other person in relation to this Special Condition 13 or:
- 13.2.1 any nuisance, dust, odour, noise or other inconvenience associated with any ongoing works conducted in or around the Property after settlement has occurred;
 - 13.2.2 any alteration:
 - (a) to the Site or Development (including changes in uses, layouts, open space, facilities and services); or
 - (b) in the number of Lots of the Site or Development; or
 - (c) to the number, size, shape or location or permitted use of or Restrictions effecting any Lot (other than the Property) or in any future stage or plan of subdivision relating to any other part of the Development;

- 13.2.3 the presence of any electrical or water substation or telecommunications towers or associated equipment in proximity to the Site and/or the Property which may be visible from the Site and/or the Property and any associated noise and/or emissions (if any);
 - 13.2.4 the location of any electricity powerlines (and the Purchaser acknowledges that such powerlines may or may not be above or below ground);
 - 13.2.5 any delay in the completion of the Site or Development; or
 - 13.2.6 the abandonment of any part of the Site or Development.
- 13.3 The Purchaser must not object to or oppose or procure any other person to object to or oppose any application which the Vendor or any person with the authority of the Vendor makes or any planning or other Approval required to vary the Site or the Development or to carry out any part of the Site or the Development (including any part of the Site or the Development as varied).

14. Encumbrances

14.1 Subject to all Laws

The Purchaser buys the Property subject to any applicable Law including, without limitation, the requirements of any planning scheme.

14.2 Easements

The Purchaser:

- 14.2.1 admits that the Property is sold subject to the provisions of the Act; and
- 14.2.2 buys the Property subject to:
 - (a) all easements and encumbrances affecting the Site including those disclosed in Schedule 2 to this Contract and/or created or implied by the Act; and
 - (b) the rights of the Vendor under Special Condition 14.3.

The Purchaser must not make any requisition or objection or exercise the Purchaser's Rights in relation to any other matter referred to in this Special Condition 14.2.

14.3 Additional Restrictions

- 14.3.1 The Purchaser acknowledges that as at the Day of Sale and the Settlement Date not all of the Additional Restrictions may have been entered into, granted or finalised.
- 14.3.2 Without limiting Special Condition 14.3.1, the Purchaser acknowledges that the Vendor may be required to
 - (a) grant leases or other occupation rights to third parties including, without limitation, Authorities, and suppliers of Utilities; or
 - (b) create or grant easements, covenants, restrictions or other rights and obligations including the entering into of any agreement under section 173 of the *Planning and Environment Act 1987* (Vic),

for the certification or registration of the Plan or to comply with any planning permit granted or to be granted for the Development or if it is in the opinion of the Vendor,

necessary or desirable for the development, use, occupation, proper management or adequate servicing of the Site or of any part of it.

14.3.3 The Vendor may enter into, grant or finalise any Additional Restriction on or after the Day of Sale.

14.3.4 The Vendor does not give any assurance:

- (a) as to the nature of the Additional Restriction;
- (b) that it will proceed, and may refrain from proceeding with, any Additional Restriction; and
- (c) when any Additional Restriction will be entered into, granted or finalised.

14.3.5 Within 5 Business Days after receipt of a request from the Vendor, the Purchaser must execute any acknowledgement or covenant required by the Vendor under which the Purchaser:

- (a) agrees to accept and observe an Additional Restriction; and
- (b) acknowledges that the Additional Restriction runs with the relevant land.

14.3.6 The Purchaser acknowledges and agrees that:

- (a) the Vendor may require the Purchaser to create in the instrument of transfer of the Land, any Additional Restrictions in the form of easements or covenants which burden the Land;
- (b) if for any reason, the Plan Restrictions cannot be registered, the Purchaser must create a restrictive covenant in the instrument of transfer of the Land on the same terms as the Plan Restrictions.

14.3.7 Subject to the Purchaser's rights under the *Sale of Land Act* 1962, the Purchaser will not exercise any Purchaser Rights by reason of the existence, granting, entering into or imposition of Additional Restrictions or the Plan Restrictions.

15. Design Guidelines, Restrictions

The Purchaser acknowledges and agrees that:

15.1 Property Controls

- 15.1.1 it has reviewed the Property Controls; and
- 15.1.2 it purchases the Property subject to the Property Controls and must comply with the Property Controls to the extent that they apply to the Property;

15.2 Design Guidelines and ResCode

15.3 The Purchaser acknowledges and agrees that it:

- 15.3.1 has read and understood the Design Guidelines; and
- 15.3.2 must comply with the Design Guidelines (including without limitation any building envelopes specified in the Design Guidelines).

15.4 The Purchaser acknowledges that:

- 15.4.1 the Vendor may, at any time and at its absolute discretion, be entitled to vary or waive, any of its requirements (including requesting changes to the Purchaser's

plans and specifications) as set out in the Design Guidelines. The Purchaser must not exercise any of the Purchaser's Rights by reason of such waiver or variation;

- 15.4.2 neither the Vendor nor the Design Review Panel will be liable to the Purchaser in respect of any failure by the Vendor or the Design Review Panel to enforce any of the terms of the Design Guidelines;
- 15.4.3 where there is any ambiguity or any dispute arises as to the interpretation or meaning of the terms of the Design Guidelines, the matter shall be determined by the Design Review Panel whose decision shall be final and binding; and
- 15.4.4 Part 4 of the *Building Regulations* 2006 (Vic) (**ResCode**) and any small lot housing code adopted by Whittlesea City Council from time to time applies to the Works on the Property and that the Works will be considered by the relevant Authority or private building surveyor (as the case may be) under the provisions of ResCode and any small lot housing code.

15.5 Restrictions

The Purchaser acknowledges that:

- 15.5.1 if the Purchaser fails to comply with any applicable Restrictions and fails to remedy the breach in accordance with Special Condition 15.5.3, the Purchaser grants the Vendor a licence to enter the Property for the purposes of rectifying the Purchaser's breach of the relevant Restriction;
- 15.5.2 if required by the Vendor at the Vendor's sole discretion, the Purchaser must promptly pay or reimburse the Vendor on request, the costs incurred by the Vendor in remedying the Purchaser's breach of any Restriction;
- 15.5.3 the Vendor must not exercise its rights under Special Condition 15.5.1, unless and until the Vendor provides the Purchaser with at least 14 days prior written notice, advising the Purchaser of the particular Restriction that has been breached and providing the Purchaser with 14 days in which to remedy the breach of the Restrictions;
- 15.5.4 so long as the Vendor is the owner or occupier of any part or parts of the Development:
 - (a) the Purchaser unconditionally and irrevocably assigns the benefit of the Purchaser's right as a benefited lot owner on the Plan to enforce any of the Restrictions against other lot owners on the Plan; and
 - (b) the Purchaser must, if requested by the Vendor, permit the Vendor to exercise the Purchaser's rights as a benefited lot owner on the Plan in the name of the Purchaser. The Purchaser must do all things reasonably required by the Vendor, at the Vendor's reasonable cost, to enable the Vendor to exercise the Purchaser's rights.

15.6 Use of Land

- 15.6.1 The Vendor sells and the Purchaser buys the Land for the purpose of enabling the Purchaser to construct a Dwelling in accordance with the requirements in this Contract.
- 15.6.2 The Purchaser may only use the Land for the purposes of carrying out the Works and must not and must not allow anyone to use the Property for any other uses, other than as a Dwelling.

15.7 Restrictive Covenant

- 15.7.1 The Purchaser acknowledges and agrees that:

- (a) depending on the Lot purchased on the Plan, the Vendor may direct the Purchaser to incorporate the Restrictive Covenant as part of its transfer of the Property sold under the Contract and the Purchaser must observe and comply with the terms of the Restrictive Covenant set out in Special Condition 15.7.4;
- (b) the Restrictive Covenant may be incorporated into the form of an MCP by the Vendor and the Vendor may modify the content or format of Restrictive Covenant to refer to the MCP; and
- (c) if required by the Vendor, it will ensure that the transfer of land instrument submitted to the Vendor contains a reference to the MCP.

15.7.2 It is the Vendor's present intention that a restrictive covenant generally in the form of the Restrictive Covenant will be registered on the titles of all (or most) of Lots in the Development. However, the Vendor does not warrant that a covenant generally in the form of the Restrictive Covenant or any other covenant will be included in any contract of sale for any other Lots in the Development or other land owned by the Vendor.

15.7.3 The Purchaser agrees to promptly execute all documents and do all things the Vendor reasonably requires of it from time to time to complete registration of the Restrictive Covenant, including procuring the written consent of any mortgagee, chargee or caveator to the creation of the Covenant.

15.7.4 The Restrictive Covenant referred to in Special Condition 15.7.1 is as follows:

*The transferee (**Purchaser**) with the intent that the benefit of this covenant will be attached to and run at law and in equity with the whole and every lot on Plan of Subdivision PS821106F (**Plan**) (other than the lot hereby transferred) and that the burden of this covenant will be annexed to and run at law and in equity with the lot hereby transferred does hereby for itself and its transferees, executors, administrators and assigns and as a separate covenant covenants with the Transferor and the registered proprietor or proprietors for the time being of the whole and every lot on the Plan or any part or parts thereof (other than the lot hereby transferred that) that the Purchaser and its transferees, executors, administrators and assigns will not any time on the said lot hereby transferred or any part or parts thereof:*

- (1) *build, erect or allow to be built, erected or remain on the Lot or any part of it any dwelling house or outbuilding without applicable plans and specifications first submitted to and approved by the Transferor and prepared in accordance with the Design Guidelines and then only in compliance with any condition imposed by the Transferor in respect of that approval;*
- (2) *without the prior consent of the Transferor:*
 - (a) *permit the construction of any outbuilding or other similar structure unless they shall be constructed of brick, stone, rendered masonry, rendered cement sheeting, timber or pre-coated iron of a subdued colour which shall have a maximum height of 3 meters and a maximum area of 10 square meters;*
 - (b) *erect or permit to be erected any side or rear boundary fence of the lot hereby transferred unless such fence is 1.8 meters in height and constructed of Good Neighbour panel fencing material in Superdek® profile and a "slate grey" colour; and*
 - (c) *erect or permit to be erected on the lot hereby transferred any side boundary fence being less than 5 meters from the front boundary of the lot except for any side boundary fence erected which abuts a side street or Public Open Space reserve;*
- (3) *permit the deterioration of the lot hereby transferred and adjacent nature strips including any accumulation of rubbish, weeds or debris to a standard that is*

unacceptable to the Transferor (provided that the Transferor will not act capriciously in determining the standard of acceptance);

- (4) *park or store or cause to be parked or stored on or within the lot hereby transferred any vehicle having a carrying capacity of one tonne or more (other than a light commercial vehicle) or any boat, caravan or trailer in such a way that can be visible from any street adjacent to or abutting the lot hereby transferred;*
- (5) *without the prior consent of the Transferor, erect or permit to be erected on the lot hereby transferred any advertisement, hoarding, notice, sign or similar structure and will not permit the lot hereby transferred or any building or buildings constructed thereon to be used for the display of any advertisement, hoarding, notice, sign or similar structure provided that after completion of a dwelling house on the lot hereby transferred this restriction shall not prevent the erection of a signboard advertising the lot for sale;*
- (6) *without the prior consent of the Transferor, install or permit to be installed on any dwelling house built on the land hereby transferred any external roll down security shutters;*

AND this covenant will appear in the Certificate of Title and Folio of the Register to be issued by the Land Titles Office for the said land and run with the land for a period of 5 years from the date of registration of the Plan.

In this covenant, the following terms have the meanings set out below:

Design Guidelines means the design, development and use controls for the Development titled "Lyndarum North Design Guidelines" and as amended from time to time.

Development means the residential housing development to be carried out on the land originally comprised in the Parent Title by the Transferor or the Transferor's successors as developer of that land known as Lyndarum North, Wollert.

Parent Title means the land which was comprised in certificate of title volume 12210 folio 506, certificate of title 12072 folio 776 and certificate of title volume 10531 folio 176.

Transferor means Greenwells Wollert Pty Ltd ACN 128 803 092.

15.8 **Not Used**

15.9 **No Purchaser Rights**

The Purchaser acknowledges and agrees that it must not exercise any Purchaser Rights in connection with this Special Condition 15.

16. **Works**

16.1 Without limiting Special Condition 15, the Purchaser must not commence or carry out or permit the commencement of carrying out of any Works on the Property unless the Works:

- 16.1.1 have first been approved in writing by the Design Review Panel and (unless the Design Review Panel agrees otherwise) the Works are in accordance with the Design Guidelines and the approved plans and specifications;
- 16.1.2 have been granted all other necessary Approvals;
- 16.1.3 are carried out strictly in accordance with the terms of all Approvals granted under Special Conditions 16.1.1 and 16.1.2; and
- 16.1.4 comply with all Property Controls.

- 16.2 The Purchaser acknowledges and agrees that if the Land backs on to wetlands, the Purchaser must comply with the particular construction requirements relating to land adjoining wetlands in the Design Guidelines and Restrictions, including constructing a visually permeable fence.
- 16.3 The Purchaser must at the Vendor's request remove any Works carried out on the Land in breach of this Special Condition and reinstate the Land to its condition prior to the carrying out of the Works. If the Purchaser fails to do so within 60 days of a request being made, the Vendor may do so and may enter the Land for that purpose (with contractors and equipment if required) and may dispose of the Works as the Vendor sees fit without being liable to the Purchaser in that regard. The Purchaser must pay to the Vendor on demand all costs and expenses incurred by the Vendor in exercising its rights under this Special Condition 16.3.
- 16.4 The Purchaser must deliver the plans or specifications for the Dwelling to be constructed on the Land and the Landscaping Works to the Vendor as soon as practicable after the Settlement Date.
- 16.5 Within 30 days of receiving the plans and specifications referred to in Special Condition 16.4, the Vendor must give the Purchaser written notice that:
- 16.5.1 the plans and specifications are approved;
 - 16.5.2 amendments are required to be made to the plans and specifications and are to be resubmitted for the Vendor's approval; or
 - 16.5.3 the plans and specifications are rejected.
- The Vendor must act reasonably in considering the plans and specifications and requiring amendments or rejecting them.
- 16.6 Notwithstanding Design Review Panel approval, the Purchaser may still need any relevant Approvals, including but not limited to endorsement of the plans and specifications by Whittlesea City Council. The Purchaser acknowledges that no approval granted by the Vendor or the Design Review Panel will constitute any representation that the plans and specifications will be approved by Whittlesea City Council.
- 16.7 The Purchaser must promptly at the Vendor's option either reinstate or reimburse the Vendor for the cost of reinstating any damage done to any part of the Development by any person carrying out Works on the Land.
- 16.8 The Purchaser must:
- 16.8.1 commence the construction of the Dwelling on the Land in accordance with the approvals given under Special Condition 16.1 by no later than 12 months after the Settlement Date (or such longer period agreed to in writing by the Vendor);
 - 16.8.2 complete the construction to the satisfaction of the Vendor by no later than 18 months from the Settlement Date;
 - 16.8.3 complete the Landscaping Works (including but not limited to driveway, fencing and letterbox) within 6 months of issuance of the Occupancy Permit; and
 - 16.8.4 not leave the Works incomplete for more than 3 months without work being carried out.
- 16.9 For the purposes of Special Condition 16.8:
- 16.9.1 commencement of the construction of the Dwelling will be deemed to be when the footings of the Dwelling have been laid; and
 - 16.9.2 completion of construction of the Dwelling will be deemed to be the issue of the Occupancy Permit.

- 16.10 The Purchaser must notify the Vendor in writing upon the commencement and completion of the Dwelling and provide the Vendor with a copy of the Occupancy Permit.
- 16.11 The Purchaser agrees to keep the Vendor indemnified against all Claims incurred by the Vendor and arising in respect of the matters set out in this Special Condition (including a failure by the Purchaser to comply with the provisions of this Special Condition).
- 16.12 The Purchaser acknowledges and agrees that the Vendor makes no representation as to the fitness and suitability of the Property for construction of any particular type, model or style of Dwelling, and the Purchaser must satisfy itself in all regards as to the type, model or style of Dwelling that may be constructed on the Property.
- 16.13 The Purchaser acknowledges and agrees that:
 - 16.13.1 the document entitled 'Functional Layout Plan' attached to the Vendor's Statement and/or at Annexure B is not a definitive statement of all construction requirements;
 - 16.13.2 the Purchaser must submit detailed engineering plans in respect of the Purchaser's Works to the Whittlesea City Council for approval; and
 - 16.13.3 the Purchaser will not exercise any Purchaser Rights in respect of that 'Functional Layout Plan'.

17. Vendor's right to terminate

17.1 Requirements

If any requirement imposed by an Authority for the Plan is in the opinion of the Vendor (acting reasonably) too onerous on the Vendor to perform or accept the Vendor may elect to terminate this Contract by notice in writing to the Purchaser. If the Vendor gives notice under this Special Condition 17.1, this Contract will be at an end and all moneys paid by the Purchaser will be refunded.

17.2 Benefit of this Special Condition

Special Condition 17.1 is for the benefit of the Vendor. Only the Vendor may give notice under it or waive the benefit of it.

17.3 No compensation

If this Contract is terminated or rescinded by the Vendor under this Special Condition 17 neither party will have any right to compensation or damages against the other party as a result of the termination or rescission.

18. Fencing

- 18.1 The Purchaser must construct a fence in accordance with the Design Guidelines prior to occupation of the Dwelling constructed on the Land.

- 18.2 The Purchaser acknowledges that it is responsible for construction of any retaining walls required on any boundary of the Lot.

- 18.3 The Purchaser indemnifies the Vendor from any Claims resulting from the Fence Works.

- 18.4 If, before the Settlement Date, the Vendor receives one or more fencing notices from the owners of land adjoining the Property:

- (a) the Vendor and the Purchaser will each be liable for half of the cost set out in each of the fencing notices; and

- (b) the Purchaser will pay to the Vendor on the Settlement Date half of the cost set out in each of the fencing notices by way of reimbursement for the contribution which the Vendor will be required to make under the fencing notices.

18.5 Except as otherwise provided in this Contract, the Purchaser agrees with the Vendor that, the Purchaser will not make any claim against the Vendor for any contribution to the cost of erecting any dividing fences or walls or any other types of fencing on any other part of the Property pursuant to the provisions of the Fences Act 1968, including any sums for liabilities which the Vendor may (whether or not it is aware of any) have incurred with any adjoining owners.

18.6 The Purchaser acknowledges that it buys subject to this Special Condition 18 and will not make any requisition, objection or exercise the Purchaser's Rights in respect of any matter referred to in this Special Condition.

19. Vendor Financing

The Vendor may at any time prior to settlement, mortgage, assign, charge or otherwise deal in any of its rights, privileges, benefits or obligations under this Contract or all or part of the Property without reference to the Purchaser.

20. Outgoings

20.1 All Outgoings for the Property will be adjusted as from the Day of Sale between the Vendor and the Purchaser on the basis that they have or will be paid by the Vendor. Despite this Special Condition the Vendor is only obliged to pay all Outgoings when they are due to be paid and the Purchaser will not require them to be paid on an earlier date.

20.2 If the Property is not separately assessed in respect of the Outgoings, then the portion of any such Outgoings to be adjusted between the Vendor and the Purchaser will be either:

20.2.1 on the basis that the amount to be apportioned between them is the proportion of the Outgoings equal to the proportion which:

- (a) the lot liability of the Property bears to the total liability of all of the lots on the Plan; or
- (b) the surface area of the Property bears to the surface area of the land that is subject to the assessment; or

20.2.2 on such other basis,

as the Vendor may reasonably direct the Purchaser on or before the Settlement Date.

21. Land Tax

21.1 Despite any other clause in the Contract, the parties agree that:

21.1.1 for the purpose of Special Condition 20.2, 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 Property (**Land Tax Assessment**); and

21.1.2 land tax will be adjusted as from the Day of Sale:

- (a) based on the proportional land tax stated on the Land Tax Assessment; and
- (b) in accordance with such of the following methods that the Vendor, in its absolute discretion, elects to apply from time to time:
 - (i) between the Vendor and the Purchaser on the basis that the amount to be apportioned between them is the proportion of the proportional

land tax equal to the proportion which the surface area of the Property bears to the surface area of the land that is subject to the proportional land tax stated on the Land Tax Assessment;

(ii) if the Property is ever separately assessed for land tax, on the basis of that separate assessment; or

(c) on such other basis as determined by the Vendor (acting reasonably).

21.2 The Purchaser acknowledges and agrees that:

21.2.1 if the Purchaser is in breach of this Contract by not completing this Contract on the Settlement Date; and

21.2.2 if as a result of the Purchaser's breach, completion of this Contract takes place on a date that is after 31 December in the year that completion of this Contract is due to take place (**Settlement Year**); then

21.2.3 the Purchaser's breach will result in an increase in the amount of the Vendor's land tax assessment for the year following the Settlement Year as a result of the Property continuing to be included in the Vendor's total landholdings in Victoria; and

21.2.4 the additional tax which the Vendor will incur in accordance with this Special Condition (**Additional Land Tax**) is a reasonably foreseeable loss incurred by the Vendor as a result of the Purchaser's breach in respect of which the Vendor is entitled to compensation from the Purchaser.

21.3 If Special Condition 21.2 applies, then, on the Settlement Date, the Purchaser must in addition to the Balance pay to the Vendor on account of the Additional Land Tax an amount equal to 2% of the Price of the property (**Amount Paid**).

21.4 The parties agree that if the Additional Land Tax as assessed by the Commissioner of State Revenue is:

21.4.1 less than the Amount Paid, the Vendor must refund the difference to the Purchaser; or

21.4.2 more than the Amount Paid, the Purchaser must pay the difference to the Vendor within 7 days of being served with a written demand for such payment.

21.5 Despite Special Condition 20.2, payment of the Price will not be delayed and no money will be withheld from the Vendor out of the Price on account of any land tax which may be or may subsequently become charged on the Land.

21.6 The Vendor acknowledges that:

21.6.1 it is liable and responsible for payment of land tax chargeable on the Land until the date upon which the Purchaser becomes entitled to possession; and

21.6.2 subject to Special Condition 21.1, it must pay any such land tax assessed to the Vendor within the time specified in the assessment notice.

22. Execution of Necessary Documents

Each party to this Contract will execute and deliver all such documents, instruments and writings and will do or procure to be done all such acts and things necessary or desirable or reasonable to give effect to this Contract.

23. Non Australian resident

- 23.1 If the 'No' box is ticked after the words 'FIRB Approval Required?' in Schedule 1 of the particulars of sale or this section of the particulars of sale is otherwise not completed, then the Purchaser:
- 23.1.1 warrants to the Vendor, as an essential term of this Contract, that the acquisition of the Property by the Purchaser does not fall within the scope of the Takeovers Act and is not examinable by FIRB; and
 - 23.1.2 agrees that if the warranty in Special Condition 23.1.1 is breached, the Purchaser must indemnify the Vendor against any penalties, fines, legal costs, claims, losses or damages which the Vendor suffers as a direct or indirect result of a breach of that warranty.
- 23.2 If the 'Yes' box is ticked after the words 'FIRB Approval Required?' in Schedule 1 of the particulars of sale:
- 23.2.1 the Purchaser must, as an essential term of this Contract, promptly after the Day of Sale take all reasonable endeavours to obtain FIRB approval pursuant to the Takeovers Act of this purchase and keep the Vendor informed of the progress of the FIRB approval application;
 - 23.2.2 the Purchaser must provide a copy of the Purchaser's passport to the Vendor on the Day of Sale;
 - 23.2.3 this Contract is subject to the condition precedent that the Purchaser obtains FIRB approval pursuant to the Takeovers Act for the purchase of the Property within 30 days of the Day of Sale (**FIRB Sunset Date**) (or such other time as is mutually agreed between the parties in writing) failing which:
 - (a) the Purchaser may by notice in writing within 5 days of the FIRB Sunset Date (or such other time as is mutually agreed between the parties in writing) withdraw from the Contract; or
 - (b) the Vendor may, at its discretion, elect to rescind the Contract by giving notice in writing to the Purchaser at any time prior to receiving written confirmation and evidence from the Purchaser that the Purchaser has obtained FIRB approval,

and the Deposit will be refunded to the Purchaser; and
 - 23.2.4 the Purchaser must provide evidence of the FIRB approval to the Vendor's Solicitors immediately upon receipt.
- For the avoidance of doubt, if the Purchaser does not withdraw from the Contract in accordance with Special Condition 23.2.3(a), Special Condition 23.2.3(a) will be of no further force or effect and thereafter the Purchaser will be taken to have warranted to the Vendor that it has obtained or no longer requires FIRB approval for the purchase of the Property.
- 23.3 General Conditions 16.2 and 27 do not apply to Special Condition 23.2.3.
- 23.4 The Purchaser and any substitute or additional transferee nominated pursuant to General Condition 18 acknowledges that it is responsible for any fees payable in respect of an application to obtain FIRB approval.
- 24. On-sale by the Purchaser**
- 24.1 The Purchaser must not enter into a contract for the sale or transfer of the Property before the Settlement Date.
 - 24.2 The Purchaser must not enter into a contract for the sale or transfer of the Property after the Settlement Date unless the Purchaser:

- 24.2.1 has completed the construction of the Dwelling on the Property pursuant to Special Condition 16; or
 - 24.2.2 has provided full details of the Purchaser's position to the Vendor and the Vendor, in its absolute discretion, agrees in writing that a sale or transfer of the Property is appropriate in the circumstances and that to prevent that sale or transfer would cause unjustifiable hardship to the Purchaser; and
 - 24.2.3 obtains the Vendor's prior written consent to the intended or actual sale or transfer of the Property.
- 24.3 If the Vendor provides written consent in accordance with Special Condition 24.2, the Purchaser must:
- 24.3.1 not erect a sign on the Property advertising the Property for sale; and
 - 24.3.2 deliver to the Vendor or the Vendor's solicitor within thirty (30) days of entering into a contract of sale or transfer of the Property whichever is earlier:
 - (a) details of the new owner of the Property (**New Owner**);
 - (b) a cheque payable by the New Owner to the Vendor's solicitor for \$420 (plus GST) being the Vendor's costs for preparing the deed contemplated by Special Condition 24.3.2(c);
 - (c) a deed executed by the New Owner in favour of the Vendor and in the form reasonably required by the Vendor under which the New Owner agrees as follows:
 - (i) to comply with all of the obligations of the Purchaser under Special Conditions 14.3.5, 15, 16, 18, 21.2, 23, 32, 34, 35, 37 and 43;
 - (ii) where the Vendor owns any land adjoining the Property, that the Vendor's contribution towards the cost of constructing any dividing fence is \$1.00; and
 - (iii) to require, at the New Owner's cost, any purchaser or transferee from the New Owner to execute a further acknowledgment in favour of the Vendor in the same terms as are set out in this Special Condition 24.
 - 24.3.3 make the contract or agreement with the New Owner conditional upon the Purchaser obtaining the Vendor's consent to the sale or transfer and the New Owner executing the deed contemplated by Special Condition 24.3.2(c); and
 - 24.3.4 include in its contract or agreement with the New Owner an entitlement to procure the New Owner to execute the deed contemplated by Special Condition 24.3.2(c).
- 24.4 The Purchaser agrees to keep the Vendor indemnified against all Claims incurred by the Vendor and arising in respect of the matters set out in this Special Condition (including a failure by the Purchaser to comply with the provisions of this Special Condition).
- 24.5 The Purchaser acknowledges and agrees that not all of the Lots will be sold before the Settlement Date.

25. Vendor's Statement

The Purchaser acknowledges that prior to signing this Contract or any agreement or document in respect of the sale hereby made which is legally binding upon or intended legally to bind the Purchaser, the Purchaser has been given:

- 25.1 a statement in writing containing the particulars required by Section 32(2) of the *Sale of Land Act* 1962 (as amended); and
- 25.2 a due diligence checklist in accordance with sections 33A and 33B of the *Sale of Land Act* 1962 (Vic).

26. Purchaser Acknowledgements

The Purchaser acknowledges that:

- 26.1 it accepts the Property with all Property Controls and Approvals;
- 26.2 it has made all the enquiries with Authorities that a prudent and careful person would make before entering into this Contract;
- 26.3 it enters into this Contract on the basis of its inspection and the enquiries it has carried out, and relying on its own judgment;
- 26.4 it acknowledges that the Vendor has been or may be in the course of carrying out infrastructure and other works on the Land and that the Land may be filled, raised, levelled, compacted or cut;
- 26.5 it has not relied, and does not rely, on any representation or warranty of any nature made by or on behalf of the Vendor, the Vendor's solicitor or the Vendor's Agent other than those expressly set out in this contract;
- 26.6 the Vendor may pay a fee to another party (including but not limited to the vendors real estate agent or any third party referrer) for introducing the Purchaser to the Vendor;
- 26.7 it must disclose to any financier, valuer, Authority or other party the existence of any payments, rebates, incentives or other inducements offered to the Purchaser in respect of the Contract by the Vendor or any other party; and
- 26.8 any measurements shown on the Plans and Specifications are indicative only.

27. Trust

If the Purchaser is buying the Property as trustee of a trust (**Trust**) then:

- 27.1 the Purchaser must not do anything to prejudice any right of indemnity the Purchaser may have under the Trust;
- 27.2 the Purchaser warrants that the Purchaser has power under the Trust to enter into this Contract;
- 27.3 if the trustee is an individual, that signatory is personally liable under this Contract for the due performance of the Purchaser's obligations as if the signatory were the Purchaser in case of default by the Purchaser;
- 27.4 the Purchaser warrants that the Purchaser has a right of indemnity under the Trust; and
- 27.5 the Purchaser must not allow the variation of the Trust or the advance or distribution of capital of the Trust or resettlement of any property belonging to the Trust.

28. Whole Agreement

The covenants, provisions, terms and agreements contained in this Contract expressly or by statutory implication cover and comprise the whole of the agreement between the parties and the parties expressly agree and declare that no further or other covenants, agreements, provisions or terms will be deemed to be implied in this Contract or to arise between the parties by way of collateral or other agreement by reason of any promise, representation, warranty or undertaking given or made by either party to the other on or before the execution of this Contract and the existence of any such implication or collateral or other agreement is hereby expressly negated.

29. Indemnity

Subject to any provision to the contrary in this Contract, the Purchaser will indemnify and keep indemnified the Vendor against all Claims, of any nature whatsoever which the Vendor may suffer, sustain or incur in connection with or relating to any liability, claim, action, demand, suit or proceedings howsoever arising made or incurred on or subsequent to the Settlement Date or from events or occurrences happening or arising on or subsequent to the Settlement Date out of or in respect of the Land or any act, matter or thing occurring thereon.

30. Vendor to assign

If prior to the Settlement Date, a party other than the Vendor is or becomes registered proprietor of the Land or the Vendor's rights under this Contract are assigned to another party then, upon receipt of a notice of assignment from the Vendor, the Purchaser must perform any obligations imposed upon the Purchaser under this Contract in favour of the party who is or becomes registered proprietor of the Land or to whom the Vendor's rights under this Contract are assigned. The Purchaser must not exercise any Purchaser Rights or seek compensation of any kind in respect of any of the matters set out in this Special Condition.

31. Non-Merger

Any provision of this Contract, which is capable of taking effect after completion of this Contract, will not merge on completion but rather will continue in full force and effect.

32. Novation

32.1 In consideration of the Purchaser agreeing to entering into this Contract, if at any time the Vendor (in its sole and unfettered discretion) directs the Purchaser in writing to do so, the Purchaser shall execute:

32.1.1 a deed in the form prepared by the Vendor novating this Contract to a third party; and

32.1.2 a Vendor's Statement in the form prepared by the third party.

32.2 If this Contract is novated to a third party, the Purchaser will not exercise any Purchaser Rights in respect of Special Condition 32.1 or any matter arising from Special Condition 32.1.

32.3 If the Purchaser breaches Special Condition 32.2 the Purchaser must immediately pay the Deposit in cleared funds to the Vendor's solicitor or the Vendor's Agent.

33. Insolvency Event Deemed Default

33.1 If an Insolvency Event occurs, the Purchaser is deemed to have fundamentally breached a term of this Contract at the time that the Insolvency Event occurs and the Vendor may terminate this Contract at any time after the Insolvency Event by notice in writing to the Purchaser.

33.2 An Insolvency Event in respect of the Vendor does not constitute a breach of this Contract by the Vendor.

34. Maintenance of Land

- 34.1 The Purchaser must maintain, slash or mow the Land to a standard as determined by the Vendor acting reasonably having reference to adjoining properties (**Maintenance Standard**).
- 34.2 If the Maintenance Standard has not been met, the Vendor or its agents may enter the Land at any time, without creating liability for trespass or otherwise, to maintain, slash or mow the Land without receiving authority from the Purchaser.
- 34.3 Where the Vendor enters the land for the purposes stated in Special Condition 34.2, the Purchaser must pay the Vendor a sum of \$500 upon the Vendor presenting the Purchaser with an invoice.
- 34.4 The Purchaser must not:
- 34.4.1 place or install any temporary structures on the Land (including without limitation any caravans or temporary homes); or
- 34.4.2 store any equipment on the Land other than building materials for the construction of a Dwelling on the Land in accordance with the Design Guidelines (**Temporary Structures or Equipment**), whether before, during or after construction of the Dwelling on the Land unless permitted by the Design Guidelines or by written consent of the Vendor (which the Vendor may give or withhold in its absolute discretion).
- 34.5 If the Purchaser breaches Special Condition 34.4, the Purchaser grants the Vendor a licence to enter onto the Land at any time and remove and store, at the Purchaser's cost, any Temporary Structures or Equipment.
- 34.6 The Vendor must not exercise its rights under Special Condition 34.5 unless and until the Vendor provides the Purchaser with at least 14 days prior written notice, advising the Purchaser of the breach of Special Condition 34.4 and providing the Purchaser with 14 days notice to remedy the breach.
- 34.7 If the Vendor exercises its rights under Special Condition 34.5 it must notify the Vendor where it has stored the Temporary Structures or Equipment. If the Purchaser does not then collect the Temporary Structures or Equipment from that location with 30 days of the Vendor's notice, the Temporary Structures or Equipment will be deemed to be abandoned by the Purchaser and will become the property of the Vendor and may be destroyed or sold by the Vendor at the Purchaser's cost and at the Purchaser's risk.
- 34.8 The Vendor and the Purchaser agree that Special Conditions 34.5 to 34.7 constitute an agreement about the disposal of uncollected goods for the purposes of s 56(6) of the *Australian Consumer Law and Fair Trading Act 2012* (Vic).
- 34.9 This Special Condition will enure for the benefit of the Vendor after the Settlement Date.

35. Display Homes

- 35.1 The Purchaser covenants with the Vendor that it will not use the Dwelling for the purposes of a display home. This restriction may be included in the Restrictions.
- 35.2 The Purchaser acknowledges that both before and after the Settlement Date the Vendor and persons authorised by the Vendor may operate display homes on one or more of the Lots.
- 35.3 The Purchaser must not:
- 35.3.1 object to any noise, interference or increased traffic (pedestrian and vehicle) and reduction in available street parking that may occur during the:
- (a) operation of the display homes; or
- (b) construction of the display homes;

35.3.2 object to or oppose or procure any other person to object to or oppose any application which the Vendor or any person with the authority of the Vendor makes or any planning or other Approval required for the use, construction and operation of the display homes; and

35.3.3 exercise any Purchaser Rights by reason of any of the matters contemplated by this Special Condition 35.

35.4 The Purchaser indemnifies and will keep indemnified the Vendor against all Claims for which the Vendor may suffer due to a breach of Special Condition 35.3.2. The Purchaser agrees that this indemnity will not merge on settlement.

36. National Broadband Network and Telecommunications Connectivity

36.1 The Purchaser acknowledges that the Vendor does not make any representations or give any assurances as to the availability of the national broadband network at the Development, whether or not the Property is capable of receiving the national broadband network and when, and if, the national broadband network will be available for connection to the Property.

36.2 When, and if the Property is capable of receiving the national broadband network, the Purchaser:

36.2.1 must adopt and ensure compliance with the NBN Building Ready Specifications and appropriate building wiring specifications when constructing a Dwelling; and

36.2.2 acknowledges that:

(a) the NBN Building Ready Specifications must be complied with to enable the Property to be connected to the NBN Network Infrastructure; and

(b) failure to comply with the NBN Building Ready Specifications will either:

(i) prevent connection to the NBN Network Infrastructure; or

(ii) require the Purchaser to incur additional costs in order to connect to the NBN Network Infrastructure.

36.3 The Purchaser acknowledges that there is no intention to:

36.3.1 provide copper telecommunications access to any part of the land in the Plan; or

36.3.2 install copper telecommunications conduits or apparatus on or in any part of the land in the Plan.

36.4 Until, and if, the Property is connected to the national broadband network, it will be the responsibility of the Purchaser, at its cost, to arrange any wireless connection to the internet.

36.5 The Purchaser will not make any objection, requisition or claim, nor exercise any Purchaser Rights because of anything contemplated by this Special Condition 36.

37. Delayed Settlement

Without limiting any other rights of the Vendor, if the Purchaser fails to settle on the Settlement Date as set out in the particulars of sale to this Contract (**Due Date**) or requests an extension to the Due Date, the Purchaser must pay to the Vendor's solicitors an amount of \$500 plus GST representing the Vendor's additional legal costs and disbursements.

38. Commercial Interests

38.1 The Vendor discloses, and the Purchaser acknowledges and agrees that all of the provisions in this Contract, including the provisions listed below in Special Condition 38.2, are reasonably necessary to protect the Vendor's legitimate interests by:

- 38.1.1 providing the Vendor with sufficient flexibility in the design, planning, construction and management of the Development due to the Development being at a stage where the Vendor has no certainty as to design and construction constraints; and
- 38.1.2 ensuring that the Vendor has sufficient flexibility under this Contract if the economic viability of the Development for the Vendor is affected by anything including changes in market conditions, construction costs or other matters.

38.2 Without limiting the operation of Special Condition 38.1, the parties agree that Special Conditions 10, 11, 12, 13, 14.3, 16, 17, 18, 21.2, 23, 33, 34 and 37 of this Contract are reasonably necessary to protect the Vendor's legitimate interests for the reasons stated in Special Condition 38.1.

39. Marketing materials

The Purchaser acknowledges and agrees that any drawings, mock ups, displays or other material depicting the Development or prospective Dwellings at the Development contained in any display suite or marketing material provided to or inspected by the Purchaser prior to the Day of Sale is intended as an indicative representation only, and the Purchaser acknowledges that the Purchaser has not relied on its inspection of that display unit or other marketing material in entering into this Contract.

40. Confidentiality

40.1 Each party must keep the terms of this Contract and the transaction contemplated by this Contract confidential and must not disclose this confidential information without the prior written consent of the other party other than:

- 40.1.1 to its professional advisers;
- 40.1.2 as required by Law; or
- 40.1.3 as required by any applicable stock exchange listing rules.

41. Personal Information

41.1 In this Special Condition:

41.1.1 **Privacy Act** means the *Privacy Act* 1988 (Cth) and any ancillary rules, regulations, guidelines, orders, directions, directives, codes of conduct or practice or other instrument made or issued thereunder, including:

- (a) any consolidation, amendment, re-enactment or replacement of any of them or the Privacy Act; and
- (b) the Australian Privacy Principles under the Privacy Act.

41.1.2 **Personal Information** has the meaning given to it in the Privacy Act.

41.2 The Purchaser consents to the collection, use and disclosure of the Personal Information of the Purchaser by the Vendor and their related entities:

- 41.2.1 for entering into, administering and completing this Contract and any development by the Vendor referred to therein;

- 41.2.2 for planning, marketing and product development by the Vendor or a Related Body Corporate including in relation to a development other than the Development;
- 41.2.3 to comply with the Vendor's obligations or to enforce its rights under this Contract;
- 41.2.4 to surveyors, engineers and other parties who are engaged by the Vendor to carry out works which may affect the Property;
- 41.2.5 to service providers engaged by the Vendor, such as legal advisers, financial advisers, market research organisations, mail houses and delivery companies;
- 41.2.6 to any third party who has a right or entitlement to share in the monies paid or payable to the Vendor under this Contract; and
- 41.2.7 in other circumstances where the Vendor is legally entitled, obliged or required to do so, including any disclosure which is permitted or authorised under the Privacy Act.

42. Introduction Fee

The Purchaser acknowledges and agrees that an introduction fee may be paid by the Vendor to a third party in respect of the sale of the Property to the Purchaser.

43. Option to Buy Back

- 43.1 To ensure the Purchaser's compliance with the provisions of Special Conditions 15, 16 and 24, the Purchaser hereby grants the Vendor an irrevocable Option (**option**) to purchase the Land (including any improvements on the Land) from the Purchaser upon the following terms:
 - 43.1.1 the Option may be exercised by the Vendor only if either the Purchaser:
 - (a) fails to construct the Dwelling within the time limits specified in Special Condition 16.8; or
 - (b) otherwise breaches the provisions of Special Conditions 15 and 16; or
 - (c) breaches the provisions of Special Condition 24;
 - 43.1.2 the Option may be exercised by the Vendor or the Vendor's nominee at any time from the date the Vendor becomes aware of the Purchaser's breach up to the date 180 days after the Vendor becomes aware of the breach or notice;
 - 43.1.3 the Option must be exercised by the Vendor or the Vendor's nominee by notice in writing to the Purchaser or the Purchaser's solicitor;
 - 43.1.4 if the Vendor or its nominee exercises the option, the sale price shall be an amount equal to 90% of:
 - (a) the price paid by the Purchaser to the Vendor pursuant to this Contract; and
 - (b) any money paid for Works to the Land carried out in accordance with the Design Guidelines;
 - 43.1.5 if the Option is exercised, the Land shall be deemed to have been purchased on the date of the option being exercised upon the terms of this Contract save for this Special Condition and Special Conditions 4, 5, 6, 7, 10, 14, 15, 16, 17, 18, 23, 24, 34, 35, 38, 42 and 43 with settlement to take place and the purchase price to be paid in full within 60 days from the date of the contract;
 - 43.1.6 if the Option is exercised:

- (a) the Vendor shall be deemed to have been appointed the Purchaser's attorney for the purpose of signing the statutory declaration, transfer of land, statement for goods transferred with residential land and any other documents necessary to effect the registration of the transfer to the Vendor, including any discharge of mortgage request forms or other such forms in connection with any mortgage of the Property; and
- (b) the Purchaser irrevocably authorises the Vendor to deal with the Purchaser's mortgagee to give effect to the buy back contemplated by this Special Condition 43, including directing the mortgagee to make the title available and discharge the mortgage.

43.1.7 if the Option is exercised, then notwithstanding anything to the contrary in law or anything contained in this Contract, the Purchaser shall pay all costs associated with the sale including stamp duty and registration fees on the transfer, the Vendor's legal fees and agent's fees expected on a re-sale of the Property and all legal and other costs incurred or likely to be incurred by the Vendor in exercising its rights under this Special Condition 43.

43.2 Subject to and without limitation to Special Condition 24, if the Purchaser mortgages the Purchaser's interest in the Property on or before the Construction Date the:

- 43.2.1 Purchaser must incorporate in the mortgage a condition that any such mortgagee is bound to comply with all of the obligations of the Purchaser under Special Conditions 15, 16, 24 and 43;
- 43.2.2 Purchaser must serve a notice on the Vendor at least 5 Business Days prior to the date that the Purchaser mortgages the Purchaser's interest in the Property;
- 43.2.3 Purchaser must if required by the Vendor procure that the mortgagee enters into a deed with the Vendor confirming it is bound to comply with the obligations of the Purchaser under Special Conditions 15, 16, 24 and 43; and
- 43.2.4 the provisions of Special Conditions 15, 16, 24 and 43 must be included in any further mortgage or other document effecting the mortgage.

43.3 The Purchaser must provide a copy of this Special Condition 43 to a mortgagee prior to the Purchaser signing a mortgage in respect of the Property.

43.4 The Purchaser acknowledges the right of the Vendor to lodge a caveat in respect of the Land to protect the Vendor's rights pursuant to this Special Condition.

43.5 The Purchaser agrees to keep the Vendor indemnified against all Claims incurred by the Vendor and arising in respect of the matters set out in this Special Condition (including a failure by the Purchaser to comply with the provisions of this Special Condition).

44. Electronic Exchange

44.1 This special condition only applies if the "Yes" box in the section of schedule 1 to the Particulars of Sale marked "electronic exchange" has been ticked.

44.2 The Vendor and Purchaser acknowledge and agree that this Contract will be executed and entered into using electronic means.

44.3 The Purchaser acknowledges and agrees that it received and reviewed an entire copy of the Vendor's Statement (duly signed by the Vendor in accordance with the Sale of Land Act 1962) and this Contract prior to applying its electronic signature and agrees to be bound by its terms and conditions.

44.4 The parties acknowledge and agree that the execution and exchange of this Contract will be effected as follows:

- 44.4.1 first, the Purchaser will execute the Vendor's Statement and then this Contract by way of electronic signature;
 - 44.4.2 second, the Vendor will execute this Contract by way of an electronic signature;
 - 44.4.3 third, this Contract will be exchanged by email or other electronic means; and
 - 44.4.4 lastly, a copy of this Contract as executed and exchanged will be provided to the parties.
- 44.5 If, at any time, as a result of this Contract being entered into using electronic means this Contract or any of its terms and conditions are invalid or unenforceable or the Vendor or Purchaser are not bound by them, the parties agree to execute and exchange printed copies of this Contract and Vendor's Statement (in the same form and with the same Day of Sale as set out in this document) and to take such other steps or provide such assurances as are reasonably necessary to satisfy the Vendor's financier that this Contract is binding upon the parties and enforceable.
- 44.6 If, at any time, as a result of this Contract being entered into using electronic means the Vendor is advised or reasonably believes that it will be unable to obtain sufficient finance for and to carry out the Development, the parties agree to execute and exchange printed copies of this Contract and Vendor's Statement (in the same form and with the same Day of Sale as set out in this document) and to take such other steps or provide such assurances as are reasonably necessary to satisfy the Vendor's financier that this Contract is binding upon the parties and enforceable.
- 44.7 Nothing in this special condition prevents or restricts the parties from executing and exchanging physical copies of this Contract.
- 44.8 If the Purchaser fails to comply with special conditions 44.5 and/or 44.6, the Purchaser appoints the Vendor's Solicitors as its attorney to execute two printed copies of this Contract on the Purchaser's behalf.
- 44.9 The Purchaser must not exercise any Purchaser Rights in respect of any matter contemplated in this special condition.

45. Electronic Conveyancing

- 45.1 In this Contract:
- 45.1.1 **ECNL** means the Electronic Conveyancing National Law Victoria;
 - 45.1.2 **Electronic Settlement** means settlement of a conveyancing transaction by the use of an Electronic Lodgement Network within the meaning of the ECNL operated by an ELNO;
 - 45.1.3 **ELN** means Electronic Lodgement Network;
 - 45.1.4 **ELNO** means Electronic Lodgement Network Operator within the meaning of the ECNL; and
 - 45.1.5 **Settlement Parties** means the Vendor, Purchaser, their respective financiers (if any) and any other parties that are required to be a party to the ELN to effect settlement.
- 45.2 The parties agree to effect an Electronic Settlement unless the Registrar's guidelines or Laws from time to time require the parties to effect a paper settlement. If the parties are required to effect a paper settlement, the Purchaser must give the Vendor notice in writing at least 14 days before settlement is due under this Contract.
- 45.3 The Purchaser agrees to act in good faith to do all things necessary to give effect to an Electronic Settlement including:

- 45.3.1 signing and lodging all necessary documents and compelling the Settlement Parties for whom it is responsible to do so;
 - 45.3.2 being, or engaging a representative who is, a subscriber for the purposes of the ECNL;
 - 45.3.3 ensuring that all other Settlement Parties for whom it is responsible are, or engage, a subscriber for the purposes of the ECNL; and
 - 45.3.4 complying with any requirements of the ECNL and an ELNO and compelling the Settlement Parties for whom it is responsible to do so.
- 45.4 Without limiting special condition 45.3, the parties agree to adopt the following process in respect of an Electronic Settlement:
- 45.4.1 the Vendor or the Vendor's Solicitor must open the workspace and invite the Purchaser or its representative to the workspace within 5 Business Days of the Registration of the Plan (at which point the Vendor's Solicitor sets the Settlement Date and time);
 - 45.4.2 the Purchaser must accept the invitation (including the Settlement Date and time) under special condition 45.4.1 within 2 Business Days of receiving it;
 - 45.4.3 the Purchaser must prepare the transfer of land, notice of acquisition and lodging instructions, and ensure the Document Verification Results are displayed as 'successful', no later than 3 Business Days before settlement is due under this Contract;
 - 45.4.4 the Purchaser must ensure that the transfer of land and notice of acquisition are signed and completed correctly no later than 2 Business Days before settlement is due under this Contract;
 - 45.4.5 once the transfer of land and notice of acquisition are signed by both parties, the Purchaser must not unsign or make any changes to the documents without the Vendor's prior written consent. The Purchaser must ask the Vendor for consent in writing to any changes at least 1 Business Day before settlement is due under this Contract;
 - 45.4.6 once the Purchaser accepts the Settlement Date and time, the Purchaser must not, and must procure that its financier does not, change the Settlement Date or time without the Vendor's prior written consent;
 - 45.4.7 the Vendor or the Vendor's Solicitor must prepare the adjustments and input destination funds into the ELN no later than 2 days before settlement is due under this Contract;
 - 45.4.8 the Purchaser must input source funds into the ELN no later than 1 Business Day before settlement is due under this Contract;
 - 45.4.9 if the Vendor has complied with its obligations in this special condition 45.4, the Purchaser must do everything necessary to ensure the workspace is able to be 'Ready Ready' by at least 2 hours before the time the Vendor has nominated for settlement on the Settlement Date;
 - 45.4.10 if the Purchaser fails to comply with special condition 45.4.9, the Vendor is not required to effect settlement until a day on which the workspace is able to be 'Ready Ready' by at least 2 hours before the time the Vendor nominates for settlement. The Purchaser will be deemed to default in payment of the Balance from the date settlement is due under this Contract to the date settlement takes place if, pursuant to this special condition 45.4.10 the Vendor effects Electronic Settlement after the date settlement is due under this Contract;

- 45.4.11 subject to special condition 45.4.9, once the workspace is 'Ready Ready', the Vendor is ready, willing and able to settle and the Purchaser must effect settlement; and
- 45.4.12 if, pursuant to special condition 45.4.10 the Vendor effects Electronic Settlement after the date settlement is due under this Contract or the Purchaser fails to effect settlement on the date settlement is due under this Contract in accordance with special condition 45.4.11, in addition to all of the Vendor's other rights, special condition 37 will apply.
- 45.5 The Purchaser acknowledges that:
- 45.5.1 the workspace is not to be used as an electronic address for the service of notices or for any written communications; and
- 45.5.2 settlement occurs when the workspace records that:
- (a) the exchange of funds or value between financial institutions in accordance with the instructions of the parties has occurred; 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.
- 45.6 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.
- 45.7 The Vendor is not responsible for any error caused by the ELN or ELNO.
- 45.8 The Purchaser and the Vendor must not make any Claim on the Vendor's Solicitor for any matter arising out of this special condition 45
- 45.9 The parties agree that if there is any inconsistency between this special condition and the General Conditions and other special conditions then, except in the case of manifest error, to the extent of any inconsistency this special condition will prevail and have priority over the General Conditions and other special conditions.
- 46. Stamp Duty**
- 46.1 The parties agree to adopt the following process in respect of the on-line duties form:
- 46.1.1 the Vendor or the Vendor's Solicitor must create the on-line duties form and invite the Purchaser to complete and sign the form within 3 Business Days of the date on which the Vendor gives notice in writing to the Purchaser of Registration of the Plan;
- 46.1.2 the Purchaser must accept the Vendor's on-line duties form invitation within 2 Business Days of receipt;
- 46.1.3 the Purchaser must ensure that the on-line duties form is signed and completed no later than 4 Business Days before settlement is due under this Contract;
- 46.1.4 if the Purchaser has complied with special condition 46.1.3, the Vendor must sign the on-line duties form no later than 2 Business Days before settlement is due under this Contract;
- 46.1.5 once the on-line duties form is signed by both parties, the Purchaser must not unsign or make any changes to the form without the Vendor's prior written consent;

- 46.1.6 the Purchaser must successfully verify the stamp duty in the ELN workspace at least 1 Business Day before settlement is due under this Contract and the stamp duty must remain successfully verified in the ELN workspace on the date settlement is due under this Contract;
- 46.1.7 despite special condition 46.1.5, the on-line duties form must not be unsigned or amended by the Purchaser on the Settlement Date; and
- 46.1.8 if the Purchaser fails to comply with special condition 46.1.7 and unsigned or amends the on-line duties form on the Settlement Date, the Vendor is not required to effect settlement until 2 Business Days after the on-line duties form is signed by both parties. The Purchaser will be deemed to default in payment of the Balance from the date settlement is due under this Contract to the date settlement takes place if, pursuant to this special condition 46.1.8, the Vendor effects settlement after the date settlement is due under this Contract and, in addition to all of the Vendor's other rights, special condition 37 will apply.
- 46.2 The Purchaser must notify the Vendor in writing before the Registration of the Plan if:
 - 46.2.1 this is a complex duties on-line transaction; and/or
 - 46.2.2 there are other transfers of land which form substantially one arrangement with this sale for the purposes of duties on-line.
- 46.3 The Purchaser warrants to the Vendor, as at the date that settlement takes place, that the information provided by it in the on-line duties form is true and correct and agrees that, if this warranty is breached, it must indemnify the Vendor against any penalties, fines, legal costs, claims, losses or damages which the Vendor suffers as a direct result of a breach of that warranty.
- 46.4 If the Purchaser fails to comply with special condition 46.1.6, and the stamp duty is not successfully verified on the date settlement is due under this Contract, the Vendor is not required to effect settlement until 2 Business Days after the Purchaser has complied with special condition 46.1.6. The Purchaser will be deemed to default in payment of the Balance from the date settlement is due under this Contract to the date settlement takes place and, in addition to all of the Vendor's other rights, special condition 37 will apply.
- 46.5 The Purchaser acknowledges and agrees that:
 - 46.5.1 neither the Vendor nor anyone acting on its behalf has made any warranty to the Purchaser as to the stamp duty payable by the Purchaser in connection with the sale and transfer of the Property under this Contract and that the Purchaser has made its own enquiries and investigations;
 - 46.5.2 it is liable to pay any amount of duty assessed by the State Revenue Office;
 - 46.5.3 if the Purchaser is a foreign purchaser, as that term is defined in section 3(1) of the *Duties Act 2000* (Vic), the Purchaser is liable to pay additional stamp duty at a rate of 8% (or such other rate applying to additional stamp duty payable by foreign purchasers from time to time) of the Price and the Vendor has not made any representation or warranty to the Purchaser concerning the amount of such additional stamp duty; and
 - 46.5.4 it must not make any objection, requisition or exercise the Purchaser Rights because of the amount of stamp duty assessed in connection with the sale and transfer of the Property to the Purchaser under this Contract.

47. Foreign resident capital gains withholding payments

If:

- 47.1 Subdivision 14 –D of Schedule 1 of the TA Act applies to this Contract; and

- 47.2 on or before settlement of this Contract, the Vendor gives to the Purchaser a clearance certificate issued by the Commissioner under subsection 14-220 of Schedule 1 of the TA Act,

the Purchaser must not withhold any money payable by the Purchaser under this Contract for the purpose of Subdivision 14-D of Schedule 1 of the TA Act.

48. GST Withholding Payments and Notifications

- 48.1 In this Special Condition 48, terms have the following meanings:

- 48.1.1 **Commissioner** has the meaning given to that term in the TA Act;
- 48.1.2 **GST Withholding Amount** means the amount, specified in the Vendor Notice, that the Purchaser is required to pay (if any) to the Commissioner under section 14-250 of Schedule 1 of the TA Act;
- 48.1.3 **Form 1** means a '*Form One: GST Property Settlement Withholding Notification*' notice that the Purchaser is required to lodge with the Commissioner under section 16-150(2) of Schedule 1 of the TA Act;
- 48.1.4 **Form 2** means a '*Form Two: GST Property Settlement Date Confirmation*' notice that the Purchaser is required to lodge with the Commissioner under section 16-150(2) of Schedule 1 of the TA Act;
- 48.1.5 **TA Act** means the Taxation Administration Act 1953 (Cth); and
- 48.1.6 **Vendor Notice** means a notice that the Vendor is required to give under section 14-255(1) of Schedule 1 of the TA Act.

- 48.2 This Special Condition 48.2 is taken to be a Vendor Notice for the purposes of section 14-255(1) of Schedule 1 of the TA Act. The Vendor hereby notifies the Purchaser that the Purchaser is required to pay the GST Withholding Amount to the Commissioner in accordance with the information set out below:

- 48.2.1 Vendor name: Greenwells Wollert Joint Venture (ABN 64 770 404 591)
- 48.2.2 GST Withholding Amount: 1/11th of the Price (prior to adjustments);
- 48.2.3 Payment date: Settlement Date under this Contract; and
- 48.2.4 Is there any non-monetary consideration? **No.**

- 48.3 If a Vendor Notice given to the Purchaser provides that the Purchaser must pay a GST Withholding Amount to the Commissioner, the Purchaser must lodge a Form 1 with the Commissioner and provide the Vendor a copy of Form 1 as lodged (including the payment reference number and lodgement reference number) at least 2 Business Days before the Settlement Date.

- 48.4 If the Purchaser fails to lodge a copy of the Form 1 (including the payment reference number and lodgement reference number) in accordance with Special Condition 48.3, the Vendor is not required to effect Settlement until 2 Business Days after the Purchaser has provided the Vendor with a copy of the Form 1 (including the payment reference number and lodgement reference number).

- 48.5 The Purchaser will be deemed to default in payment of the Balance the Settlement Date to the date Settlement takes place if, pursuant to Special Condition 48.3, the Vendor effects Settlement after the Settlement Date.

- 48.6 If a Vendor Notice given to the Purchaser provides that the Purchaser must pay a GST Withholding Amount to the Commissioner:

- 48.6.1 the Purchaser must provide a bank cheque to the Vendor at settlement that is payable to the Commissioner for the GST Withholding Amount;
- 48.6.2 the Purchaser authorises the Vendor to submit the bank cheque to the Commissioner;
- 48.6.3 the Purchaser authorises the Vendor's Solicitor to act as the Purchaser's agent and representative (and in doing so the Vendor's Solicitor is not the agent of the Vendor) to lodge the Form 2 with the Commissioner; and
- 48.6.4 for the avoidance of doubt:
- (a) the Vendor will submit the bank cheque to the Commissioner; and
 - (b) the Vendor's Solicitor (as agent and representative of the Purchaser) will lodge the Form 2 with the Commissioner.
- 48.7 The Purchaser must:
- 48.7.1 pay the GST Withholding Amount to the Commissioner via an Electronic Lodgement Network as part of an Electronic Settlement; and
- 48.7.2 lodge the Form 2 with the Commissioner and provides a copy of the Form 2 (as lodged with the Commissioner) to the Vendor at settlement.
- 48.8 If the Purchaser is registered (within the meaning of the GST Act) and acquires the Property for a creditable purpose, the Purchaser must give written notice to the Vendor stating this as soon as practicable but in any event, no later than 10 Business Days before the Settlement Date and the parties agree that, if the Property is "potential residential land" (within the meaning of the GST Act), Special Conditions 48.2 to 48.7 will not apply.
- 48.9 This Special Condition 48 does not merge on Settlement.

49. Head Contract

- 49.1 Despite any other provision of this Contract the Purchaser acknowledges that:
- 49.1.1 the Purchaser's proprietary and contractual interest the Property is contingent on the Vendor completing the acquisition of the Head Contract Parcel in accordance with its obligations under the Head Contract which may include the Vendor taking staged transfers of parts of part of the Parent Title;
- 49.1.2 the Vendor:
- (a) will not be required to settle this Contract until settlement has occurred under the Head Contract; and
 - (b) may terminate this Contract by written notice to the Purchaser without being required to pay the Purchaser any compensation whatsoever if the Head Contract is terminated for any reason, and in this event will return the Deposit to the Purchaser in full together with any interest earned on the Deposit; and
 - (c) any termination of the Head Contract will result in termination of this Contract by the Vendor.

Annexure C

Design Guidelines

INFORMATION ONLY



**LYNDARUM
NORTH**

Design Guidelines

AVJennings®

A great success story

CONTENTS

1.0	The Vision	4
2.0	The Purpose	5
3.0	Guideline Process	6
4.0	Approval Process	7
5.0	Construction Timelines	8
6.0	Design Guidelines	9
7.0	Lyndarum North Design Criteria	10
8.0	Maintenance of Allotments and the Nature Strip	14
9.0	Landscaping	14
10.0	Chromatic Harmony Chart	15
11.0	Annexure 01	16

1.0 The Vision

Lyndarum North is set to become a thriving and diverse community and the desired address in the ever popular northern growth corridor.

Upon entering Lyndarum North you will be greeted with a feature statement that sets the scene as a well-considered and carefully designed community. The extensive network of community parks and open spaces will become destinations for residents to gather and relax whilst being in proximity to existing and proposed schools and shopping precincts. With a proposed Town Centre, school and future railway connection, Lyndarum North is set to become a new community hub for the region.

The urban design planning, extensive colour mapping, carefully considered Design Guidelines and landscaping will achieve cohesive streetscapes that blend harmoniously with their environment. The urban built form will integrate seamlessly with the site's river red gums, natural reserves and the iconic rocky knolls that make this a truly special place to call home.

Lyndarum North will be a safe place for families at all life stages – young families, couples, singles and downsizers. It's the diversity, genuine warmth and friendliness that will bind this community with a sense

of shared family values and pride in their homes. Neighbours will spend time tending to their gardens, children will flock to the landmark playgrounds, whilst walkers will be able to enjoy the connection to their natural surrounds. There will be a real sense of place within the Lyndarum North Community.

It will be a place where residents are encouraged to live sustainably by using energy and water efficient initiatives to minimise their impact on the environment.

For more than 80 years, AVJennings has created diverse, connected and active communities for thousands of Australians. Lyndarum North, AVJennings' newest community, will offer its residents the foundations to build special memories and share the stories of a good life they have created.



2.0 The Purpose

These guidelines have been thoughtfully pieced together to ensure the delivery of high quality built form in well designed landscaped streets, which create a welcoming place for you to call home.

The Design Guidelines set the minimum standard of presentation for you as the buyer. The aim is to achieve the best design outcomes for the Lyndarum North Community by:

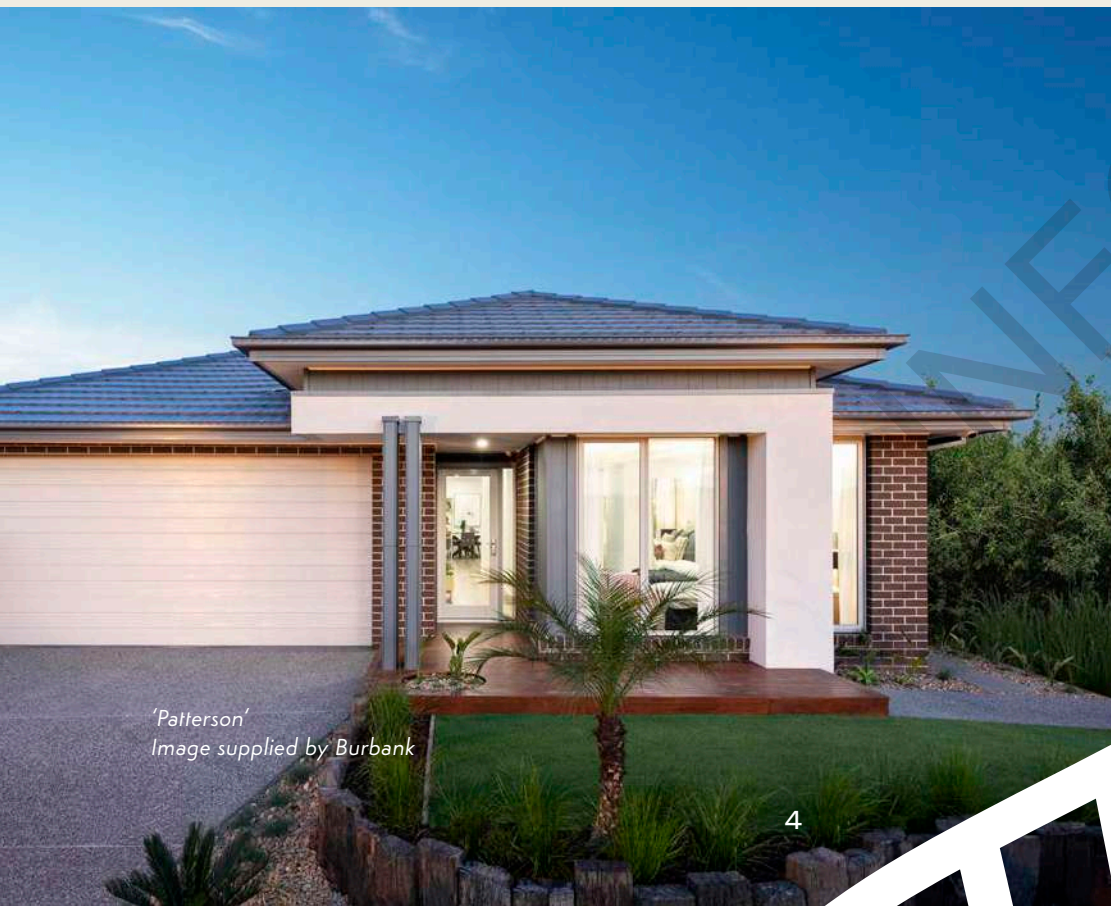
- Encouraging variety in housing styles that are in harmony with each other and the streetscape;
- Creating a high standard of presentation to the establishing community;
- Protecting the investment of all its residents;
- Achieving a sustainable development

By following these guidelines, you will have played your part in creating a community you will be proud to call home.

THESE GUIDELINES WILL:

- Set design controls for the creation of your home including external materials and colours, fencing, window furnishings and landscaping;
- A guide to understanding the design approval process;
- Timeframes in which you need to start and complete building and landscaping your home

These Design Guidelines are subject to change without prior notice by AVJennings. All decisions regarding these controls are at the sole discretion of the DRC. Integrated Medium Density Housing proposals are exempt from these guidelines and will be assessed by the DRC on their architectural merit.



'Patterson'
Image supplied by Burbank

3.0 Guideline Process

Design Guideline approval **MUST** be received from the Lyndarum North Design Review Committee (DRC) prior to the construction of all new homes, garages, fences and any other structure on allotments within the Lyndarum North community. Prior to commencing works on site, you **MUST** also obtain a building permit.

The Lyndarum North Design Review Committee encourages individuality and innovation in design and reserves the right to approve designs which may not meet these requirements but will be of benefit to the community.

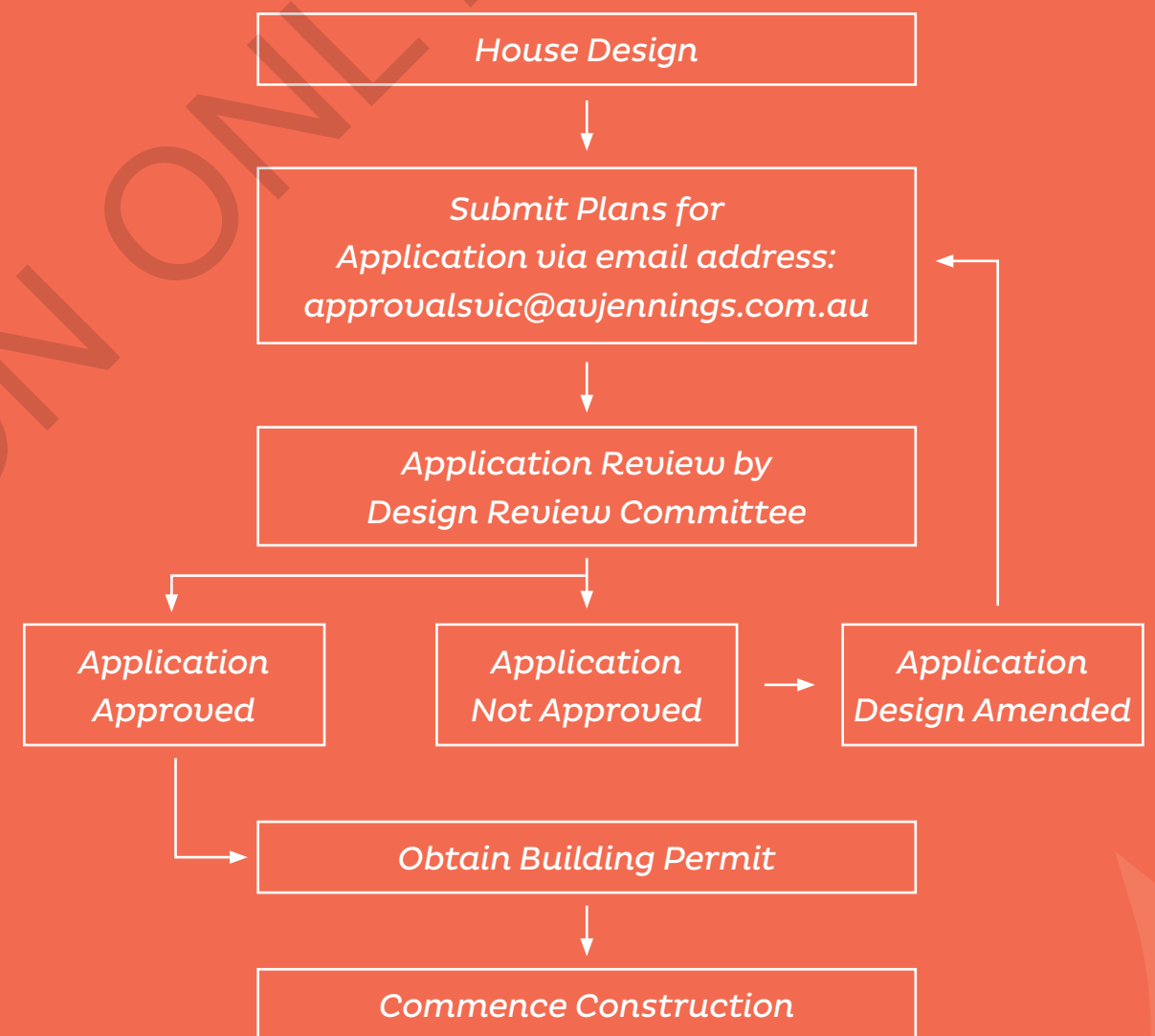
You are responsible to ensure that your completed home complies with your Lyndarum North design approval, Chromatic Harmony Chart specific to your allotment, building approval, contract requirements and both local and state government planning and building legislation.

THE SUBMITTED APPLICATION MUST CONTAIN THE FOLLOWING:

- 3.1** Applicant Name & Builder Details
- 3.2** Builder's Checklist (see Annexure)
- 3.3** 6.0 Star Energy Certificate
- 3.4** Site Plan at 1:200 scale minimum
- 3.5** Site Plan showing:
 - 3.5.1** Setback distances from all boundaries to locate your home, outbuildings and trees on or abutting the lot;
 - 3.5.2** Site levels (contours), extent of earthworks, finished floor levels of house and garage;
 - 3.5.3** Fencing location, material and height;
 - 3.5.4** Service locations, such as meter box and hot water service;
 - 3.5.5** Retaining wall locations, heights and materials;
 - 3.5.6** Driveway location (incl. setback from side boundary), material, colour, and pattern; Location of the tap(s) in the front yard;
- 3.6** Floor plan(s) showing:
 - 3.6.1** Dimensioned floor plans (min scale 1:100);
 - 3.6.2** All elevations (min scale 1:100), indicating building heights, roof pitches, eaves size and external fixtures (a/cond., solar panels, TV antenna/dish, water tanks etc.);
 - 3.6.3** Schedule of external materials, finishes and colours including roof, walls, garage door and letterbox; and;
 - 3.6.4** Cross sections indicating details of walls constructed on boundaries and ceiling height.



4.0 Approval Process



SHOULD YOU HAVE ANY QUERIES REGARDING THE APPROVAL PROCESS, PLEASE CONTACT YOUR SALES CONSULTANT ON **(03) 8888 4852**.

5.0 Construction Timelines

To ensure Lyndarum North develops in a timely and coordinated manner, construction of your home **MUST** commence within 12 months from the date of settlement of your allotment.

Completion of your home includes all fencing, driveway and window furnishings (to windows visible from the street) along with the Certificate of Occupancy being issued by your building surveyor.

Construction completion (Certificate of Occupancy) to be issued within 18 months of settlement of your allotment.

You must not occupy your home until it is completed.

Some allotments will be eligible for a landscape rebate. Your contract of sale will detail whether this rebate is available on your allotment.

To be eligible for the "Landscape Rebate" (where applicable) the following must be adhered to:

- 5.1** All construction works are to be completed in compliance with the approved plans, in accordance with these Design Guidelines and completed within 18 months of settlement of your allotment;
- 5.2** Front landscaping, driveway, fencing and letterbox must be completed within 6 months of Certificate of Occupancy being issued; and
- 5.3** All contractual conditions have been met and the landscape rebate is applicable to your allotment.

The Landscape Rebate expires 24 months after the settlement of your allotment.



'Beaumont'
Image supplied by Arden

6.0 Design Guidelines

- 6.1.1** Any allotment less than 300m² will need to comply with the Small Lot Housing Code;
- 6.1.2** Eaves, gutters, fascias, verandahs, porches, porticos and balconies may encroach up to 1.5m into the front setback;
- 6.1.3** Garages must be built on or within 200mm of the boundary or they must setback a minimum of 1.0m;
- 6.1.4** Side setbacks must be a minimum of 1.0m from at least one side boundary;
- 6.1.5** The following encroachments into the approved side and rear setbacks are permitted by up to 600mm:

A porch, verandah, masonry chimney, pergola, eave, fascia, gutter, screen (to extend needed to protect a neighbouring property from direct view), flues, pipes, water tanks, heating and cooling equipment and other services;

- 6.1.6** Where a lot is on a corner, the side street elevation of the dwelling must be set back a minimum of 2m. The following may encroach into the side street set back by a maximum of 1.0m: eaves, gutters, fascias, verandahs, porches, porticos, balconies, flues, pipes, water tanks, heating and cooling equipment and other services.
- 6.2** Part 5 of the Building Regulations 2018 - Siting
There are a number of requirements under Part 5 of the Building Regulations 2018 that the design and siting of your home must comply with.

Your building surveyor will check your compliance with these regulations.

Your building surveyor will check your compliance with these regulations.

For the items listed below, please refer to Part 5 of the Building Regulations 2006, which covers:

- Building height;
- Site coverage (maximum building footprint for all lots 300sqm and over is 60%);
- Permeability (water permeability surfaces – garden etc.);
- Car parking;
- Side and rear setbacks;
- Walls on boundaries;

- Daylight to existing habitable room windows;
- Solar access to existing north-facing windows;
- Overshadowing of recreational private open space;
- Overlooking (of adjoining houses);
- Daylight to habitable room windows; and
- Private open space.

YOU CAN FIND THIS INFORMATION AT:
www.uba.vic.gov.au



'Monthaven'
Image supplied by Porter Davis

7.0 Lyndarum North Design Criteria

In addition to Part 5 of the Building Regulations, Lyndarum North requires that homes are built in accordance with the following Design Guidelines.

These design guidelines are in addition to relevant state and local government planning and building legislation and the Building Code of Australia requirements. The relevant state and local government planning and building legislation and the Building Code of Australia requirements take precedence over these Design Guidelines.

The re-subdivision of our allotment is not permitted.

The re-sale of vacant land is not permitted without prior approval from the developer.

YOUR HOMES MUST COMPLY WITH THE FOLLOWING:

7.1 Dwelling Size

Only a single private dwelling may be erected on each lot unless you obtain the developers prior approval. Multiple dwellings will require further approvals from the council.

Minimum dwelling area requirements are as follows:

- 7.1.1 90sqm excluding garage, porches, porticos, verandahs and alfrescos for lots within an area of 250sqm or greater;
- 7.1.2 100sqm excluding garage, porches, porticos, verandahs and alfrescos for lots within an area of 300sqm or greater;
- 7.1.3 120sqm excluding garage, porches, porticos, verandahs and alfrescos for lots within an area of 400sqm or greater; and
- 7.1.4 150sqm excluding garages, porches, porticos, verandahs and alfrescos for lots within an area of 500sqm or greater.

7.2 Façade Style

Dwellings should exhibit a contemporary urban character that is complementary to the surrounding streetscapes and utilise an energy efficient and sustainable design wherever possible.

- 7.2.1 Houses with identical façades must be separated by a minimum of three houses in any direction (either side and across the road), excluding multiple lot dwellings and medium density housing.
- 7.2.2 A verandah, porch, portico, balcony or an entry feature visible to the street that is minimum of 4 square metres in size and has a minimum depth of 1.5m;
- 7.2.3 A minimum of two different materials to the front façade e.g.: brick, lightweight cladding, stone, render, timber or external tiles of which the dominant material must not cover greater than 75% of the front façade excluding the sectional garage door and front entry door;
- 7.2.4 External colours and materials MUST be selected from the Lyndarum North Chromatic Harmony Chart palettes applicable to your allotment;
- 7.2.5 Have a living room or bedroom window fronting the street;
- 7.2.6 Cement fibre sheet infill, above windows and doors visible to the street including any secondary street or public realm is prohibited;
- 7.2.7 Brick infill above garage door is mandatory when the façade of the garage is of face brick finish. Lightweight infill over garage door is allowed in a rendered garage façade, provided it is packed out in line with the rendered brickwork of the garage façade, and rendered. Other infills such as stained timber will be assessed on Architectural Merit.
- 7.2.8 Allotments less than 15m wide must provide an entry door with at least 20% glazing. Allotments greater than 15m must have a sidelight or double doors with at least 20% glazing; and
- 7.2.9 No heritage ornamentation e.g. finials, glazing bars, mouldings and/or lace work. Roll down security shutters to windows and doors visible to the street or public realm are not permitted.

7.3 Ceiling Heights

Ceiling heights play a vital part in providing

natural light and better air circulation within your home.

- 7.3.1 A minimum of 2550mm ceiling height to single storeys and ground floor level on double storeys is mandatory.

7.4 Roofs

- 7.4.1 A minimum roof pitch of 22 degrees is required for traditional pitched roofs. Alternative roof forms may be considered on Architectural Merit.
- 7.4.2 Eaves are to be provided with a minimum depth of 450mm to all façades facing the street when a traditional pitched roof is utilized. Other architecturally acceptable roof forms and the use of parapets (including to façades facing the street) will be assessed on Architectural Merit.
- 7.4.3 Eaves must return a minimum 3m on all non-corner allotments (other than zero lot boundaries) and the full length to all corner/ reserve allotments; and
- 7.4.3 Roof material must complement the style of the dwelling. Terracotta, concrete or slate roof tiles and corrugated Colorbond® are preferred. Galvanised or zinc finishes are not permitted.

Alternative roof forms will be considered by the DRC subject to design merit.

7.5 Vehicle Accommodation

Garages are an important factor when designing your home, but they can become quite dominant to the streetscape.

Consideration of the following is required;

- 7.5.1 Double width garages (minimum) are required to all allotments with a 12.5m or greater frontage.
- 7.5.2 Garage doors must be section or panel lift where visible to the street. The colour of the garage door must be selected from your allotments specific Chromatic Harmony Chart;
- 7.5.3 Roller doors are not permitted where visible to the street; and
- 7.5.4 Garage/s must be setback by a minimum of 840mm behind the main front wall of the dwelling.

7.6 Corner Allotments

Corner allotments (including those visible from adjoining open spaced areas) are an important factor for the streetscape. These dwellings require additional attention:

- 7.6.1 Consideration must be given to the side street/reserve elevations visible to the public realm. Both single and double storey dwellings on corners are to be designed incorporating feature elements that address both street frontages;
- 7.6.2 The area visible to the street forward of the return fence MUST include either a wrap-around verandah, porch/portico feature matching the façade, pergola structure or a similar architectural element that defines the side street/reserve elevation and provides articulation;
- 7.6.3 Windows MUST be included in the secondary façade (at both levels if a double storey house) and be of similar size and style to windows used on the front façade of your home;
- 7.6.4 Colours and materials MUST be continued around the corner of your home to at least the point where the side return fence is attached to the house;
- 7.6.5 No blank walls to the secondary façade are permitted; and
- 7.6.6 Landscape solutions will not be accepted as a corner treatment design solution.

7.7 Carports, Driveways/Paths

- 7.7.1 Only one driveway per allotment is permitted, relocation of crossovers is not permitted;
- 7.7.2 Driveway must be constructed prior to occupation of the dwelling;
- 7.7.3 Driveway and path must be constructed from: brick, slate or natural stone pavers, exposed aggregate or colour through concrete;
- 7.7.4 Driveway and path colours are to be selected from your allotment specific Chromatic Harmony Chart;
- 7.7.5 Plain concrete driveways and paths are not permitted;
- 7.7.6 Driveway must taper to a crossover width of a maximum 4.0m at the front boundary;
- 7.7.7 Driveways must be offset from the side boundary a minimum of 500mm to provide a landscape strip; and
- 7.7.8 Carports are NOT permitted.

7.8 Curtains and Blinds

Curtain/blinds can:

- 7.8.1 Curtains and/or blinds MUST be installed on all windows visible from the street or public realm prior to occupation of the dwelling;

LYNDARUM NORTH

- 7.8.2** The colours of all curtains and blinds must be selected from your allotments Specific Chromatic Harmony Chart; and
- 7.8.3** Security/screen doors facing the street or public realm **MUST** be a plain black mesh screen similar to the Crimsafe® range.

7.9 Fences

- 7.9.1** Side and rear fences **MUST** be 1.8m high good neighbour panel fencing in Superdek® profile and be 'slate grey' in colour. Any side boundary fencing forward of the building line must be raked to a height no greater than 1.0m;
- 7.9.2** Return fence/gate **MUST** be 1.8m high good neighbour panel fencing in Superdeck profile and be 'slate grey' in colour and set back a minimum 1.0m and maximum of 3.0m from the main building line on all non-corner allotments;
- 7.9.3** Side street fencing **MUST** be 1.8m high good neighbour panel fencing in Superdek profile and be 'slate grey' in colour. Return (wing) fences from the side street fence back to the building are to be set back a minimum 9.0m from the main street frontage. Where a Corner treatment has been applied to a dwelling on a corner allotment, the return (wing) fence must be located behind the corner treatment, leaving the corner treatment exposed to the street;
- 7.9.4** Front boundary fencing is **NOT** permitted within Lyndarum North.

7.10 Letterboxes

- 7.10.1** Letter boxes should be designed to match the house using similar materials and colours and must be erected within three months of the Certificate of Occupancy being issued; and

- 7.10.2** The size and position of the letterbox must comply with Australia Post's requirements. The street number must be clearly identifiable, suitably sized and located and must not interfere with the overall streetscape.

7.11 Ancillary Items

Ancillary items which impact the streetscape such as garden sheds, retaining walls, gazebos and swimming pools require additional approval by the Lyndarum North Design Review Committee.

- 7.11.1** All ancillary structures require the approval of the DRC prior to construction;
- 7.11.2** Ancillary structures larger than 10sqm should be constructed from materials and colours which complement the dwelling and will require approval from Council;
- 7.11.3** Small sheds with a floor area less than 10sqm that are not visible from the street or public realm must be constructed from Colorbond® and complement the dwelling and fence colour;
- 7.11.4** Air conditioners (evaporative and condenser units), hot water services, clothes lines, satellite dishes, rainwater tanks, spa pumps and solar pool heating must not be visible from the street or public realm;
- 7.11.5** Solar hot water panels, solar panels, and TV antennas must not be placed on the front facing roof and have minimal visibility from the street or public realm; and
- 7.11.6** Plumbing waste and vent pipework must be concealed and vent pipes not located on the front plane or within the front 5m of any part of the roof and ideally not visible from the street or public realm.

DESIGN GUIDELINES

7.12 Retaining Walls

- 7.12.1** Retaining walls must not exceed 1.2m in height unless they are terraced or sloped back to allow for landscaping to break the overall height of the wall;
- 7.12.2** Timber sleeper retaining walls are not permitted where the height exceeds 400mm and are visible from the street or public realm. Materials permitted include brick, rendered masonry and feature stone; and
- 7.12.3** Retaining walls on or near the boundary and/or over 1m in height are required to obtain a building permit.

7.13 Recycled Water

Yarra Valley Water has mandated that Class A recycled water infrastructure be installed to all dwellings within Lyndarum North. All enquiries regarding connection to and plumbing for Class A recycled water should be directed to Yarra Valley Water and your respective Building Surveyor.

7.14 NBN

Lyndarum North is an NBN enabled estate and it is mandatory to connect. Phone and internet services will be provided by retailers over the National Broadband Network. Connection details are available at www.nbnco.com.au

7.15 Vehicles

You are **NOT** permitted to park unregistered vehicles in your driveway, front yard or on the street.

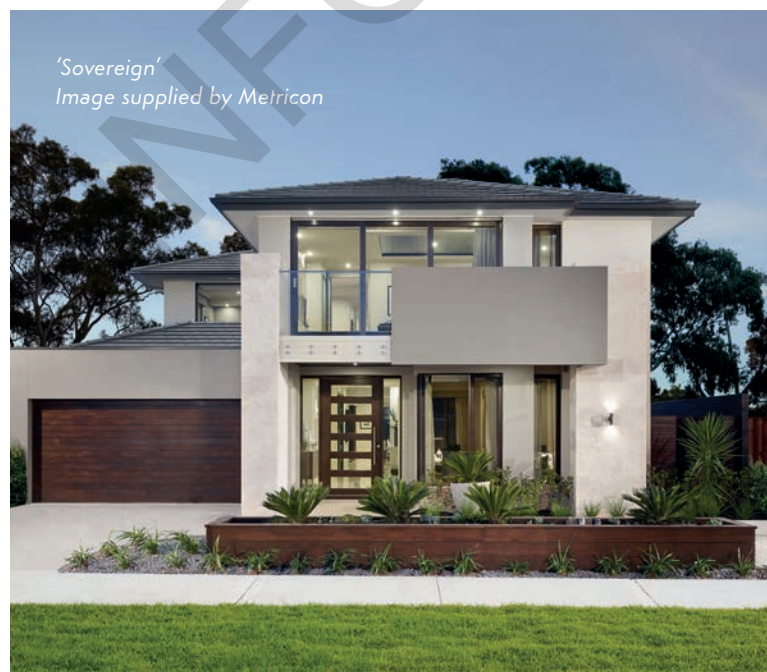
Commercial vehicles, boats and caravans may be parked on a lot but **MUST** be screened from public view.

7.16 Signs and Resale

A sign advertising the sale of a vacant lot is not permitted.

Signs will not be permitted on residential lots with the following exceptions:

- 7.16.1** Display home signage on authorised display homes sites only;
- 7.16.2** Builders or trades persons identification signage (maximum 1200mm x 900mm) required during dwelling construction. These signs must be removed within 10 days of the issue of the occupancy permit;
- 7.16.3** Any signage required by Local Council,



Building Code of Australia or any other regulatory bodies.

If you choose to sell your vacant allotment you are required to obtain approval from the developer and include a Re-Sale Deed as per your contractual requirements. This is to ensure that these Design Guidelines are passed onto future purchases and will bind them to the same controls as your neighbours.

8.0 Maintenance of Allotments and the Nature Strip

You must NOT allow rubbish to accumulate or allow excessive growth of grass or weeds upon your allotment, both before and after construction of the dwelling.

You must NOT allow rubbish to accumulate or allow excessive growth of grass or weeds upon your allotment, both before and after construction of the dwelling.

All infrastructure and landscape within the nature strip is to be protected during construction. Any damage to trees, turf or services located on the nature strip is the responsibility of the owner of the lot to reinstate at their sole cost.

The owner and their builder must meet all environmental and WHS requirements of all authorities and must keep the site in a neat and tidy condition throughout the construction period. No building materials or rubbish

are to be left on the nature strip at any time during construction. No building materials or spoils are to be placed on any adjoining lot during construction.

You MUST comply with any request by AVJennings or council to clean up an overgrown site or builder's materials, and if you fail to comply within 14 days of receiving a written notice from AVJennings, then you will be liable to reimburse us all costs, including administration costs, incurred in the removal of such materials and repairs as referenced by the relevant clause in the contract.

9.0 Landscaping

All home owners at Lyndarum North are required to establish landscaped and turfed areas in their front yard. In addition, you MUST maintain the nature strip in front of the home.

Quality landscaping that is maintained, improves the look and feel of your streetscape and enhances the value of your investment and the community. The landscape is a large contributor to the appearance of the community and when good and regular maintenance is undertaken, it creates a desirable community.

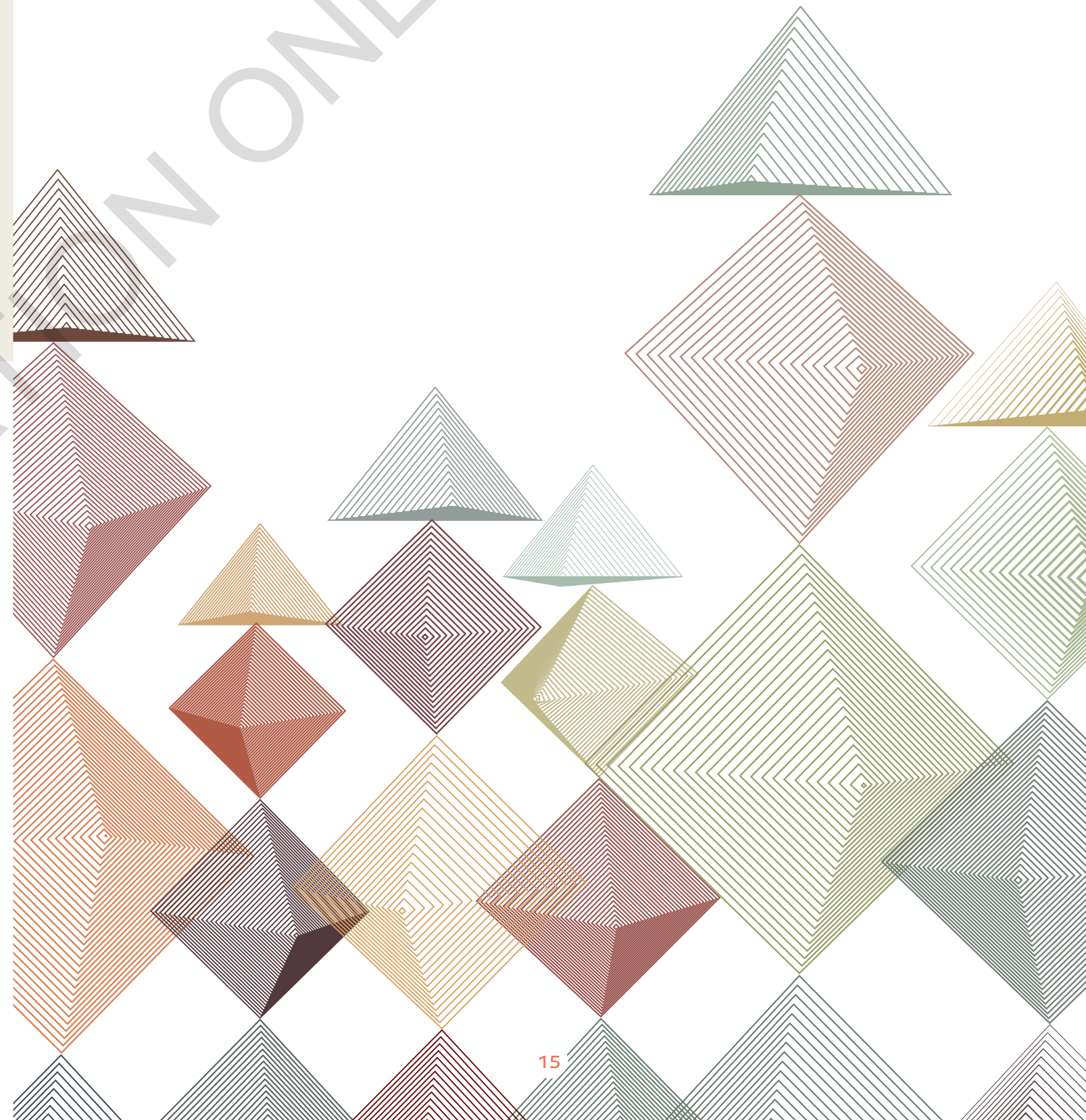
- 9.1** The landscaping of all gardens visible from the street or public realm (incl. corner/reserve lots) needs to be completed within a lesser of 6 months of the occupancy permit being issued or 24 months from settlement;
- 9.2** The front garden design of lots should limit the amount of sealed impervious surfaces to a maximum of 50% with the balance being landscape using trees, shrubs, ground covers or grass. It should encourage rain water to infiltrate into the garden rather than draining out to the stormwater system;

- 9.3** Establishment of grass to the nature strip/s adjacent to your allotment and ongoing maintenance of the nature strip is your responsibility. At establishment the nature strip should be levelled, top dressed and seeded as a minimum standard;
- 9.4** Careful consideration should be given to the species and size of trees and shrubs relative to the proximity of the dwelling when making your plant selections as not to cause any long-term damage to your home;
- 9.5** No vehicles are permitted to drive or be parked on nature strips at any time. After construction is completed, no commercial vehicles, caravans, trailers or watercraft, with the exception of registered 'Light Vehicles' are permitted to be parked or stored forward of the building line.

10.0 Chromatic Harmony Chart

Refer to the Chromatic Harmony Chart specific to your allotment.

Copies are available from the land sales office.



11.0 Annexure 01

Builder Design Checklist

ITEM	DESIGN GUIDELINES CHECKLIST	YES	NO	N/A
3.0	Have you submitted plans to the DRC for review and approval.			
5.1	Dwelling will be completed within 18 months from land settlement.			
5.2	Landscaping, driveway, fencing & letterbox completed within 6 months of construction completion (certificate of occupancy being issued).			
6.1.1	Lots less than 300m2 comply with the Small Lot Housing Code.			
6.1.2	Allowable encroachments into front setback by no more than 1.5 metres.			
6.1.4	Minimum 1.0 metre setback from at least one side boundary is achieved.			
6.1.5	Allowable encroachments into side & rear setbacks by no more than 600mm.			
6.1.6	Minimum 2 metre setback to side street achieved (corner lot).			
6.2	Dwelling complies with Part 5 of the Building Regulations.			
7.1	Only one dwelling proposed per lot.			
7.1.1	Dwelling achieves a minimum size of 90sqm on allotments less than 250sqm.			
7.1.2	Dwelling achieves a minimum size of 100sqm on allotments less than 300sqm.			
7.1.3	Dwelling achieves a minimum size of 120sqm on allotments less than 400sqm.			
7.1.4	Dwelling achieves a minimum size of 150sqm on allotments less than 500sqm.			
7.2	Dwellings should exhibit a contemporary urban character and utilise an energy efficient and sustainable design wherever possible.			
7.2.1	Houses with identical facades must be separated by a minimum of three houses in any direction (either side and across the road), excluding multiple lot dwellings and medium density housing.			
7.2.2	Entry feature visible to street, a minimum 4sqm and 1.5m in depth.			
7.2.3	Minimum 2 different materials, 1 material must not exceed 75% of the total front façade.			
7.2.4	External colours and materials selected from your allotment specific Chromatic Harmony Chart.			
7.2.5	Living room or bedroom window fronting the street.			
7.2.6	No cement fibre sheeting above windows and doors where visible to the public.			
7.2.7	Brick infill above garage door is mandatory when the façade of the garage is of face brick finish. Lightweight infill over garage door is allowed in a rendered garage façade. Other infills such as stained timber will be assessed on Architectural Merit.			
7.2.8	At least 20% glazing to entry door/s on allotment width less than 15 metres. Have sidelight/s or double entry doors with at least 20% glazing on allotments greater than 15m.			
7.2.9	No heritage ornamentation & roller shutters to windows & doors visible to the street or public realm are permitted.			
7.3.1	Minimum 2550mm ceiling height to single storey & on ground floor of double storeys.			
7.4.1	A minimum roof pitch of 22 degrees is required for traditional pitched roofs. Alternative roof forms may be considered on Architectural Merit.			
7.4.2	Eaves are to be provided with a minimum depth of 450mm to all facades facing the street when a traditional pitched roof is utilized. Eaves must return a minimum 3m on all non-corner allotments.			
7.4.3	Roof material complements the style of the dwelling.			
7.5.1	Double width garages are required to all allotments with a 12.5m or larger frontage.			
7.5.2	Garage doors must be section or panel lift where visible to the street. The colour of the garage door must be selected from your allotments specific Chromatic Harmony Chart.			
7.5.3	Roller doors not permitted where visible.			
7.5.4	Garage/s must be setback by a minimum of 840mm behind the main front wall of the dwelling.			
7.6.2	Wrap-around verandah, porch or portico, pergola structure or similar matching the front façade returns to side street forward of the return fence on corner lots.			
7.6.3	Windows MUST be included in the secondary façade (at both levels if a double storey house) and be of similar size and style to windows used on the front façade.			

Builder Design Checklist

ITEM	DESIGN GUIDELINES CHECKLIST	YES	NO	N/A
7.6.4	Colours and materials have returned to the side street.			
7.6.5	Blank walls not permitted.			
7.7.1	One driveway per allotment.			
7.7.2	Driveway to be constructed prior to occupation of the dwelling.			
7.7.3	Appropriate driveway materials have been used.			
7.7.4	Driveway and path colours must be selected from your allotment specific Chromatic Harmony Chart.			
7.7.5	Plain concrete driveways and paths are not permitted.			
7.7.6	Driveway must taper to a crossover width of a maximum 4.0m at the front boundary.			
7.7.7	A minimum 500mm landscape strip has been installed.			
7.7.8	Carports not permitted.			
7.8.1	Curtains and/or blinds must be installed prior to occupation of the dwelling.			
7.8.2	Curtains and/or blinds must be selected from your allotment specific Chromatic Harmony Chart.			
7.8.3	Security/screen doors visible to public must be plain black mesh.			
7.9.1	Side and rear boundary fencing is a maximum of 1800mm high, in Superdek® profile and be slate grey in colour. Any side boundary fencing forward of the building line must be raked to a height no greater than 1.0m.			
7.9.2	Return fence/gate MUST be 1.8m high good neighbour panel fencing in Superdeck and be ‘slate grey’ in colour and set back a minimum 1.0m – maximum of 3.0m.			
7.9.3	Side street fencing MUST be 1.8M high good neighbour panel fencing in Superdek profile and be ‘slate grey’ in colour. Return (wing) fences from the side street are to be set back a minimum of 9.0m from main street frontage.			
7.9.4	Front fencing not permitted.			
7.10.1	Letterbox designed to complement the dwelling.			
7.10.2	Letterboxes will be in accordance with Australia Post requirements.			
7.11.1	Ancillary items have obtain approval from the DRC.			
7.11.2	Ancillary structures greater than 10sqm complement the dwelling.			
7.11.3	Small sheds less than 10sqm not visible to the street or public realm must constructed from Colorbond®.			
7.11.4	Ancillary items not visible to the street or public realm.			
7.11.5	Solar panels or solar hot water panels are not located on the primary street frontage/s.			
7.11.6	External plumbing is not visible to the street or public realm.			
7.12.1	Retaining walls do not exceed 1.2m in height.			
7.12.2	Timber sleeper retaining walls not permitted where they are visible to the street or public realm if they are above 400mm in height.			
7.12.3	Retaining walls on or near boundaries have obtained a permit.			
7.13	Dwelling connected to recycled water.			
7.14	Dwelling connected to NBN.			
7.16	A sign advertising the sale of a vacant lot is not permitted. No business or product signage will be installed.			
9.1	Front garden will be landscaped within the lessor of 6 months of occupancy or 24 months from settlement.			
9.2	Impervious surfaces to a maximum 50%.			
9.4	Careful consideration has been taken when selecting plants.			

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Please lodge all Developer Approval
requests electronically to the following email address:
approvals@avjennings.com.au

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Version 4, November 2019

The seller/developer reserves the right to not approve any house design and the right to approve non-conforming designs that would not otherwise require statutory approval. Unless otherwise indicated, where a relaxation or variation is granted, it is for a specific lot and is not to be taken as a precedent variation for any subsequent applications. Any approval granted by the seller/developer under this building Design Guideline relates only to the style, appearance and suitability of the proposed dwelling submission and is not intended to warrant or guarantee the soundness, or suitability of the structure for the intended purpose, of any proposed improvements on the land, submitted to the seller/developer by the buyer. The buyer should seek expert advice with respect to the soundness, or suitability of the structure for the intended purpose of any proposal for the construction of improvements on the land. The seller/developer shall not, in any circumstances, be liable for any damage or loss (*including direct, indirect and consequential damage or loss), caused to the buyer through the negligent construction of improvements on the land.

AVJennings®

Call 131 878 or visit avjennings.com.au

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 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 a 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 and currently 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 general condition 11.2, the purchaser must
- (a) only use the vendor's date of birth for the purposes specified in general 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 predominantly 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 or must be described by 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 that 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. BUILDER 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 sold is a lot 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 the 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) payment 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 funds 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 purpose 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 am and 4.00 pm 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. General 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 and time 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 general 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 vendor's 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, unless the margin scheme applies.
- 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 sale is checked.
- 21.2 The purchaser may end this contract within 14 days from the day of sale if the purchaser:
 - (a) obtains a written report from a 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 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 adjustments 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 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.
- 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 of general 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 a 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 premises 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 an 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 has a 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 authorized 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, and 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.

GUARANTEE and INDEMNITY

I/We, of
.....

and..... of
.....

being the **Sole Director / Directors** of of
..... (called the "Guarantors") IN

CONSIDERATION of the Vendor selling to the Purchaser at our request the Land described in this Contract of Sale for the price and upon the terms and conditions contained therein **DO** for ourselves and our respective executors and administrators **JOINTLY AND SEVERALLY COVENANT** with the said Vendor and their assigns that if at any time default shall be made in payment of the Deposit Money or residue of Purchase Money or interest or any other moneys payable by the Purchaser to the Vendor under this Contract or in the performance or observance of any term or condition of this Contract to be performed or observed by the Purchaser I/we will immediately on demand by the Vendor pay to the Vendor the whole of the Deposit Money, residue of Purchase Money, interest or other moneys which shall then be due and payable to the Vendor and indemnify and agree to keep the Vendor indemnified against all loss of Deposit Money, residue of Purchase Money, interest and other moneys payable under the within Contract and all losses, costs, charges and expenses whatsoever which the Vendor may incur by reason of any default on the part of the Purchaser. This Guarantee shall be a continuing Guarantee and Indemnity and shall not be released by: -

- (f) any neglect or forbearance on the part of the Vendor in enforcing payment of any of the moneys payable under the within Contract;
- (g) the performance or observance of any of the agreements, obligations or conditions under the within Contract;
- (h) by time given to the Purchaser for any such payment performance or observance;
- (i) by reason of the Vendor assigning his, her or their rights under the said Contract; and
- (j) by any other thing which under the law relating to sureties would but for this provision have the effect of releasing me/us, my/our executors or administrators.

IN WITNESS whereof the parties hereto have set their hands and seals

this day of 2023

SIGNED by the said)

)

Print Name:)

)

.....

Director (Sign)

in the presence of:)

)

Witness:)

)

.....

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	23 TRAMWAY AVENUE, WOLLERT 3750	
Vendor's name	Irfan Hanna Kunda	Date
Vendor's signature		
Purchaser's name		Date
Purchaser's signature		
Purchaser's name		Date
Purchaser's signature		

Important information

InfoTrack is not liable in any way, including, without limitation, in negligence, for the use to which this document may be put, for any errors or omissions in this document. It is advised you should also check for any subsequent changes in the law.

1. FINANCIAL MATTERS

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

Total does not exceed:

\$ 6000

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 of 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.

Note: There may be additional legislative obligations in respect of the sale of land on which there is a building on which building work has been carried out.

3. LAND USE

3.1 Easements, Covenants or Other Similar Restrictions

Not applicable.

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

Not applicable.

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:

--

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:

--

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).

Not applicable.

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*

6.1 Not applicable.

7. ☒ GROWTH AREAS INFRASTRUCTURE CONTRIBUTION ("GAIC")

Words and expressions in this section 7 have the same meaning as in Part 9B of the *Planning And Environment Act 1987*.

7.1 Work-in-Kind Agreement

This section 7.1 only applies if the land is subject to a work-in-kind agreement

- (a) The land is NOT to be transferred under the agreement unless the square box is marked with an "X" ☐
- (b) The land is NOT land on which works are to be carried out under the agreement (other than Crown land) unless the square box is marked with an "X" ☐
- (c) The land is NOT land in respect of which GAIC is imposed unless the square box is marked with an "X" ☐

7.2 GAIC Recording

This section 7.2 only applies if there is a GAIC recording.

Any of the following certificates or notices must be attached if there is a GAIC recording. The accompanying boxes marked with an "X" indicate that such a certificate or notice that is attached:

- (a) Any certificate of release from liability to pay a GAIC recording ☐
- (b) Any certificate of deferral of the liability to pay the whole or part of a GAIC ☐
- (c) Any certificate of exemption from liability to pay a GAIC ☐
- (d) Any certificate of staged payment approval ☐
- (e) Any certificate of no GAIC liability ☒
- (f) Any notice providing evidence of the grant of a reduction of the whole part of the liability for a GAIC or an exemption from that liability ☐
- (g) A GAIC certificate issued under Part 9B of the Planning and Environment Act 1987 must be attached if there is not certificate or notice issued under any of the sub-sections 7.2 (a) to (f) above ☐

8. SERVICES

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

Electric Supply <input checked="" type="checkbox"/>	Gas supply <input checked="" type="checkbox"/>	Water supply <input checked="" type="checkbox"/>	Sewerage <input checked="" type="checkbox"/>	Telephone services <input checked="" type="checkbox"/>
---	--	--	--	--

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

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 2000m²; (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.)

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)

23 TRAMWAY AVENUE, WOLLERT 3750
23 TRAMWAY AVENUE, WOLLERT 3750
23 TRAMWAY AVENUE, WOLLERT 3750

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](https://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.

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

Page 1 of 1

VOLUME 12392 FOLIO 967

Security no : 124109839068M
Produced 17/10/2023 05:07 PM

LAND DESCRIPTION

Lot 1206 on Plan of Subdivision 821106F.

PARENT TITLES :

Volume 12210 Folio 506 Volume 12376 Folio 483

Created by instrument PS821106F 05/08/2022

REGISTERED PROPRIETOR

Estate Fee Simple

Sole Proprietor

IRFAN HANNA KUNDA of 344 GORDONS ROAD SOUTH MORANG VIC 3752
AV979320Q 19/08/2022

ENCUMBRANCES, CAVEATS AND NOTICES

COVENANT PS821106F 05/08/2022

COVENANT AV979320Q 19/08/2022

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
AR724785C 05/12/2018

AGREEMENT Section 173 Planning and Environment Act 1987
AS619507L 15/10/2019

DIAGRAM LOCATION

SEE PS821106F 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: 23 TRAMWAY AVENUE WOLLERT VIC 3750

DOCUMENT END

Imaged Document Cover Sheet

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Document Type	Plan
Document Identification	PS821106F
Number of Pages (excluding this cover sheet)	10
Document Assembled	17/10/2023 17:11

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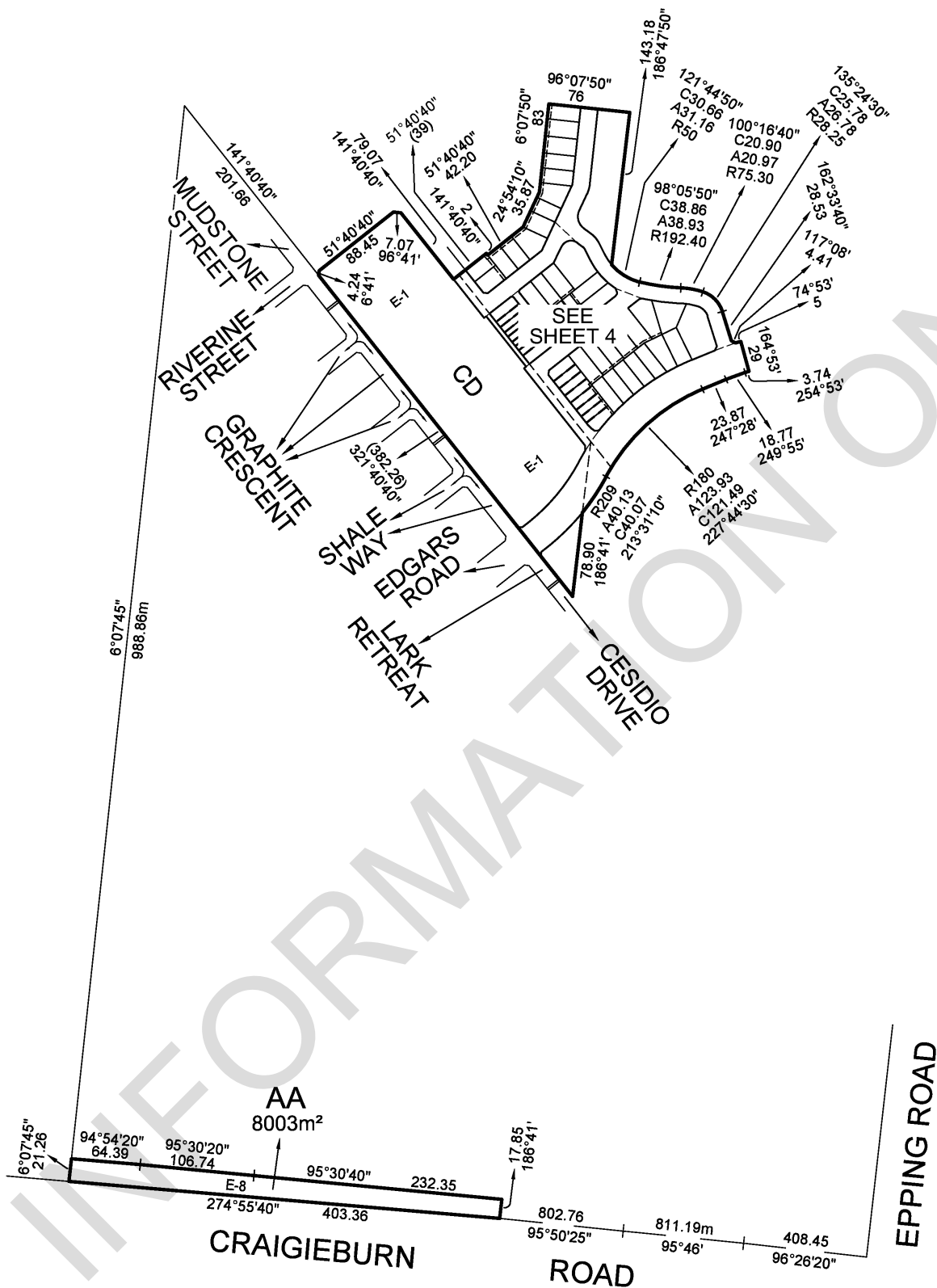
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PLAN OF SUBDIVISION			EDITION 1	PS821106F
LOCATION OF LAND PARISH: WOLLERT TOWNSHIP: SECTION: 17 & 18 CROWN ALLOTMENT: CROWN PORTION: 1 (PART) & 2 (PART) TITLE REFERENCE: Vol. 12376 Fol. 483 Vol. 12210 Fol. 506 LAST PLAN REFERENCE: Lot A on PS833358J Lot ZD on PS836038M POSTAL ADDRESS: Edgars Road (at time of subdivision) WOLLERT 3750 MGA 94 CO-ORDINATES: E: 324 270 ZONE: 55 (of approx centre of land in plan) N: 5836 860			Council Name: Whittlesea City Council Council Reference Number: 609963 Planning Permit Reference: 716991 SPEAR Reference Number: S127176S Certification This plan is certified under section 11 (7) of the Subdivision Act 1988 Date of original certification under section 6: 01/04/2021 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 Digitally signed by: Renee Kueffer for Whittlesea City Council on 17/06/2022 Statement of Compliance issued: 15/07/2022	
VESTING OF ROADS AND/OR RESERVES			NOTATIONS	
IDENTIFIER	COUNCIL/BODY/PERSON		Lots 1201 - 1253 on this plan may be affected by one or more restrictions. Refer to Creation of Restrictions A, B & C on Sheets 8, 9 and 10 of this plan for details. Easement E-5 has been exaggerated for clarity purposes. WARNING: The restrictive covenant(s)/restriction(s) in this plan may have been varied or removed. For current information, please refer to the relevant folio(s) of the Register, noting section 88(3) of the Transfer of Land Act 1958	
Road R1	Whittlesea City Council			
Reserve No. 1	Whittlesea City Council			
Reserve No. 2	Whittlesea City Council			
NOTATIONS				
DEPTH LIMITATION: Does Not Apply				
SURVEY: This plan is based on survey. STAGING: This is not a staged subdivision. Planning Permit No. 716991				
LYNDARUM NORTH - Release No. 12 Area of Release: 4.002ha No. of Lots: 53 Lots and Balance Lots AA, BB, CC & CD				
EASEMENT INFORMATION				
LEGEND: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
SEE EASEMENTS DETAILS ON SHEET 2				
TAYLORS		SURVEYORS FILE REF: Ref. 20225-S12 Ver. 19		ORIGINAL SHEET SIZE: A3
Urban Development Built Environments Infrastructure 8 / 270 Ferntree Gully Road, Notting Hill, Victoria, 3168 Tel: 61 3 9501 2800 Web: taylorssds.com.au		Digitally signed by: Leo Alexander Bateman, Licensed Surveyor, Surveyor's Plan Version (19), 15/06/2022, SPEAR Ref: S127176S		SHEET 1 OF 10 PLAN REGISTERED TIME: 9:15 AM DATE: 5/08/2022 R.D. Assistant Registrar of Titles

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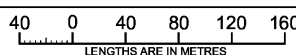
PS821106F



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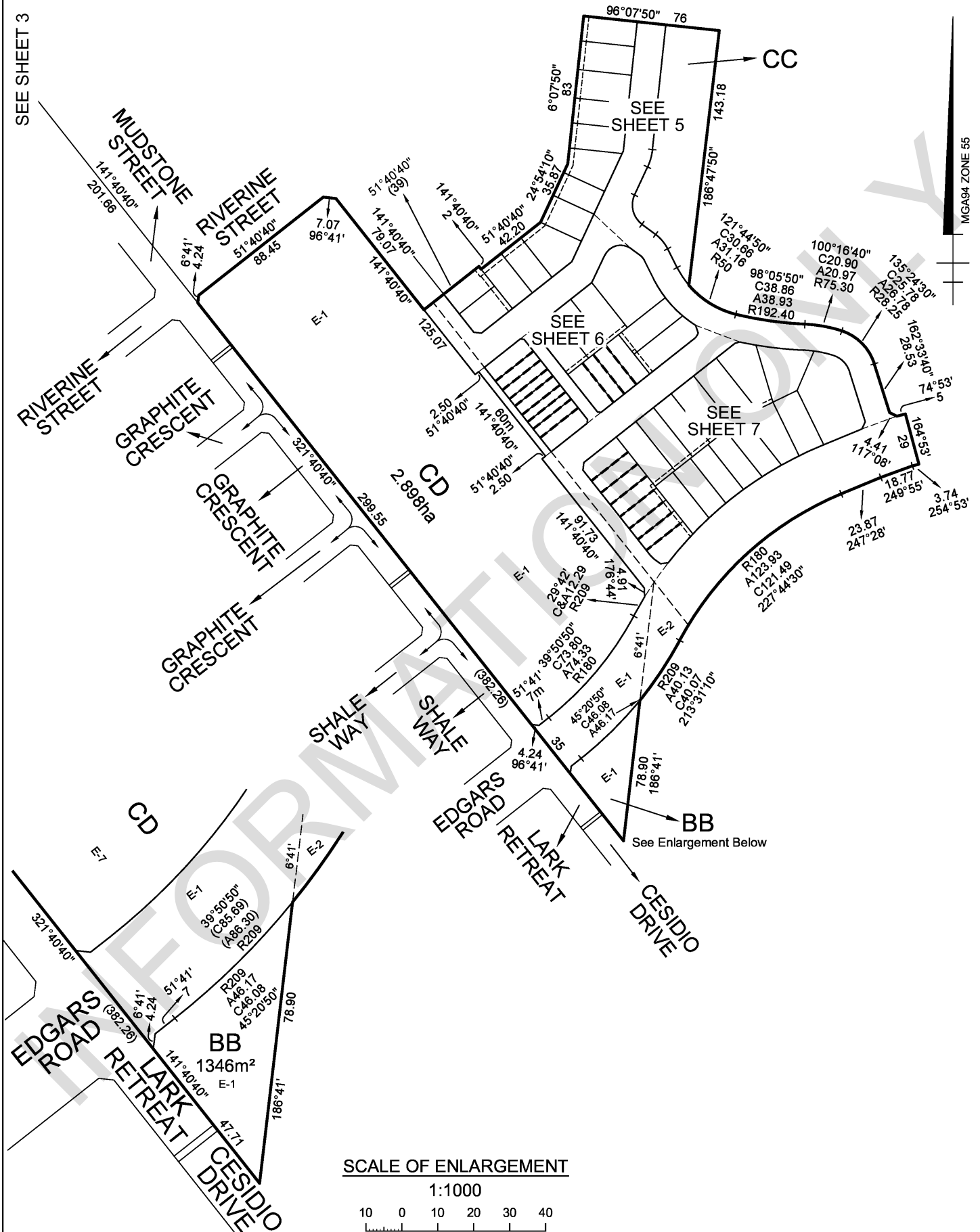
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Ref. 20225-S12
Ver. 19

SHEET 3

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LENGTHS ARE IN METRES

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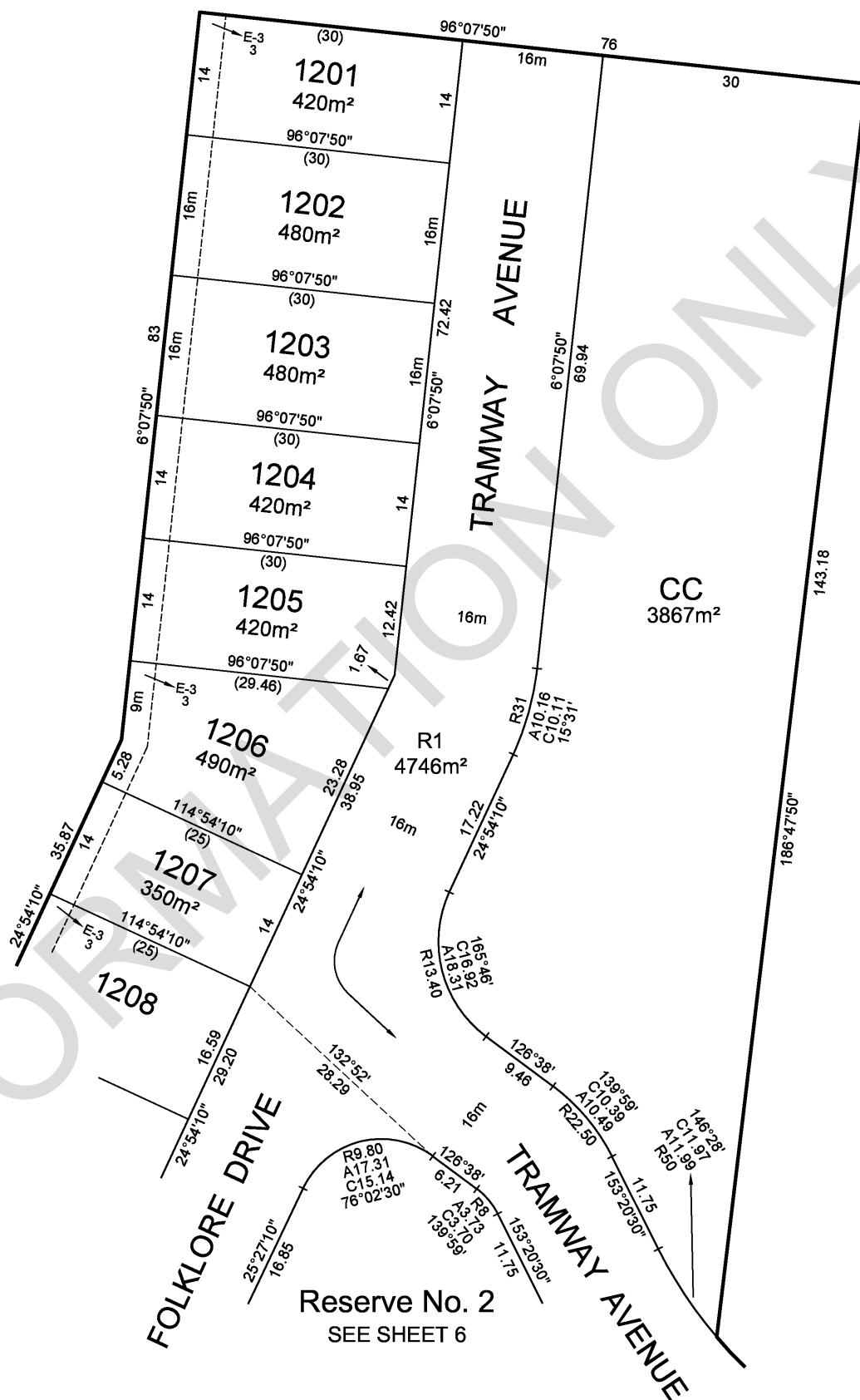
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Ver. 19

SHEET 4

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PS821106F

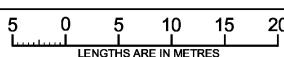


Reserve No. 2
SEE SHEET 6

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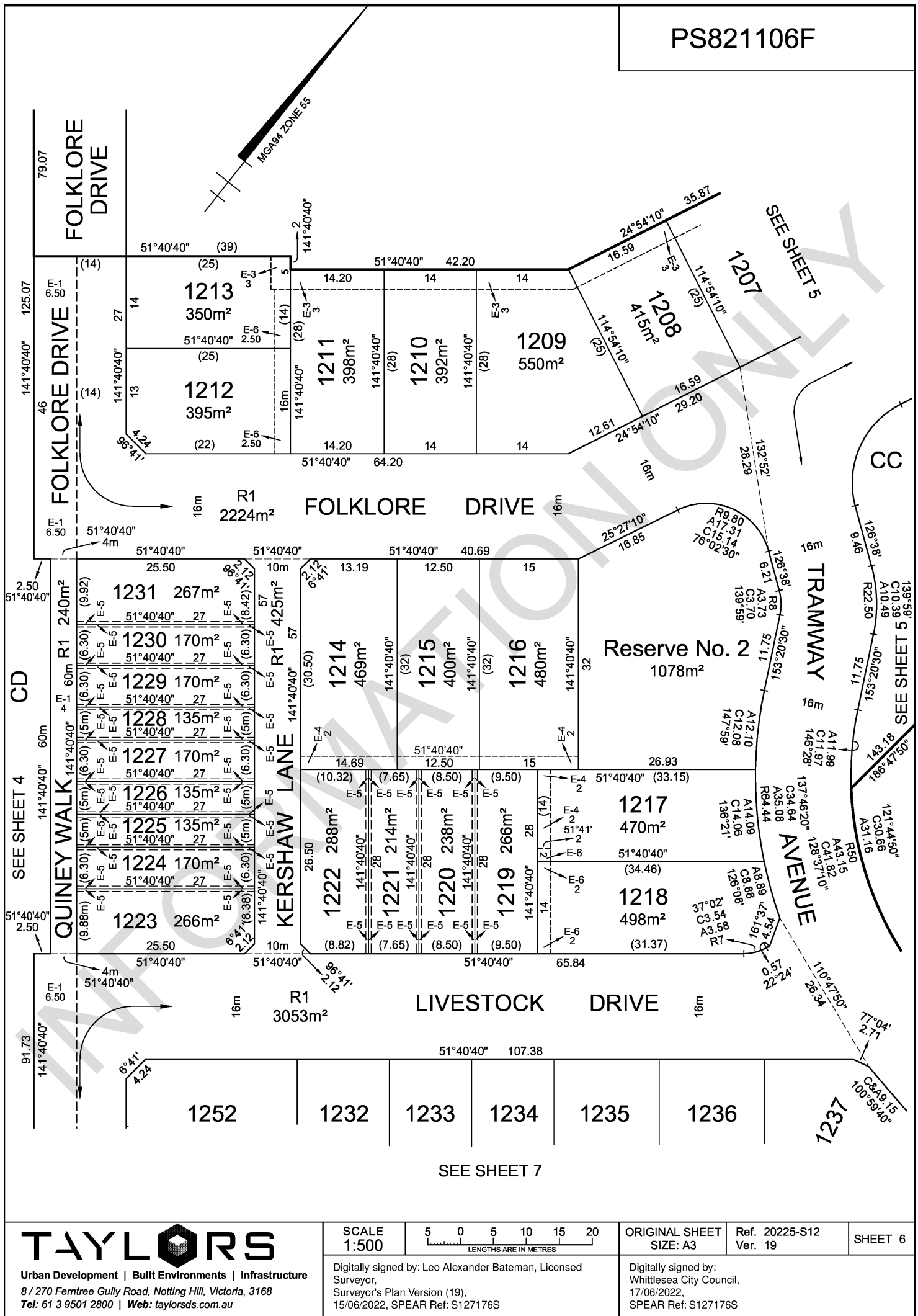
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Surveyor,
Surveyor's Plan Version (19),
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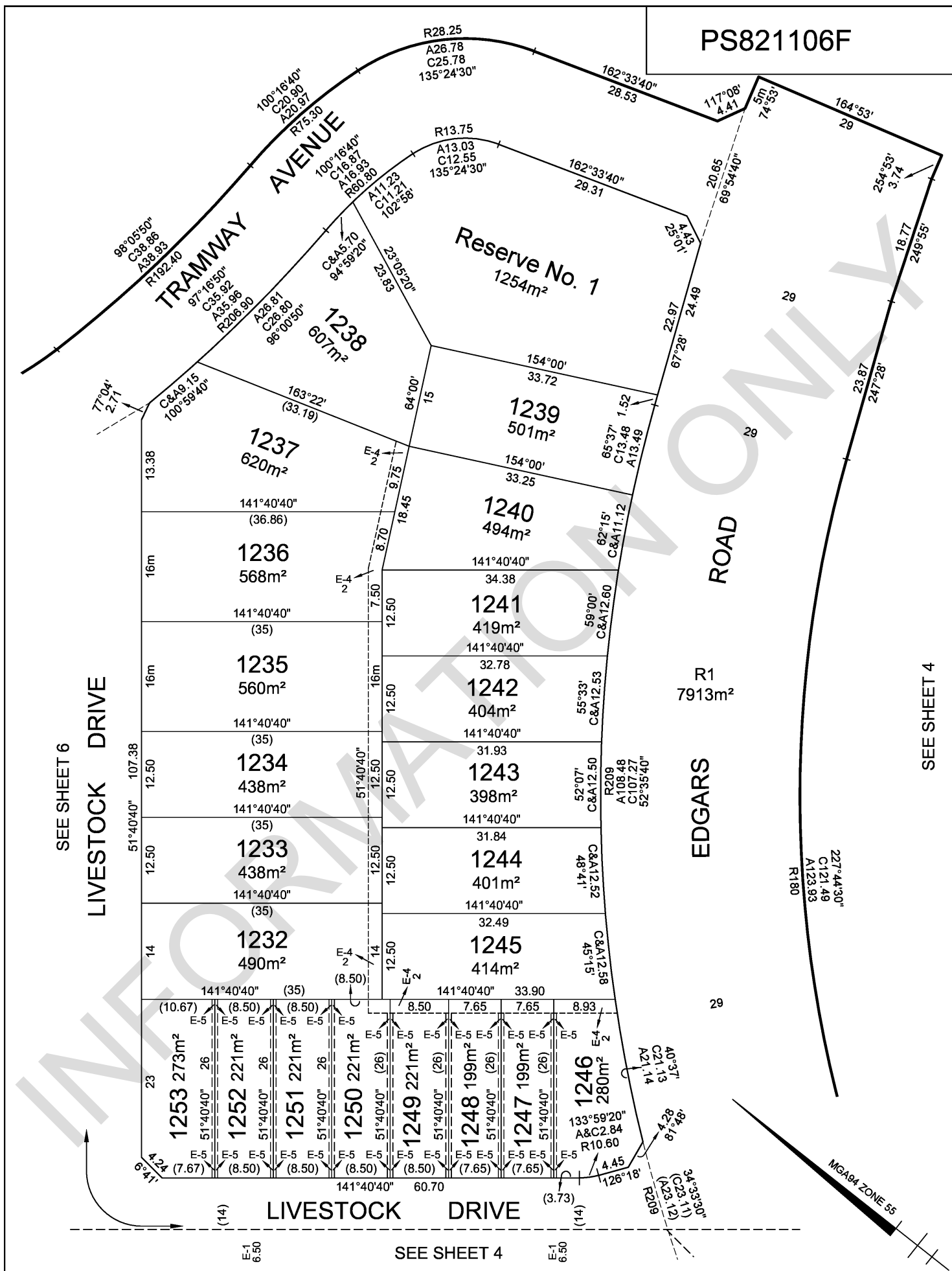
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Ver. 19

SHEET 5

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17/06/2022,
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SCALE
1:500

5 0 5 10 15 20
LENGTHS ARE IN METRES

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Ver. 19

SHEET 7

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17/06/2022,
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PS821106F

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.

BURDENED LAND: See Table 1 below.

BENEFITED LAND: See Table 1 below.

RESTRICTION:

The registered proprietor or proprietors for the time being of any burdened lot to which this restriction applies must not:

1. Construct or allow to be constructed or remain on the lot or any part of it, any garage with a setback less than 5 metres from the front boundary of the lot.
2. Construct or allow to be constructed or remain on the lot or any part of it, any garage on the lot other than a single car garage where the width of the lot is 10 metres or less when measured at the front wall of the dwelling, where access is proposed from the lot frontage.
3. Construct or allow to be constructed or remain on the lot or any part of it, any dwelling or commercial building other than any dwelling or commercial building which incorporates dual plumbing for the use of recycled water in toilet flushing and garden watering.
4. Construct or allow to be constructed or remain on a corner lot or any part of it, any dwelling with the side wall of the first level which is constructed:
 - (i) less than 900mm from the ground level wall that faces a side street; or
 - (ii) with less than 30% glazing for the area of the wall and the remainder of the wall must be constructed in contrasting material finishes.

TABLE 1

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
1201	1202
1202	1201, 1203
1203	1202, 1204
1204	1203, 1205
1205	1204, 1206
1206	1205, 1207
1207	1206, 1208
1208	1207, 1209
1209	1208, 1210
1210	1209, 1211
1211	1210, 1212, 1213
1212	1211, 1213
1213	1211, 1212
1214	1215, 1221, 1222
1215	1214, 1216, 1219, 1220, 1221
1216	1215, 1217, 1219
1217	1216, 1218, 1219
1218	1217, 1219

TABLE 1 continued

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
1232	1233, 1244, 1250, 1251, 1252, 1253
1233	1232, 1234, 1243, 1244
1234	1233, 1235, 1242, 1243
1235	1234, 1236, 1241, 1242
1236	1235, 1237, 1240, 1241
1237	1236, 1238, 1240
1238	1237, 1239
1239	1238, 1240
1240	1236, 1237, 1239, 1241
1241	1235, 1236, 1240, 1242
1242	1234, 1235, 1241, 1243
1243	1233, 1234, 1242, 1244
1244	1232, 1233, 1243, 1245
1245	1232, 1244, 1246, 1247, 1248, 1249, 1250

PS821106F

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.

BURDENED LAND: See Table 2 below.

BENEFITED LAND: See Table 2 below.

RESTRICTION:

The registered proprietors for the time being of any burdened lot to which this restriction applies must not :-

1. Construct or allow to be constructed or remain on the lot or any part of it, any building other than one private dwelling house with usual outbuildings without prior written consent from Wollert JV Nominee Pty Ltd and further development approval from Whittlesea City Council.
2. Construct or allow to be constructed or remain on the lot or any part of it, any dwelling house or outbuilding without applicable plans and specifications first being submitted to and approved by Wollert JV Nominee Pty Ltd and prepared in accordance with the Lyndarum North Design Guidelines and then only in compliance with any condition imposed by Wollert JV Nominee Pty Ltd in respect of that approval.

Expiry Date : 30th June 2028.

TABLE 2

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
1201	1202
1202	1201, 1203
1203	1202, 1204
1204	1203, 1205
1205	1204, 1206
1206	1205, 1207
1207	1206, 1208
1208	1207, 1209
1209	1208, 1210
1210	1209, 1211
1211	1210, 1212, 1213
1212	1211, 1213
1213	1211, 1212
1214	1215, 1221, 1222
1215	1214, 1216, 1219, 1220, 1221
1216	1215, 1217, 1219
1217	1216, 1218, 1219
1218	1217, 1219
1219	1215, 1216, 1217, 1218, 1220
1220	1215, 1219, 1221
1221	1214, 1215, 1220, 1222
1222	1214, 1221
1223	1224
1224	1223, 1225
1225	1224, 1226
1226	1225, 1227
1227	1226, 1228

TABLE 2 Continued

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
1228	1227, 1229
1229	1228, 1230
1230	1229, 1231
1231	1230
1232	1233, 1244, 1245, 1250, 1251, 1252, 1253
1233	1232, 1234, 1243, 1244
1234	1233, 1235, 1242, 1243
1235	1234, 1236, 1241, 1242
1236	1235, 1237, 1240, 1241
1237	1236, 1238, 1240
1238	1237, 1239
1239	1238, 1240
1240	1236, 1237, 1239, 1241
1241	1235, 1236, 1240, 1242
1242	1234, 1235, 1241, 1243
1243	1233, 1234, 1242, 1244
1244	1232, 1233, 1243, 1245
1245	1232, 1244, 1246, 1247, 1248, 1249, 1250
1246	1247
1247	1246, 1248
1248	1247, 1249
1249	1248, 1250
1250	1249, 1251
1251	1250, 1252
1252	1251, 1253
1253	1252



Urban Development | Built Environments | Infrastructure
8 / 270 Ferntree Gully Road, Notting Hill, Victoria, 3168
Tel: 61 3 9501 2800 | Web: taylorssds.com.au

Digitally signed by: Leo Alexander Bateman, Licensed Surveyor,
Surveyor's Plan Version (19),
15/06/2022, SPEAR Ref: S127176S

ORIGINAL SHEET
SIZE: A3

Ref. 20225-S12
Ver. 19

SHEET 9

Digitally signed by:
Whittlesea City Council,
17/06/2022,
SPEAR Ref: S127176S

PS821106F

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.

LAND TO BE BURDENED: See Table 3 below.

LAND TO BENEFIT: See Table 3 below.

DESCRIPTION OF RESTRICTION

The registered proprietor or proprietors for the time being of any burdened lot to which this restriction applies must not :-

1. Construct or allow to be constructed or remain on the lot or any part of it, any dwelling house or garage other than a dwelling house or garage which has been built in accordance with the Small Lot Housing Code incorporated into the Whittlesea Planning Scheme unless a planning permit is granted by the responsible authority for a dwelling house or garage that does not conform with the Small Lot Housing Code.
2. Construct or allow to be constructed or remain on the lot or any part of it, any dwelling house or commercial building other than any dwelling house or commercial building which incorporates dual plumbing for the use of recycled water in toilet flushing and garden watering.

TABLE 3

BURDENED LOT No.	SLHC TYPE	BENEFITING LOTS ON THIS PLAN
1219	A	1215, 1216, 1217, 1218, 1220
1220	A	1215, 1219, 1221
1221	A	1214, 1215, 1220, 1222
1222	A	1214, 1221
1223	A	1224
1224	A	1223, 1225
1225	A	1224, 1226
1226	A	1225, 1227
1227	A	1226, 1228
1228	A	1227, 1229
1229	A	1228, 1230

TABLE 3 Continued

BURDENED LOT No.	SLHC TYPE	BENEFITING LOTS ON THIS PLAN
1230	A	1229, 1231
1231	A	1230
1246	A	1247
1247	A	1246, 1248
1248	A	1247, 1249
1249	A	1248, 1250
1250	A	1249, 1251
1251	A	1250, 1252
1252	A	1251, 1253
1253	A	1252



Department of Environment, Land, Water & Planning

Electronic Instrument Statement

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Status	Registered	Dealing Number	AV979320Q
Date and Time Lodged	19/08/2022 03:46:09 PM		

Lodger Details

Lodger Code	23884A
Name	DOMAYNE CONVEYANCING
Address	
Lodger Box	
Phone	
Email	
Reference	

TRANSFER

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

Privacy Collection Statement

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Land Title Reference

12392/967

Transferor(s)

Name	GREENWELLS WOLLERT PTY LTD
ACN	128803092

Estate and/or Interest being transferred

Fee Simple

Consideration

\$AUD 375000.00

Transferee(s)

Tenancy (inc. share)	Sole Proprietor
Given Name(s)	IRFAN HANNA
Family Name	KUNDA
Address	
Street Number	344
Street Name	GORDONS



Department of Environment, Land, Water & Planning

Electronic Instrument Statement

Street Type	ROAD
Locality	SOUTH MORANG
State	VIC
Postcode	3752

Covenants

The registered proprietors of the burdened land covenant with the registered proprietors of the benefited land as set out in the restrictive covenant with the intent that the burden of the restrictive covenant runs with and binds the burdened land and the benefit of the restrictive covenant is annexed to and runs with the benefited land.

Burdened land	the Land
Benefited land	MCP: AA8569
Restrictive covenant	MCP: AA8569
Expiry Date	

Duty Transaction ID

5513225

The transferor transfers to the transferee their estate and/or interest in the land specified for the consideration, subject to any restrictive covenant set out or referred to in this transfer.

Execution

1. The Certifier has taken reasonable steps to verify the identity of the transferor 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 law and any Prescribed Requirement.

Executed on behalf of	GREENWELLS WOLLERT PTY LTD
Signer Name	DAVID HARTNEY
Signer Organisation	MADDOCKS
Signer Role	AUSTRALIAN LEGAL PRACTITIONER
Execution Date	19 AUGUST 2022

Execution

1. The Certifier has taken reasonable steps to verify the identity of the transferee 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 law and any Prescribed Requirement.

Executed on behalf of	IRFAN HANNA KUNDA
Signer Name	SABA POLATKESEN
Signer Organisation	DOMAYNE CONVEYANCING
Signer Role	AUSTRALIAN LEGAL PRACTITIONER
Execution Date	19 AUGUST 2022

File Notes:

NIL

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



Department of Environment, Land, Water & Planning

Electronic Instrument Statement

Statement End.

INFORMATION ONLY

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Number of Pages (excluding this cover sheet)	31
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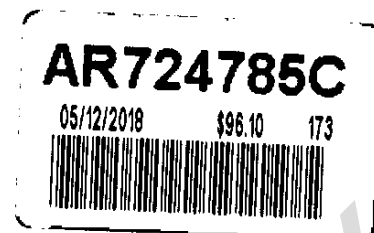
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Application by a Responsible Authority for the making of a Recording of an Agreement

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: TGM:7528871
Customer Code: 1167E

The 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 for the land.

Land: Volume 11650 Folio 077

Responsible Authority: Whittlesea City Council of Civic Centre, Ferres Boulevard, South Morang, Victoria

Section and Act under which agreement made: Section 173 of the *Planning and Environment Act 1987*

A copy of the agreement is attached to this application

Signing

AUSTRALIAN LEGAL PRACTITIONER

Representing: Representing another

Signer Name:

A handwritten signature in black ink, appearing to read 'Simon D'Angelo', written over a dotted line.

Signer Organisation: MADDOCKS

Signer Role: Australian Legal Practitioner

SIMON D'ANGELO
727 Collins St, Melbourne 3008
An Australian legal practitioner
within the meaning of the Legal
Profession Uniform Law (Victoria)

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: Whittlesea City Council

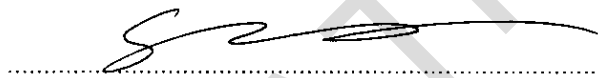
Signer Name:

Simon D'Angelo

Signer Organisation: MADDOCKS

Signer Role: Australian Legal Practitioner

Signature:



Execution Date: 5 December 2018

SIMON D'ANGELO
727 Collins St, Melbourne 3008
An Australian legal practitioner
within the meaning of the Legal
Profession Uniform Law (Victoria)



Date 4/12/2018

Maddocks

Lawyers
140 William Street
Melbourne Victoria 3000 Australia

Telephone 61 3 9288 0555
Facsimile 61 3 9288 0666

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

DX 259 Melbourne

AR724785C

05/12/2018 \$96.10 173



Agreement under section 173 of the Planning and Environment Act 1987

Subject Land: 220 Craigieburn Road

Purpose of Agreement: WIK for Infrastructure Projects, Land Projects and Public Open Space

City of Whittlesea

and

Greenwells Wollert Pty Ltd ACN 128 803 092



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Contents

AR724785C

05/12/2018 \$96.10 173



1.	Definitions	5
2.	Interpretation	8
3.	Purposes of Agreement	8
4.	Reasons for Agreement	9
5.	Agreement required	9
6.	Payment of Development Infrastructure Levy	9
7.	Works in kind	9
7.1	Construction of Infrastructure Projects	9
7.2	Time for completion of Infrastructure Projects	10
7.3	Project Control Group	10
7.4	Obligation to complete Infrastructure Projects once commenced	10
7.5	Infrastructure Project Value	10
7.6	Design of Infrastructure Projects	10
7.7	Variation of Approved Plans	11
7.8	Construction of Infrastructure Projects	11
7.9	Standard of work	11
7.10	Access to land	11
8.	Certificate of Practical Completion	12
8.1	Certificate of Practical Completion	12
8.2	Procedure for Certificate of Practical Completion	12
9.	Transfer of ownership	12
9.1	Transfer	12
9.2	Maintenance of Infrastructure Projects	13
9.3	Bank Guarantee	13
10.	Land Project	13
10.1	Transfer or vesting of Land Project	13
10.2	Time for transfer or vesting of Land Project	13
10.3	Agreed Land Value	13
10.5	Environmental Assessment	14
11.	Public Open Space	14
11.1	Open Space Land	14
11.2	Environmental Assessment	14
11.3	Value of Open Space Land	14
11.4	Equalisation Payment	14
11.5	Council acknowledgement	15
12.	Credit and processing of credits	15
12.1	Credit	15
13.	Localised Infrastructure	15
14.	Further obligations of the Parties	16
14.1	Transaction costs	16
14.2	Notice and registration	16
14.3	Further actions	16
14.4	Fees	16
14.5	Council's costs to be paid	16
14.6	Time for determining satisfaction	17



Maddocks

14.7	Interest for overdue money	17
15.	Agreement under section 173 of the Act	17
16.	Owner's warranties	17
17.	Successors in title.....	17
18.	General matters	18
18.1	Notices	18
18.2	No waiver	18
18.3	Severability	18
18.4	No fettering of Council's powers	18
18.5	Inspection of documents	18
18.6	Governing law	18
19.	GAIC.....	18
20.	Foreign resident capital gains withholding	19
20.1	Definitions	19
20.2	Foreign resident status of Owner and Developer	19
20.3	Excluded transaction.....	19
20.4	Variation notice	20
20.5	Withholding	20
20.6	Council to remit withholding amount.....	20
20.7	Consideration adjusted after withholding.....	21
20.8	Owner and Developer to co-operate.....	21
20.9	Owner's and Developer's warranty.....	22
20.10	Indemnity.....	22
21.	GST	22
22.	Commencement of Agreement.....	22
23.	Amendment of Agreement	22
24.	Ending of Agreement	22
	Schedule 1	24
	Schedule 2	25
	Schedule 3	26
	Schedule 4	27
	Schedule 5	28

AR724785C



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Agreement under section 173 of the Planning and Environment Act 1987

Dated 4 / 12 / 2018



Parties

Name	City of Whittlesea
Address	25 Ferres Boulevard, South Morang
Email:	info@whittlesea.vic.gov.au
Short name	Council
Name	Greenwells Wollert Pty Ltd ACN 128 803 092
Address	Level 2, 108 Power Street, Hawthorn VIC 3122
Email:	TBA
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 Subject Land is to be developed as part of the development known as the Lyndarum North estate.
- F. The Development Contributions Plan applies to the Subject Land. It specifies the infrastructure contributions required to fund infrastructure necessary as a result of development of the area for urban purposes.
- G. The Owner has asked Council for permission to carry out certain Infrastructure Projects.
- H. The Owner has asked Council for permission to transfer to or vest in Council the Land Projects.
- I. Council and the Owner have agreed on the public open space equalization.
- J. Council has agreed that the Owner will:
 - J.1 carry out the Infrastructure Projects; and

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J.2 transfer the Land Projects to Council

in return for a credit against its development contribution liability under the Development Contributions Plan.

The Parties agree:

1. Definitions

In this Agreement unless the context admits otherwise:

Act means the *Planning and Environment Act 1987*.

Agreed Land Value means the amount specified in Schedule 2.

Agreed Infrastructure Project Value means the amount specified in Schedule 1.

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

Approved Plans means the Designs of an Infrastructure Project approved by Council under clause 7.6 of this Agreement.

~~Averaged Equalisation Payment~~ means the rate of Equalisation Payment to be credited to the Owner per Net Developable Hectare on a stage by stage basis as set out in Schedule 3, which is subject to Indexation.

Bank Guarantee means a bank guarantee or other form of security to the satisfaction of Council to secure the Owner's obligation to undertake maintenance to an Infrastructure Project during the Maintenance Period, to the maximum amount of 5% of the apportioned value of the works in respect of each Infrastructure Project.

Building Permit means a building permit issued under the *Building Act 1993* or any regulations or code made under the *Building Act 1993*.

Certificate of Practical Completion means a written certificate issued by Council in its capacity as the Development Agency stating that an Infrastructure Project has been completed to the satisfaction of Council.

Construction Program means a program in relation 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 Development Agency must be able to inspect the construction and progression of the Infrastructure Project.

CPI means the annual Consumer Price Index (All Groups-Melbourne) as published by the Australian Bureau of Statistics, or, if that index number is no longer published, its substitute as a cumulative indicator of the inflation rate in Australia, as determined by Council from time to time.

Credit means a credit in the amount of the Agreed Land Value or the Agreed 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:

- for Council, the address shown on page one of this Agreement, or any other address listed on Council's website; and

AR724785C

05/12/2018	\$96.10	173
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- 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:

- for Council, info@whittlesea.vic.gov.au, or any other email address listed on Council's website; and
- for the Owner, any 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 including associated landscape works for that project.

Developable Land means the area of land identified as developable land in the land use budget of the Development Contributions Plan.

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

Development Contributions Plan or DCP means the Wollert Development Contributions Plan, being an incorporated document in the Planning Scheme.

Endorsed Plan means the plan endorsed with the stamp of Council from time to time as the plan which forms part of the Planning Permit.

Equalisation Payment means the amount specified in Schedule 3 as the Total Equalisation Payment due to Council or Owner, as appropriate.

GAIC means the Growth Areas Infrastructure Contribution imposed under the Act.

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

Indexation means an annual adjustment to an amount, applied on the 1st of July each year, using:

- the CPI (all groups, Melbourne) as the adjustment index for Land Project;
- the CPI (all groups, Melbourne) as the adjustment index for the Averaged Equalisation Payment; and
- the Producer Price Index Numbers for Roads and Bridge Construction, Victoria published by the Australian Bureau of Statistics (Catalogue 6427.0, Table 17, Output of the Construction Industries, subdivision and class index numbers) –

and in all instances, for the June, September, December and March quarters occurring immediately before the beginning of the financial year in respect of which the indexed rate is being determined.

Infrastructure Project means a project identified in Schedule 1.

Inherent GAIC Liability means the current or future liability of the Subject Land for GAIC upon the happening of a GAIC event as defined and described in the Act whether before, at or after the vesting or transfer of the land in or to Council.



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Land Project means land which is described in Schedule 2 and which under this Agreement is required to be transferred to or vested in Council.

Localised Infrastructure means works, services or facilities necessitated by the subdivision or development of land including but not limited to provision of 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 and which is not funded by the Development Contribution Plan.

Maintenance Period means the period specified in Schedule 4 commencing on the date of the Certificate of Practical Completion of an Infrastructure Project.

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 Subject Land or any part of it.

Open Space Land means land for public open space identified in the Precinct Structure Plan and reflected in Schedule 3, and which is not an Infrastructure Project or a Land Project but is subject to an Equalisation Payment.

Open Space Land Value means the amount specified in Schedule 3 as the Open Space Land Value.

Owner means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as proprietor or proprietors of an estate in fee simple of the Subject Land or any part of the Subject Land and includes any Mortgagee-in-possession.

Party or Parties means the parties to this Agreement.

Party's Current Email means the email address of a party specified in this agreement or any other email address from time to time that a party notifies the other party of in writing.

Plan Checking Fee means the fee payable to Council or a referral authority by the Owner for checking engineering plans for an Infrastructure Project to the maximum amount of 0.75% of the Agreed Infrastructure Project Value.

Plan of Subdivision means a plan of subdivision which creates an additional lot which can be disposed of separately or which is intended to be used for a dwelling or which can be re-subdivided.

Planning Permit means the planning permit referred to in Schedule 5, as amended from time to time.

Planning Scheme means the Whittlesea Planning Scheme and any other planning scheme that applies to the Subject Land.

Precinct Structure Plan or PSP means the Wollert Precinct Structure, being an incorporated document in the Planning Scheme

Project Control Group means a group comprised of the Owner or a representative of the Owner and representative of Council established in accordance with clause 7.3.

Provision Trigger means the milestone or provision trigger set out in the relevant columns of Schedule 1, Schedule 2 or Schedule 3 as the case may be.

Residential Lot means a lot created by 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.





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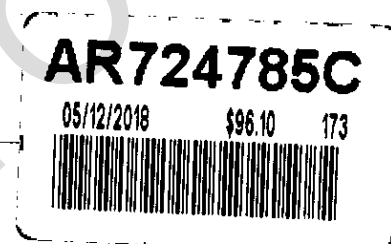
Schedule means a schedule to this Agreement.

Stage is a reference to a stage of subdivision of the Subject Land.

Statement of Compliance means a Statement of Compliance under the *Subdivision Act 1988*.

Subject Land means all of the land described in Schedule 5 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.

Supervision Fee means, where the Council or a referral authority has appointed a person to supervise the construction of the works associated with an Infrastructure Project, the fee payable to Council by the Owner to supervise construction works associated with an Infrastructure Project to the maximum amount of 2.5% of the Agreed Infrastructure Project Value.



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 that the purposes of this Agreement are to:

- 3.1 record the terms and conditions on which Council agrees to the Owner undertaking an Infrastructure Project;



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- 3.2 record the terms and conditions on which Council agrees to the Owner providing the Land Project to Council;
- 3.3 to set out the agreed position in relation to the equalization of Open Space Land; and to
- 3.4 achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

4. Reasons for Agreement

The Parties acknowledge and agree that Council 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 arrangement.
- 4.2 Council would not have consented to the Owner providing the Land Project instead of paying the Development Infrastructure Levy without setting out the terms and conditions of this arrangement.
- 4.3 To record the Parties agreement on the equalisation of Open Space Land.
- 4.4 To satisfy condition 9(b) and (c) of the Planning Permit.

AR724785C

05/12/2018 \$96.10 173



5. Agreement required

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

6. Payment of Development Infrastructure Levy

The Parties agree that:

- 6.1 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
- 6.2 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 prior to the issue of the Statement of Compliance for subdivision of the Subject Land as a result of which the obligation to pay the Development Infrastructure Levy in cash arises.

7. Works in kind

7.1 Construction of Infrastructure Projects

The Owner must construct the Infrastructure Projects:

- 7.1.1 in accordance with the Approved Plans;

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- 7.1.2 prior to the relevant Provision Trigger, unless a later date is approved by Council in writing under clause 7.2.1;
- 7.1.3 in accordance with any Public Infrastructure Plan or the like endorsed under the Planning Permit;
- 7.1.4 in accordance with any Construction Program approved by Council; and
- 7.1.5 otherwise to the satisfaction of Council in its capacity as the Development Agency.

7.2 Time for completion of Infrastructure Projects

The Owner agrees that if the Owner does not construct and complete an Infrastructure Project by the relevant Provision Trigger for an Infrastructure Project, Council may:

- 7.2.1 in its capacity as the Collecting Agency, in writing, extend the timeframe; or
- 7.2.2 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 Development Agency.

7.3 Project Control Group

The Project Control Group must:

- 7.3.1 be established to discuss the Construction Program associated with any Infrastructure Project and the general progress of the Infrastructure Project;
- 7.3.2 include representatives of Council and the Owner or the Owner's representatives; and
- 7.3.3 hold meetings at intervals to the satisfaction of Council.

7.4 Obligation to complete Infrastructure Projects once commenced

The Owner agrees that when the Owner commences construction 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.

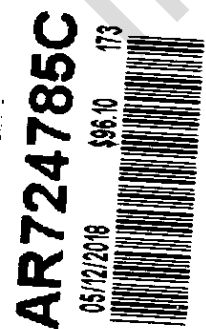
7.5 Infrastructure Project Value

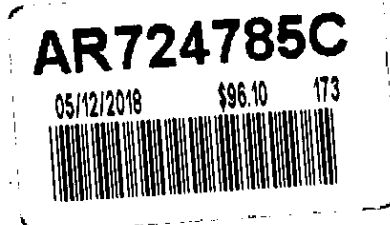
The Parties agree that the Agreed Infrastructure Project Value is a fixed amount subject only to Indexation up to the time of the Provision Trigger.

7.6 Design of Infrastructure Projects

The Owner agrees that:

- 7.6.1 the Owner must, at the full cost of the Owner, prepare the Designs of the Infrastructure Projects in accordance with the PSP and DCP and the Planning Permit, and submit the Designs to Council for approval;
- 7.6.2 approval of the Designs will be reflected in a set of plans and specifications endorsed by Council as the Approved Plans;
- 7.6.3 the Owner must obtain all necessary permits and approvals for the Infrastructure Projects; and





7.6.4 prior to awarding any contract for the Infrastructure Projects, the Owner must submit to Council for approval:

- (a) a copy of the terms and conditions of the contract to be awarded; and
- (b) a copy of the proposed Construction Program.

7.7 Variation of Approved Plans

Upon the approval by Council of the Designs (Approved Plans) there will be no further variations to the Approved Plans without the prior written consent of Council in its capacity as Development Agency.

7.8 Construction of Infrastructure Projects

In carrying out the Infrastructure Projects:

- 7.8.1 the Owner is responsible for all design and construction risks in relation to the Infrastructure Projects;
- 7.8.2 Council has no responsibility for any costs incurred by the Owner in constructing an Infrastructure Project in accordance with this Agreement beyond the Agreed Infrastructure Project Value.

7.9 Standard of work

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

- 7.9.1 accord with the Approved Plans;
- 7.9.2 be fit and structurally sound, fit for purpose and suitable for its intended use;
- 7.9.3 comprise best industry practice to the extent required by the Approved Plans;
- 7.9.4 not encroach upon any land other than the land shown in the Approved Plans; and
- 7.9.5 comply with any relevant current Australian Standard unless otherwise agreed in writing by Council in its capacity as development agency.

7.10 Access to land

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:

- 7.10.1 consent of the owner of land to access such land;
- 7.10.2 satisfied any condition of such consent;

7.11 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.

7.12 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.

AR724785C

05/12/2018

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173



8. Certificate of Practical Completion

8.1 Certificate of Practical Completion

Council must issue a Certificate of Practical Completion for an Infrastructure Project when the Infrastructure Project, or any stage of it as specified in this Agreement or as otherwise agreed with Council in its capacity as Development Agency, has been completed to the satisfaction of Council in its capacity as Development Agency in accordance with this Agreement.

8.2 Procedure for Certificate of Practical Completion

The Parties agree that:

- 8.2.1 upon the completion of an Infrastructure Project, the Owner must notify Council and any other relevant authority;
- 8.2.2 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;
- 8.2.3 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 which is 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;
- 8.2.4 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) what must be done to satisfactorily complete the Infrastructure Project;
- 8.2.5 Council may, notwithstanding any other provision in this Agreement, determine to issue a Certificate of Practical Completion if Council in its capacity as Development Agency is satisfied that the proper construction of the Infrastructure Project can be secured or otherwise guaranteed to its satisfaction.

9. Transfer of ownership

9.1 Transfer

The ownership of a Land Project or an Infrastructure Project will be transferred to Council upon:

- 9.1.1 the registration of a plan of subdivision in the case of a Land Project; and
- 9.1.2 upon the issue of a Certificate of Practical Completion in the case of any other Infrastructure Project.



9.2 Maintenance of Infrastructure Projects

Following the transfer of ownership in accordance with clause 9.1, and upon completion of the Maintenance Period, Council will be responsible for all ongoing repairs and maintenance of the Infrastructure Projects.

9.3 Bank Guarantee

The Owner agrees that:

- 9.3.1 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;
- 9.3.2 if the Owner fails to comply with a reasonable 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
- 9.3.3 the Bank Guarantee will be returned to the Owner after the Maintenance Period, less any amount applied to correcting any defects in the Infrastructure Project.

10. Land Project

10.1 Transfer or vesting of Land Project

The Owner must transfer to or vest in Council each Land Project:

- 10.1.1 prior to the relevant Provision Trigger, unless a later date is approved by Council in writing under clause 10.2;
- 10.1.2 with all services to be available as specified in the relevant column of Schedule 2;
- 10.1.3 free of all encumbrances, including any structure, debris, waste, refuse and contamination, except as agreed by Council;
- 10.1.4 free of any fees and charges associated with the delivery of the site; and
- 10.1.5 otherwise in a condition that is to the satisfaction of Council in its capacity as Development Agency.

10.2 Time for transfer or vesting of Land Project

If the Owner does not, or has demonstrated that it will not, meet the Provision Trigger for a Land Project, Council may:

- 10.2.1 at its absolute discretion extend the timeframe; or
- 10.2.2 refuse to issue any Statements of Compliance in respect of the development of the Subject Land relevant to that Provision Trigger until the Land Project has been transferred to or vested in Council.

10.3 Agreed Land Value

The Owner agrees that the Agreed Land Value:

- 10.3.1 is deemed to include all transfer costs, costs of plans of subdivision, registration fees and the like and any other amount specifically agreed to in writing by Council;



10.3.2 is a fixed amount subject to Indexation up to the time of the Provision Trigger;

10.3.3 replaces the market value and 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 Land Project; and

10.4 The Owner agrees that upon payment being made in accordance with this Agreement whether as a monetary amount or by a Credit in respect of the Agreed Land Value, 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 the Land Project.

10.5 Environmental Assessment

The Owner covenants and agrees that prior to transferring to or vesting the Land Project to or in Council, the Owner must provide Council with an environmental assessment prepared by a properly qualified environmental consultant that clearly and unequivocally states that the Land Project is suitable to be used and developed for the purpose for which it is intended to be used as set out in the Precinct Structure Plan.

11. Public Open Space

11.1 Open Space Land

The Owner must transfer to or vest in Council for municipal purposes the Open Space Land:

11.1.1 with all utility services available to the Open Space Land;

and

11.1.2 as part of and upon the registration of any Plan of Subdivision for the Subject Land containing the Open Space Land; or

11.1.3 within 60 days of the issue of a Building Permit for a building on the Subject Land - whichever occurs earlier.

11.2 Environmental Assessment

The Owner covenants and agrees that prior to transferring to or vesting the Open Space Land to or in Council, the Owner must provide Council with an environmental assessment prepared by a properly qualified environmental consultant that clearly and unequivocally states that the Open Space Land is suitable to be used and developed for the purpose for which it is intended to be used as set out in the Precinct Structure Plan.

11.3 Value of Open Space Land

The Open Space Land Value is an amount which is fixed in accordance with Schedule 3 subject only to Indexation.

11.4 Equalisation Payment

The Parties agree that if an Equalisation Payment is to be paid by one party (payee) to another party (recipient) under this Agreement:

11.4.1 The payee will pay the Equalisation Payment to recipient in the form of a single payment at the final stage of development; and



11.4.2 payment in accordance with clause 11.4.1 must be made within 30 days of a written request from the recipient.

11.5 Council acknowledgement

Where the Owner is the payee under clause 11.4, the Parties acknowledge and agree that upon the Owner satisfying its obligations under clause 11, the Owner will have fulfilled its obligations under the Planning Scheme and the *Subdivision Act 1988* in relation to making a public open space contribution in respect of the Subject Land.

12. Credit and processing of credits

12.1 Credit

The Parties agree that:

- 12.1.1 the Owner will be entitled to a Credit for the Agreed Infrastructure Project Value from the commencement of this Agreement;
- 12.1.2 the Owner will be entitled to a Credit for the Agreed Land Value from the commencement of this Agreement;
- 12.1.3 any Credit upon which the Owner is entitled will be subject to Indexation up to the day of the Provision Trigger;
- 12.1.4 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 12.1.5;
- 12.1.5 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;
- 12.1.6 when the amount of the Development Infrastructure Levy payable in relation to a Stage exceeds the amount of the Credit remaining:
 - (a) in relation to that 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 Credit remaining prior to the issue of a Statement of Compliance; and
 - (b) in relation to subsequent Stages, the Owner must pay the Development Infrastructure Levy in cash prior to the issue of a Statement of Compliance.

13. Localised Infrastructure

The Parties acknowledge that:

- 13.1 this Agreement is intended to relate only to the infrastructure that is funded by the Development Contributions Plan and not Localised Infrastructure; and



- 13.2 compliance with the obligations of this Agreement does not relieve the Owner of any obligation imposed by Council or a Tribunal to provide Localised Infrastructure which obligation may be imposed as a requirement in a planning permit for the subdivision or development of the Subject Land.

14. Further obligations of the Parties

14.1 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.

14.2 Notice and registration

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

14.3 Further actions

The Owner:

- 14.3.1 must do all things necessary to give effect to this Agreement;
- 14.3.2 consents to Council applying to the Registrar of Titles to record this Agreement on the Certificate of Title of the Subject Land in accordance with section 181 of the Act; and
- 14.3.3 agrees 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.

14.4 Fees

Within 14 days of a written request for payment, the Owner must pay to Council any:

- 14.4.1 Plan Checking Fee;
- 14.4.2 Supervision Fee;

as required under the *Subdivision Act 1988* and any regulations under that Act.

14.5 Council's costs to be paid

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

- 14.5.1 drafting, finalising, signing, recording and enforcing this Agreement;
- 14.5.2 drafting, finalising and recording any amendment to this Agreement; and
- 14.5.3 drafting, finalising and recording any document to give effect to the ending of this Agreement.



14.6 Time for determining satisfaction

If Council makes a request for payment of:

- 14.6.1 a fee under clause 14.4; or
- 14.6.2 any costs or expenses under clause 14.5;

the Parties agree that 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.

14.7 Interest for overdue money

The Owner agrees that:

- 14.7.1 the Owner must pay to Council interest at the same rate used under section 227A of the *Local Government Act 1989* on any amount due under this Agreement that is not paid by the due date; and
- 14.7.2 if interest is owing, Council will apply any payment made to interest and any balance of the payment to the principal amount.

15. 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.

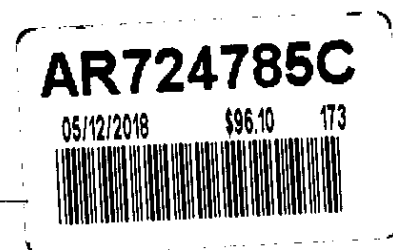
16. Owner's warranties

- 16.1 The Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, it is not aware of any other person that has any interest, either legal or equitable, in the Subject Land which may be affected by this Agreement.
- 16.2 The Owner warrants that:
 - 16.2.1 each Land Project is free of contamination of any kind which would make the Land Project unsuitable for its intended purpose as set out in the Precinct Structure Plan; and
 - 16.2.2 is in an environmental condition such as to be suitable to be used and developed for the purpose for which it is intended to be used as set out in the Precinct Structure Plan.

17. Successors in title

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

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



18. General matters

18.1 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:

18.1.1 personally on the other Party;

18.1.2 by leaving it at the other Party's Current Address;

18.1.3 by posting it by prepaid post addressed to the other Party at the other Party's Current Address; or

18.1.4 by email to the other Party's Current Email.

18.2 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.

18.3 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.

18.4 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.

18.5 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.

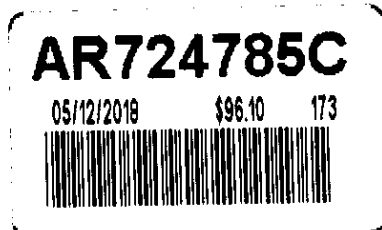
18.6 Governing law

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

19. GAIC

19.1 The Owner acknowledges and agrees that all land transferred to or vested in Council must have any Inherent GAIC Liability discharged prior to it being transferred to or vested in Council and to the extent it is not, the Owner shall remain liable to Council for any GAIC liability incurred by Council.

19.2 The Parties agree that clause 19.1 survives the termination of this Agreement



- 19.3 The Owner agrees that the Owner must provide a certificate of release under section 201SY of the Act confirming the release of the land referred to in clause 19.1 from its Inherent GAIC Liability.

20. Foreign resident capital gains withholding

20.1 Definitions

For the purposes of this clause, the following definitions apply:

Clearance Certificate means a valid clearance certificate under section 14-220(1) of Schedule 1 to the Tax Act.

Consideration means any monetary and non-monetary consideration including a Credit required to be paid or given by Council to the Owner for the transfer or vesting of a Land Project or in respect of the equalisation of Open Space Land under this Agreement.

Excluded Transaction has the meaning given to that term in section 14-215 of Schedule 1 to the Tax Act.

Statement of Compliance has the same meaning as in the Subdivision Act 1988

Tax Act means the *Taxation Administration Act 1953* (Clwth)

Variation Amount means, where the Owner or the Developer have served a Variation Notice on Council, the amount required to be withheld as specified in the Variation Notice.

Variation Notice means a valid variation notice issued by the Australian Taxation Office in respect of a variation application made under section 14-235(2) of Schedule 1 of the Tax Act.

20.2 Foreign resident status of Owner and Developer

The Owner and Developer are taken to be foreign residents under Subdivision 14-D of Schedule 1 to the Tax Act unless the Owner and the Developer give to Council a Clearance Certificate no later than 10 Business Days before the Subject Land is transferred to or vested in Council.

20.3 Excluded transaction

20.3.1 Clause 20.5 does not apply if:

- (a) the transfer or vesting of the Land Project or the Open Space Land is an Excluded Transaction; and
- (b) the Owner and the Developer provides Council with all information and documentation to satisfy Council that the transfer or vesting of the Land Project or the Open Space Land is an Excluded Transaction no later than 10 Business Days before the Land Project or the Open Space land as the case may be is transferred to or vested in Council's ownership.

20.3.2 Without limiting clause 20.3.1, the transfer or vesting of a Land Project or Open Space Land is an Excluded Transaction if the market value of the Land Project or Open Space Land as at the date of this Agreement is less than \$750,000.



20.4 Variation notice

If the Owner and the Developer provide Council with a Variation Notice prior to the transfer or vesting of the Land Project and Open Space Land, then Council will adjust the withholding amount (as specified in clause 20.5 below) in accordance with the Variation Notice.

20.5 Withholding

20.5.1 This clause 20.5 applies if the Owner and the Developer are taken to be foreign residents under clause 20.2 and the Owner and the Developer have not satisfied Council that the transfer or vesting of the Land Project is an Excluded Transaction under clause 20.3.

20.5.2 Subject to clauses 20.5.3 and 20.5.4, Council will deduct from any monetary consideration payable to the Owner and the Developer an amount equal to:

- (a) 12.5% of the Consideration (excluding GST) in accordance with section 14-200(3) of Schedule 1 to the Tax Act; or
- (b) the Variation Amount, if the Owner and the Developer have provided Council with a Variation Notice in accordance with clause 20.4,

(withholding amount).

20.5.3 Subject to clause 20.5.4, if any monetary consideration payable to the Owner and the Developer is less than 12.5% of the Consideration, the Owner and the Developer must deliver to Council:

- (a) a cash payment equal to 10% of the Consideration (or such other amount as required by Council); or
- (b) the Variation Amount, if the Owner has provided Council with a Variation Notice in accordance with clause 20.4 -

upon delivery of the executed form of this Agreement to Council or such other time as Council may have allowed in writing as notified to the Owner and the Developer.

20.5.4 If there is no Consideration specified in this Agreement, the Owner and the Developer must deliver to Council:

- (a) a cash payment equal to 12.5% of the market value of the Land Project and Open Space Land valued as at the date of this Agreement; or
- (b) the Variation Amount, if the Owner and the Developer have provided Council with a Variation Notice in accordance with clause 20.4,

upon delivery of the executed form of this Agreement to Council or such other time as Council may have allowed in writing as notified to the Owner and the Developer.

20.6 Council to remit withholding amount

20.6.1 Council agrees to:

- (a) pay the withholding amount or amounts determined under clause 20.5 to the Reserve Bank of Australia (on behalf of the Australian Taxation Office) by electronic funds transfer immediately after the earlier of:

AR724785C

05/12/2018

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173



- (i) Council receiving a transfer of land in respect of the Land Project and Open Space Land, in registrable form; or
- (ii) the registration of a plan of subdivision which vests the Land Project or Open Space Land in Council's ownership;
- (b) provide the Owner and the Developer with a copy of the purchaser payment notification form submitted by Council to the Australian Taxation Office; and
- (c) provide the Owner and the Developer with a copy of any receipt of payment or proof of payment of the withholding amount issued by the Australian Taxation Office to Council.

20.7 Consideration adjusted after withholding

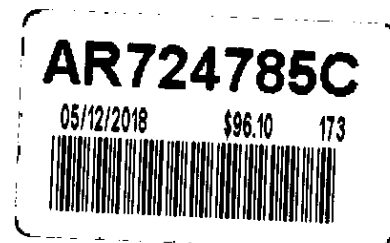
For the avoidance of doubt and notwithstanding anything else in this Agreement, the Consideration payable to the Owner and the Developer is reduced to the extent that a withholding amount is deducted from the Consideration under clause 20.5.

20.8 Owner and Developer to co-operate

20.8.1 The Owner and the Developer must:

- (a) not procure the registration of a plan of subdivision which vests a Land Project or Open Space Land in Council's ownership unless:
 - (i) a Clearance Certificate has been provided to Council; or
 - (ii) the Owner and the Developer and Council have agreed upon the amount to be withheld by and/or remitted by Council to the Australian Taxation Office in accordance with clause 20.5;
- (b) provide Council with 20 Business Days prior written notice of the lodgement of a plan of subdivision at Land Use Victoria which will have the effect of vesting any land in Council's ownership; and
- (c) notify Council immediately on the date on which a plan of subdivision registers which vests land in Council's ownership.

20.8.2 The Owner must provide Council with all information, documentation and assistance necessary to enable Council to comply with its obligation to pay the withholding amount within the time set out in section 14-200(2) of Schedule 1 to the Tax Act.



20.9 Owner's and Developer's warranty

The Owner and the Developer warrant that the information they provide to Council under this clause 20 is true and correct.

20.10 Indemnity

The Owner and Developer agree to indemnify Council against any interest, penalty, fine or other charge or expense incurred by Council as a result of the Owner or Developer's failure to comply with this clause 20.

21. GST

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

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

21.3 If GST is payable in respect of any supply made by a supplier under this Agreement, subject to clause 21.4 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.

21.4 The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST payable under clause 21.3.

22. 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.

23. Amendment of Agreement

23.1 This Agreement may be amended in accordance with the Act.

23.2 If notice of a proposal to amend this Agreement is required pursuant to section 178C of the Act, the parties agree that only Council and the Owner of the Subject Land or that part of the Subject Land that is the subject of the proposal to amend this Agreement are required to be notified of the proposal.

24. Ending of Agreement

24.1 This Agreement ends:

24.1.1 when the Owner has complied with all of the Owner's obligations under this Agreement; or

24.1.2 otherwise by agreement between the Parties in accordance with section 177 of the Act.

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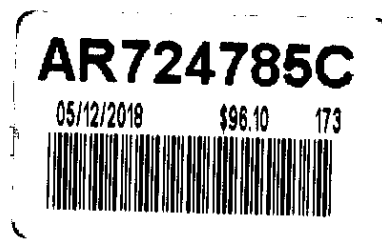
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173



- 24.2 Notwithstanding clause 24.1, 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.
- 24.3 If notice of a proposal to end this Agreement is required pursuant to section 178C of the Act, the parties agree that only Council and the Owner of the Subject Land or that part of the Subject Land that is the subject of the proposal to end this Agreement are required to be notified of the proposal.
- 24.4 Council will not unreasonably withhold its consent to a written request made pursuant to clause 24.1 if it is satisfied that the obligations in this Agreement are secured to its satisfaction.
- 24.5 Upon 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 of the Act provided that at all times, the Agreement must remain registered on the balance of the Subject Land.
- 24.6 Once this Agreement ends as to part of the Subject Land, Council will, within a reasonable time following a request from the Owner and at the cost of the Owner, execute all documents necessary to make application to the Registrar of Titles under section 183(2) of the Act to cancel the recording of this Agreement on the register as to that part of the Subject Land.
- 24.7 On completion of all the Owner's obligations under this Agreement, Council must as soon as practicable following the ending of this Agreement and at the Owner's request and at the Owner's cost, execute all documents necessary to make application to the Registrar of Titles under section 183(2) of the Act to cancel the recording of this Agreement on the register.



Schedule 1

Infrastructure Projects

DCP Project No.	Description of the Infrastructure Project	Extent of Works	Agreed Infrastructure Project Value (\$FY2018/19)	Provision Trigger
IN-04c	Craigieburn Road/ Edgars Road Design and construction of arterial to boulevard connector 4 - way signalised intersection.	Interim on Ultimate Alignment	\$4,556,472	Prior to issue of Statement of Compliance for Stage 4



Schedule 2

Land Project -

DCP Project No.	Description of the Land Project	Land Area as per DCP for Subject Land (fixed)	Provision Trigger	Land Value – per Hectare \$FY2018/19	Agreed Land Value (Total value for Land Project) \$FY2018/19
IN-04	Craigieburn Road/ Edgars Road Land for intersection (ultimate)	0.3379 ha	As defined in the Public Infrastructure Plan approved under Planning Permit as amended from time to time.	\$1,100,000	\$371,690



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Schedule 3

Open Space Land

Address / PSP Property ID)	Quantu m of Open Space as per PSP	Provision Trigger	Land Value Rate (\$ per hectare) \$FY2018/19	Open Space Land Value \$FY2018/19	Required Passive Open Space Contribution (4.47% of Residential NDA)	Value of Required Open Space \$FY2018/19	Total Equalisation Payment ¹ \$FY2018/19
220 Craigieburn Road, Wollert (Property 13)	1.5094	As defined in the Public Infrastructure Plan approved under Planning Permit as amended from time to time.	1,100,000	\$1,660,365	1.5106	\$1,661,684	\$1,318.90
Total Equalisation Payment							\$1,318.90

¹ Note: Where the Total Equalisation Payment is negative, the Equalisation Payment will be due to the Owner by the Council, otherwise due to Council by the Owner.

AR724785C

05/12/2018

\$96.10

173





Schedule 4

Maintenance Period of an Infrastructure Project

Infrastructure Type	Maintenance Period
Soft landscaping	As per Planning Permit
Works	3 months

INFORMATION ONLY



Schedule 5

Subject Land

Address	PSP Property ID Number	Land	Mortgage Y/N	Planning Permit Ref
220 Craigieburn Road, Wollert	13	Certificate of Title Volume 11650 Folio 077	N	716423



Maddocks

Signing Page

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

The Common Seal of Whittlesea City Council was affixed hereto in the presence of:



Signature of Delegate

Full name (print)

DIRECTOR PARTNERSHIPS, PLANNING

Position held (print) & ENGAGEMENT

Signature of Delegate

GEORGE SAISANAS

Full name (print) MANAGER

STRATEGIC PLANNING

Position held (print)

Executed by Greenwells Wollert Pty Ltd ACN 128)
803 092 in accordance with s 127(1) of the)
Corporations Act 2001:

Signature of Director

Print full name

GARY MAHAFFEY

Signature of Director/Company Secretary

Print full name

Carol Thompson

[7528871: 22481534_1]

page 29
avje0002_180813_009.docx

Imaged Document Cover Sheet

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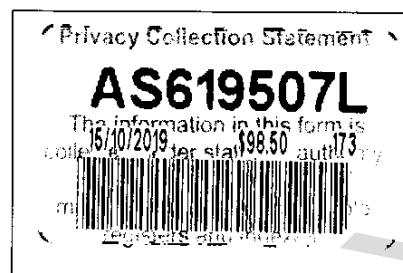
Document Type	Instrument
Document Identification	AS619507L
Number of Pages (excluding this cover sheet)	12
Document Assembled	17/10/2023 17:11

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The document is invalid if this cover sheet is removed or altered.

**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: TGM:7743709
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 12072 FOLIO 775,

VOLUME 12072 FOLIO 776, and

~~THE~~
~~PART OF~~ LAND CONTAINED IN VOLUME 6911 FOLIO 045,
more particularly described as ~~part of~~ Lot 1 on TP217087N.

AMENDED

12 NOV 2018

With consent of
Australian Legal Profession
Licenced Conveyancer

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

WHITTLESEA CITY COUNCIL OF CIVIC CENTRE, FERRES BOULEVARD, SOUTH MORANG, 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
[7743709: 25223973_1]

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



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: WHITTLESEA CITY COUNCIL
Signer Name: MARIA MARSHALL
Signer Organisation: MADDOCKS
Signer Role: AUSTRALIAN LEGAL PRACTITIONER

Signature:

Execution Date: 15 October 2019

35271702A

181PEA

Page 2 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
[7743709: 25223973_1]

AS619507L

15/10/2019

\$98.50

173



Maddocks

Lawyers
Collins Square, Tower Two
Level 25, 727 Collins Street
Melbourne VIC 3008
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: 139-145 Boundary Road, Wollert, 180 Craigieburn Road, Wollert &
220 Craigieburn Road, Wollert**

Purpose: Tree Retention

Whittlesea City Council

and

Greenwells Wollert Pty Ltd (ACN 128 803 092)

AS619507L



Maddocks

Agreement under section 173 of the Planning and Environment Act 1987

Dated 11 / 10 / 2019

Parties

Name	Whittlesea City Council
Address	25 Ferres Boulevard, South Morang, Victoria 3752
Email	Nick.Mann@whittlesea.vic.gov.au
Contact	Nick Mann
Name	Greenwells Wollert Pty Ltd (ACN 128 803 092)
Address	Level 4, 108 Power Street, Hawthorn, Victoria 3122
Email	jcassera@avjennings.com.au
Contact	Joe Cassera

Background

- A. Council enters into this Agreement in its capacity as the responsible authority for the Planning Scheme.
- B. The Owner is the registered proprietor of the Subject Land.
- C. The Owner:
 - C.1 is the registered proprietor of the Project Land (excluding the Boundary Road Land); and
 - C.2 will be entitled to be the registered proprietor of part of the Boundary Road Land upon settlement of the contract of sale it has entered into to purchase part of the Boundary Road Land.
- D. Council enters into this Agreement with the Owner of the Boundary Road Land pursuant to section 173(3) of the Act, in anticipation of the Owner becoming the registered proprietor of the Boundary Road Land.
- E. The Responsible Authority requires the development of the Project Land, as a whole, to meet the Tree Retention Requirements.
- F. The Owner has entered into this Agreement to provide the Responsible Authority with details as to how the Owner will satisfy its obligations pursuant to the Tree Retention Requirements for the Project Land.
- G. As at the date of this Agreement, part of the Subject Land is subject to a mortgage in favour of the Mortgagee. The Mortgagee consents to the Owner entering into this Agreement.

AS619507L



Maddocks

The Parties Agree:

1. Definitions

In this Deed:

Act means the *Planning and Environment Act 1987*.

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

Boundary Road Land means the land contained within Certificate of Title Volume 10531 Folio 176, more particularly described as Lot 1 on PS434044J and known as 139-145 Boundary Road, Wollert.

Business Day means a day other than a Saturday, Sunday or public holiday in Victoria.

Current Address means:

- for Council, the address shown on page one of this Agreement, or any other address listed on Council's website; and
- 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:

- the Council email address listed on Council's website; and
- for the Owner, any email address provided by the Owner to Council for the express purpose of electronic communication regarding this Agreement.

Development means the residential development and construction of associated services and infrastructure to be undertaken on the Project Land.

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 Subject Land or any part of it.

Owner means Greenwells Wollert Pty Ltd (ACN 128 803 092) of Level 4, 108 Power Street, Hawthorn, Victoria 3122 and any other owner registered as proprietor of the Subject Land or any part of it from time to time.

Party or Parties means the Parties to this Agreement.

Planning Scheme means the Whittlesea Planning Scheme and any other planning scheme that applies to the Subject Land.

Precinct One means the land contained within Certificate of Title Volume 12072 Folio 775 and Certificate of Title Volume 12072 Folio 776, more particularly described as Lot U on plan of subdivision PS80553U and Lot V on plan of subdivision PS80553U, respectively.

Precinct Two means part of the land contained with Certificate of Title Volume 6911 Folio 045, more particularly described as part of Lot 1 on Title Plan TP217087N.

AS619507L

15/10/2019 \$98.50 173



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PSP means the Wollert Precinct Structure Plan dated June 2017, as amended from time to time.

Subject Land means the land contained within:

- (a) Precinct One;
- (b) Precinct Two; and
- (c) the Boundary Road Land.

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.

Responsible Authority means Council.

Tree Management Plan means the 'Tree Management Plan' dated 27 September 2018 and prepared by SMEC as amended from time to time. A copy of the Tree Management Plan is attached to this Agreement at Annexure A.

Tree Retention Requirements means requirement R3 contained within section 3 of the PSP.

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.

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15/10/2019

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3. Purposes of Agreement

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

- 3.1 record the terms and conditions on which the Subject Land is to be developed as a whole and in particular how the Tree Retention Requirements are to be administered wholistically across the whole of the Subject Land.;
 - 3.2 achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.
-

4. Terms

4.1 Acknowledgements

The parties acknowledge that:

- 4.1.1 As at the date of this Agreement the Owner has not yet obtained planning permission for removal of trees and this Agreement is made in contemplation of the Owner applying for and being granted a planning permit that authorises the removal of trees in accordance with requirements set out in the PSP;
- 4.1.2 the Owner proposes to develop Precinct One and Precinct Two in a manner which will not meet the Tree Retention Requirements; and
- 4.1.3 the PSP provides that the Tree Retention Requirements are to be met across the entirety of the Subject Land and need not be complied with across a single precinct within the Subject Land.

4.2 Obligations of the Owner

The Owner agrees and acknowledges that it must develop the remainder of the Subject Land so as to achieve 80% tree retention across the entirety of the Subject Land in aggregate, generally in accordance with the Tree Management Plan and Tree Retention Requirements.

4.3 Compliance

Council as Responsible Authority agrees that, notwithstanding the current tree retention rate within Precinct One and Precinct Two, the Owner will be deemed to have complied with the Tree Retention Requirements by developing the balance of the Subject Land (being that part of the Project Land excluding Precinct One) so as to achieve the 80% tree retention requirements across the entirety of the Subject Land in aggregate.

AS619507L

15/10/2019

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173



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9.5 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.

9.6 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

9.7 Governing law

The Parties agree that this Agreement is governed by and is to be construed in accordance with the laws of Victoria.

10. GST

- 10.1 In this clause words that are defined in the GST Act have the same meaning as their definition in that Act.
- 10.2 Except as otherwise provided by this clause, all consideration payable under this Agreement in relation to any supply is exclusive of GST.
- 10.3 If GST is payable in respect of any supply made by a supplier under this Agreement, subject to clause 10.4 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.
- 10.4 The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST payable under clause 10.3.

11. General

11.1 Continuing obligation

- 11.1.1 The terms of this Agreement will continue to bind the registered properties of the Subject Land until completion of the Development.
- 11.1.2 Where the Owner sells, disposes, or otherwise parts with ownership of the whole of the Subject Land, it must:
- (a) bring this Agreement to the attention of any subsequent registered proprietor of the Subject Land; and
 - (b) require any subsequent registered proprietor to enter into an agreement made under section 173 of the Act with the Council on terms which are consistent to the terms set out within this Agreement.

12. Commencement of Agreement

This Agreement commences on the date of this Agreement and does not end.

AS619507L

15/10/2019

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13. Amendment of Agreement

13.1 This Agreement may be amended in accordance with the Act.

13.2 If notice of a proposal to amend this Agreement is required pursuant to section 178C of the Act, the parties agree that only Council and the Owner of the Subject Land or that part of the Subject Land that is the subject of the proposal to amend this Agreement are required to be notified of the proposal.

INFORMATION ONLY

AS619507L

15/10/2019

\$98.50

173



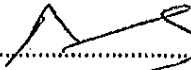
Maddocks

Signing Page

Executed by the parties as a deed

The Common Seal of Whittlesea City Council is
affixed in the presence of:



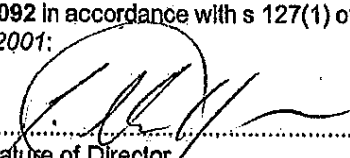
 James Edwards

Delegate

.....

Delegate

Executed by Greenwells Wollert Pty Ltd ACN 128)
803 092 in accordance with s 127(1) of the Corporations
Act 2001;


Signature of Director

Larry W.C. Mahaffy

Print full name


Signature of Director/Company Secretary

Print full name

PLANNING CERTIFICATE

Official certificate issued under Section 199 Planning & Environment Act 1987
and the Planning and Environment Regulations 2005

CERTIFICATE REFERENCE NUMBER

973151

APPLICANT'S NAME & ADDRESS

SABA POLATKESEN C/- LANDATA
DOCKLANDS

VENDOR

KUNDA, IRFAN HANNA

PURCHASER

KUNDA, IRFAN

REFERENCE

Matter 23668

This certificate is issued for:

LOT 1206 PLAN PS821106 ALSO KNOWN AS 23 TRAMWAY AVENUE WOLLERT
WHITTLESEA CITY

The land is covered by the:

WHITTLESEA PLANNING SCHEME

The Minister for Planning is the responsible authority issuing the Certificate.

The land:

- is included in a URBAN GROWTH ZONE - SCHEDULE 5
- is within a DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY - SCHEDULE 16
- and MAY BE SUBJECT TO A GROWTH AREAS INFRASTRUCTURE CONTRIBUTION - FOR MORE INFORMATION GO TO THE WEBSITE
(<https://www.planning.vic.gov.au/legislation-regulations-and-fees/planning-legislation/growth-areas-infrastructure-contribution>)

A detailed definition of the applicable Planning Scheme is available at :
(<http://planningschemes.dpcd.vic.gov.au/schemes/whittlesea>)

Historic buildings and land protected under the Heritage Act 1995 are recorded in the Victorian Heritage Register at:
<http://vhd.heritage.vic.gov.au/>

Additional site-specific controls may apply.
The Planning Scheme Ordinance should be checked carefully.

The above information includes all amendments to planning scheme maps placed on public exhibition up to the date of issue of this certificate and which are still the subject of active consideration

Copies of Planning Schemes and Amendments can be inspected at the relevant municipal offices.

LANDATA@
T: (03) 9102 0402
E: landata.enquiries@servictoria.com.au

17 October 2023

Sonya Kilkenny
Minister for Planning

The attached certificate is issued by the Minister for Planning of the State of Victoria and is protected by statute.

The document has been issued based on the property information you provided. You should check the map below - it highlights the property identified from your information.

If this property is different to the one expected, you can phone (03) 9102 0402 or email landata.enquiries@servictoria.com.au

Please note: The map is for reference purposes only and does not form part of the certificate.



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Why rely on anything less?

As part of your section 32 statement, the authoritative Planning Certificate provides you and / or your customer with the statutory protection of the State of Victoria.
Order online before 4pm to receive your authoritative Planning Certificate the same day, in most cases within the hour.
Next business day delivery, if further information is required from you.

Privacy Statement

The information obtained from the applicant and used to produce this certificate was collected solely for the purpose of producing this certificate. The personal information on the certificate has been provided by the applicant and has not been verified by LANDATA®. The property information on the certificate has been verified by LANDATA®. The zoning information on the certificate is protected by statute. The information on the certificate will be retained by LANDATA® for auditing purposes and will not be released to any third party except as required by law.

PLANNING PROPERTY REPORT

From www.planning.vic.gov.au at 17 October 2023 05:11 PM

PROPERTY DETAILS

Address: **23 TRAMWAY AVENUE WOLLERT 3750**
Lot and Plan Number: **Lot 1206 PS821106**
Standard Parcel Identifier (SPI): **1206\PS821106**
Local Government Area (Council): **WHITTLESEA**
Council Property Number: **1174465**
Planning Scheme: **Whittlesea**
Directory Reference: **Melway 388 H9**

www.whittlesea.vic.gov.au

[Planning Scheme - Whittlesea](#)

UTILITIES

Rural Water Corporation: **Southern Rural Water**
Melbourne Water Retailer: **Yarra Valley Water**
Melbourne Water: **Inside drainage boundary**
Power Distributor: **AUSNET**

STATE ELECTORATES

Legislative Council: **NORTHERN METROPOLITAN**
Legislative Assembly: **THOMASTOWN**

OTHER

Registered Aboriginal Party: **Wurundjeri Woi Wurrung Cultural
Heritage Aboriginal Corporation**

[View location in VicPlan](#)

Note

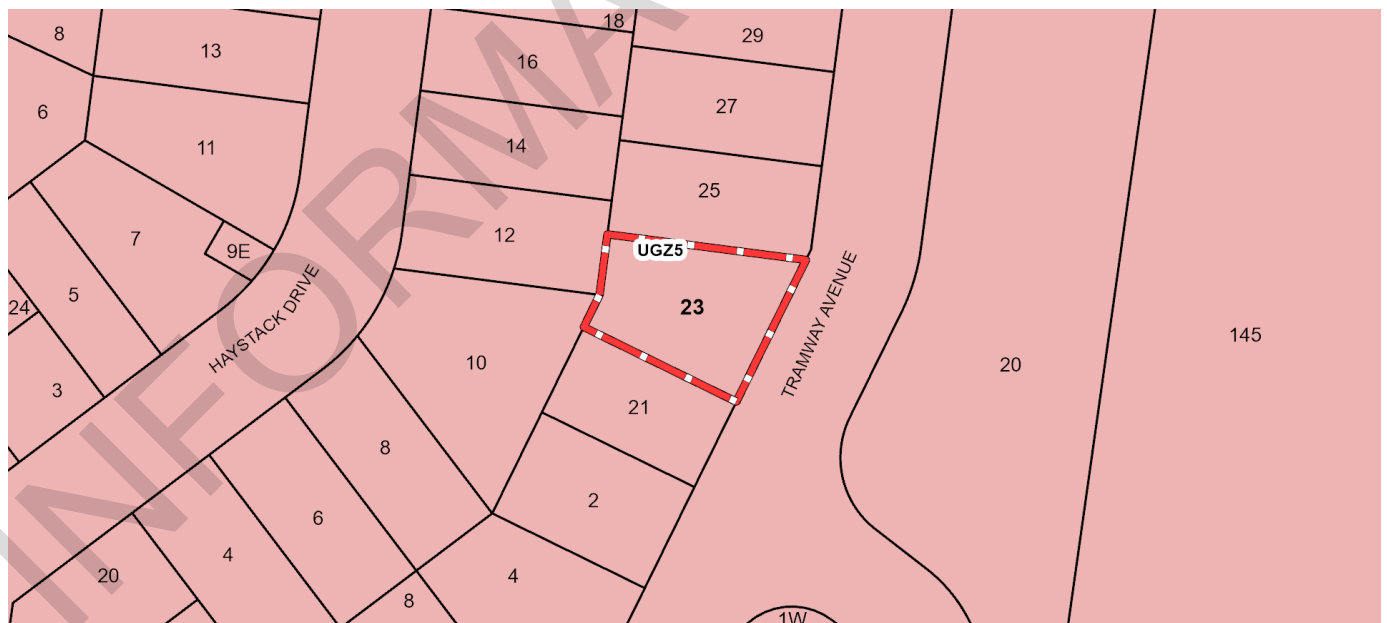
**This land is in an area added to the Urban Growth Boundary after 2005.
It may be subject to the Growth Area Infrastructure Contribution.**

For more information about this project go to [Victorian Planning Authority](#)

Planning Zones

[URBAN GROWTH ZONE \(UGZ\)](#)

[URBAN GROWTH ZONE - SCHEDULE 5 \(UGZ5\)](#)



UGZ - Urban Growth

Note: labels for zones may appear outside the actual zone - please compare the labels with the legend.

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Read the full disclaimer at <https://www.delwp.vic.gov.au/disclaimer>

Notwithstanding this disclaimer, a vendor may rely on the information in this report for the purpose of a statement that land is in a bushfire prone area as required by section 32C (b) of the Sale of Land 1962 (Vic).

PLANNING PROPERTY REPORT: 23 TRAMWAY AVENUE WOLLERT 3750

Page 1 of 4

Planning Overlay

[DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY \(DCPO\)](#)

[DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY - SCHEDULE 16 \(DCPO16\)](#)



Growth Area Infrastructure Contribution

This property is in an area added to the Urban Growth Boundary after 2005.

It may be subject to the Growth Area Infrastructure Contribution.

For more information about this contribution go to [Victorian Planning Authority](#)



Melbourne Strategic Assessment

This property may be located within the Melbourne Strategic Assessment program area. Actions associated with urban development are subject to requirements of the Commonwealth Environment Protection and Biodiversity Conservation Act 1999. Follow the link for more details: <https://nvim.delwp.vic.gov.au/BCS>



Further Planning Information

Planning scheme data last updated on 12 October 2023.

A **planning scheme** sets out policies and requirements for the use, development and protection of land. This report provides information about the zone and overlay provisions that apply to the selected land. Information about the State and local policy, particular, general and operational provisions of the local planning scheme that may affect the use of this land can be obtained by contacting the local council or by visiting <https://www.planning.vic.gov.au>

This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the **Planning and Environment Act 1987**. It does not include information about exhibited planning scheme amendments, or zonings that may affect the land. To obtain a Planning Certificate go to Titles and Property Certificates at Landata - <https://www.landata.vic.gov.au>

For details of surrounding properties, use this service to get the Reports for properties of interest.

To view planning zones, overlay and heritage information in an interactive format visit <https://mapshare.maps.vic.gov.au/vicplan>

For other information about planning in Victoria visit <https://www.planning.vic.gov.au>

Designated Bushfire Prone Areas

This property is not in a designated bushfire prone area.
No special bushfire construction requirements apply. Planning provisions may apply.

Where part of the property is mapped as BPA, if no part of the building envelope or footprint falls within the BPA area, the BPA construction requirements do not apply.

Note: the relevant building surveyor determines the need for compliance with the bushfire construction requirements.



Designated BPA are determined by the Minister for Planning following a detailed review process. The Building Regulations 2018, through adoption of the Building Code of Australia, apply bushfire protection standards for building works in designated BPA.

Designated BPA maps can be viewed on VicPlan at <https://mapshare.vic.gov.au/vicplan/> or at the relevant local council.

Create a BPA definition plan in [VicPlan](#) to measure the BPA.

Information for lot owners building in the BPA is available at <https://www.planning.vic.gov.au>.

Further information about the building control system and building in bushfire prone areas can be found on the Victorian Building Authority website <https://www.vba.vic.gov.au>. Copies of the Building Act and Building Regulations are available from <http://www.legislation.vic.gov.au>. For Planning Scheme Provisions in bushfire areas visit <https://www.planning.vic.gov.au>.

Contact Name Anna Harrison
Telephone 13 21 61
Facsimile 03 9628 6853
Your Ref: 70592409-015-0

18 October 2023

Saba Polatkesen
c/- Landata
GPO Box 527
MELBOURNE VIC 3001

Dear Sir/Madam,

Growth Areas Infrastructure Contribution (GAIC)

23 Tramway Avenue, Wollert (Volume 12392 Folio 967)- (the land)

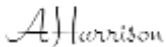
Thank you for your Application for a Growth Areas Infrastructure Contribution (GAIC) Certificate dated 17 October 2023 in respect of the land.

Although the land is currently within the urban growth boundary and a Growth Area, the GAIC liability in respect of the land has been fully discharged and the GAIC notification on the land has been removed.

For further details regarding GAIC, please visit the State Revenue Office website or telephone 13 21 61.

If you have any queries in relation to this matter, please contact me.

Yours sincerely



Anna Harrison
Senior Customer Service Officer
Land Revenue

ROADS PROPERTY CERTIFICATE

The search results are as follows:

Saba Polatkesen
[REDACTED]

Client Reference: Matter 23668

NO PROPOSALS. As at the 17th October 2023, VicRoads has no approved proposals requiring any part of the property described in your application. You are advised to check your local Council planning scheme regarding land use zoning of the property and surrounding area.

This certificate was prepared solely on the basis of the Applicant-supplied address described below, and electronically delivered by LANDATA®.

23 TRAMWAY AVENUE, WOLLERT 3750
CITY OF WHITTLESEA

This certificate is issued in respect of a property identified above. VicRoads expressly disclaim liability for any loss or damage incurred by any person as a result of the Applicant incorrectly identifying the property concerned.

Date of issue: 17th October 2023

Telephone enquiries regarding content of certificate: 13 11 71

Property Clearance Certificate

Land Tax



SABA POLATKESEN

Your Reference:	LD:70592409-014-3.MATTER :
Certificate No:	67292173
Issue Date:	17 OCT 2023
Enquiries:	ESYSPROD

Land Address:	23 TRAMWAY AVENUE WOLLERT VIC 3750				
Land Id	Lot	Plan	Volume	Folio	Tax Payable
49316092	1206	821106	12392	967	\$0.00

Vendor: MAGDA KUNDA & IRFAN KUNDA
Purchaser: IRFAN KUNDA

Current Land Tax	Year	Taxable Value	Proportional Tax	Penalty/Interest	Total
MR IRFAN HANNA KUNDA	2023	\$410,000	\$595.00	\$0.00	\$0.00


Comments: Land Tax of \$595.00 has been assessed for 2023, an amount of \$595.00 has been paid.

Current Vacant Residential Land Tax	Year	Taxable Value	Proportional Tax	Penalty/Interest	Total

Comments:

Arrears of Land Tax	Year	Proportional Tax	Penalty/Interest	Total

This certificate is subject to the notes that appear on the reverse. The applicant should read these notes carefully.


Paul Broderick
Commissioner of State Revenue

CAPITAL IMPROVED VALUE:	\$410,000
SITE VALUE:	\$410,000
CURRENT LAND TAX CHARGE:	\$0.00



Notes to Certificate - Land Tax

Certificate No: 67292173

Power to issue Certificate

1. Pursuant to section 95AA of the *Taxation Administration Act 1997*, the Commissioner of State Revenue must issue a Property Clearance Certificate (Certificate) to an owner, mortgagee or bona fide purchaser of land who makes an application specifying the land for which the Certificate is sought and pays the application fee.

Amount shown on Certificate

2. The Certificate shows any land tax (including Vacant Residential Land Tax, interest and penalty tax) that is due and unpaid on the land described in the Certificate at the date of issue. In addition, it may show:
 - Land tax that has been assessed but is not yet due,
 - Land tax for the current tax year that has not yet been assessed, and
 - Any other information that the Commissioner sees fit to include, such as the amount of land tax applicable to the land on a single holding basis and other debts with respect to the property payable to the Commissioner.

Land tax is a first charge on land

3. Unpaid land tax (including Vacant Residential Land Tax, interest and penalty tax) is a first charge on the land to which it relates. This means it has priority over any other encumbrances on the land, such as a mortgage, and will continue as a charge even if ownership of the land is transferred. Therefore, a purchaser may become liable for any such unpaid land tax.

Information for the purchaser

4. Pursuant to section 96 of the *Land Tax Act 2005*, if a purchaser of the land described in the Certificate has applied for and obtained a certificate, the amount recoverable from the purchaser cannot exceed the amount set out in the certificate, described as the "Current Land Tax Charge" overleaf. A purchaser cannot rely on a Certificate obtained by the vendor.

Information for the vendor

5. Despite the issue of a Certificate, the Commissioner may recover a land tax liability from a vendor, including any amount identified on this Certificate.

General information

6. A Certificate showing no liability for the land does not mean that the land is exempt from land tax. It means that there is nothing to pay at the date of the Certificate.
7. An updated Certificate may be requested free of charge via our website, if:
 - The request is within 90 days of the original Certificate's issue date, and
 - There is no change to the parties involved in the transaction for which the Certificate was originally requested.

For Information Only

LAND TAX CALCULATION BASED ON SINGLE OWNERSHIP

Land Tax = \$595.00

Taxable Value = \$410,000

Calculated as \$375 plus (\$410,000 - \$300,000) multiplied by 0.200 cents.

Land Tax - Payment Options

BPAY



Bill Code: 5249
Ref: 67292173

Telephone & Internet Banking - BPAY®

Contact your bank or financial institution to make this payment from your cheque, savings, debit or transaction account.

www.bpay.com.au

CARD



Ref: 67292173

Visa or Mastercard

Pay via our website or phone 13 21 61.
A card payment fee applies.

sro.vic.gov.au/paylandtax

Property Clearance Certificate

Windfall Gains Tax



SABA POLATKESEN

Your Reference:	LD:70592409-014-3.MATTER 23668
Certificate No:	67292173
Issue Date:	17 OCT 2023

Land Address: 23 TRAMWAY AVENUE WOLLERT VIC 3750

Lot	Plan	Volume	Folio
1206	821106	12392	967

Vendor: MAGDA KUNDA & IRFAN KUNDA
Purchaser: IRFAN KUNDA

WGT Property Id	Event ID	Windfall Gains Tax	Deferred Interest	Penalty/Interest	Total
		\$0.00	\$0.00	\$0.00	\$0.00

Comments: No windfall gains tax liability identified.

This certificate is subject to the notes that appear on the reverse. The applicant should read these notes carefully.

CURRENT WINDFALL GAINS TAX CHARGE:
\$0.00

Paul Broderick
Commissioner of State Revenue

Notes to Certificate - Windfall Gains Tax

Certificate No: 67292173

Power to issue Certificate

1. Pursuant to section 95AA of the *Taxation Administration Act 1997*, the Commissioner of State Revenue must issue a Property Clearance Certificate (Certificate) to an owner, mortgagee or bona fide purchaser of land who makes an application specifying the land for which the Certificate is sought and pays the application fee.

Amount shown on Certificate

2. The Certificate shows in respect of the land described in the Certificate:
 - Windfall gains tax that is due and unpaid, including any penalty tax and interest
 - Windfall gains tax that is deferred, including any accrued deferral interest
 - Windfall gains tax that has been assessed but is not yet due
 - Windfall gains tax that has not yet been assessed (i.e. a WGT event has occurred that rezones the land but any windfall gains tax on the land is yet to be assessed)
 - Any other information that the Commissioner sees fit to include such as the amount of interest accruing per day in relation to any deferred windfall gains tax.

Windfall gains tax is a first charge on land

3. Pursuant to section 42 of the *Windfall Gains Tax Act 2021*, windfall gains tax, including any accrued interest on a deferral, is a first charge on the land to which it relates. This means it has priority over any other encumbrances on the land, such as a mortgage, and will continue as a charge even if ownership of the land is transferred. Therefore, a purchaser may become liable for any unpaid windfall gains tax.

Information for the purchaser

4. Pursuant to section 42 of the *Windfall Gains Tax Act 2021*, if a bona fide purchaser for value of land applies for and obtains a Certificate in respect of the land, the maximum amount recoverable from the purchaser is the amount set out in the certificate, described as the "Current Windfall Gains Tax Charge" overleaf.
5. If the certificate states that a windfall gains tax is yet to be assessed, note 4 does not apply.
6. A purchaser cannot rely on a Certificate obtained by the vendor.

Information for the vendor

7. Despite the issue of a Certificate, the Commissioner may recover a windfall gains tax liability from a vendor, including any amount identified on this Certificate.

General information

8. A Certificate showing no liability for the land does not mean that the land is exempt from windfall gains tax. It means that there is nothing to pay at the date of the Certificate.
9. An updated Certificate may be requested free of charge via our website, if:
 - The request is within 90 days of the original Certificate's issue date, and
 - There is no change to the parties involved in the transaction for which the Certificate was originally requested.
10. Where a windfall gains tax liability has been deferred, interest accrues daily on the deferred liability. The deferred interest shown overleaf is the amount of interest accrued to the date of issue of the certificate.

Windfall Gains Tax - Payment Options

BPAY



Billers Code: 416073
Ref: 67292177

Telephone & Internet Banking - BPAY®

Contact your bank or financial institution to make this payment from your cheque, savings, debit or transaction account.

www.bpay.com.au

CARD



Ref: 67292177

Visa or Mastercard

Pay via our website or phone 13 21 61.
A card payment fee applies.

sro.vic.gov.au/payment-options

Important payment information

Windfall gains tax payments must be made using only these specific payment references.

Using the incorrect references for the different tax components listed on this property clearance certificate will result in misallocated payments.

Date of issue
19/10/2023

Assessment No.
1174465

Certificate No.
155205

Your reference
70592409-018-1

Landata
GPO Box 527
MELBOURNE VIC 3001

Land information certificate for the rating year ending 30 June 2024

Property location: 23 Tramway Avenue WOLLERT 3750

Description: LOT: 1206 PS: 821106F

Level of values date	Valuation operative date	Capital Improved Value	Site Value	Net Annual Value
1 January 2023	1 July 2023	\$390,000	\$390,000	\$19,500

The Net Annual Value is used for rating purposes. The Capital Improved Value is used for fire levy purposes.

1. Rates, charges and other monies:

Rates and charges were declared with effect from 1 July 2023 and are payable by quarterly instalments due 30 Sep. (1st), 30 Nov. (2nd), 28 Feb. (3rd) and 31 May (4th) or in a lump sum by 15 Feb.

Rates & charges

General rate levied on 01/07/2023	\$921.27
Fire services charge (Res) levied on 01/07/2023	\$125.00
Fire services levy (Res) levied on 01/07/2023	\$17.94
Waste Landfill Levy General levied on 01/07/2023	\$13.90
Arrears to 30/06/2023	\$0.00
Interest to 22/10/2022	\$0.00
Other adjustments	\$0.00
Less Concessions	\$0.00
Sustainable land management rebate	\$0.00
Payments	\$0.00
Balance of rates & charges due:	\$1,078.11

Property debts

Other debtor amounts

Special rates & charges

nil

Total rates, charges and other monies due	\$1,078.11
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Verbal updates may be obtained within 3 months of the date of issue by calling (03) 9217 2170.

Council Offices

25 Ferres Boulevard, South Morang VIC 3752
Mail to: Locked Bag 1, Bundoora MDC VIC 3083

Phone: 9217 2170

National Relay Service: 133 677 (ask for 9217 2170)

Email: info@whittlesea.vic.gov.au

Free telephone interpreter service

 **131 450**

ABN 72 431 091 058

whittlesea.vic.gov.au

2. Outstanding or potential liability / sub-divisional requirement:

There is no potential liability for rates under the Cultural and Recreational Lands Act 1963.

There is no outstanding amount required to be paid for recreational purposes or any transfer of land required to Council for recreational purposes under section 18 of the Subdivision Act 1988.

3. Notices and orders:

The following notices and orders on the land have continuing application under the *Local Government Act 2020*, *Local Government Act 1989* or under a local law of the Council:

No Orders applicable.

4. Specified flood level:

There is no specified flood level within the meaning of Regulation 802(2) of the Building Regulations 2006.

5. Special notes:

The purchaser must pay all rates and charges outstanding, immediately upon settlement. Payments shown on this certificate are subject to clearance by the bank.

Interest penalty on late payments

Overdue amounts will be charged penalty interest as fixed under the *Penalty Interest Rates Act 1983*. It will be applied after the due date of an instalment. For lump sum payers intending to pay by 15 February, interest penalty will be applied after the due date of the lump sum, but calculated on each of the instalment amounts that are overdue from the day after their due dates. In all cases interest penalty will continue to accrue until all amounts are paid in full.

6. Other information:



Authorising Officer

This property may be subject to a supplementary valuation.

A fire hazard removal notice could be issued against this property. Please check with the Council on the date of settlement.

This certificate provides information regarding valuation, rates, charges, other moneys owing and any orders and notices made under the *Local Government Act 2020*, the *Local Government Act 1989*, the *Local Government Act 1958* or under a local law of the Council.

This certificate is not required to include information regarding planning, building, health, land fill, land slip, flooding information or service easements. Information regarding these matters may be available from Council or the relevant authority. A fee may be charged for such information.

Payment can be made using these options.



www.whittlesea.vic.gov.au
Ref 1174465



Phone 1300 301 185
Ref 1174465



Biller Code **5157**
Ref 1174465

18th October 2023

Saba Polatkesen C/- LANDATA
LANDATA

Dear Saba Polatkesen C/- LANDATA,

RE: Application for Water Information Statement

Property Address:	23 TRAMWAY AVENUE WOLLERT 3750
Applicant	Saba Polatkesen C/- LANDATA LANDATA
Information Statement	30802390
Conveyancing Account Number	7959580000
Your Reference	Matter 23668

Thank you for your recent application for a Water Information Statement (WIS). We are pleased to provide you the WIS for the above property address. This statement includes:

- Yarra Valley Water Property Information Statement
- Melbourne Water Property Information Statement
- Asset Plan
- Rates Certificate

If you have any questions about Yarra Valley Water information provided, please phone us on **1300 304 688** or email us at the address enquiry@yvw.com.au. For further information you can also refer to the Yarra Valley Water website at www.yvw.com.au.

Yours sincerely,

Steve Lennox
GENERAL MANAGER
RETAIL SERVICES

Yarra Valley Water Property Information Statement

Property Address	23 TRAMWAY AVENUE WOLLERT 3750
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STATEMENT UNDER SECTION 158 WATER ACT 1989

THE FOLLOWING INFORMATION RELATES TO SECTION 158(3)

Existing sewer mains will be shown on the Asset Plan.

THE FOLLOWING INFORMATION RELATES TO SECTION 158(4)

This property is in a mandated recycled water area and we supply both potable and recycled water to this property. For more information, visit yvw.com.au/recycled.

Please note: Unless prior consent has been obtained, the Water Act prohibits:

1. The erection and/or placement of any building, wall, bridge, fence, embankment, filling, material, machinery or other structure over or under any sewer or drain.
2. The connection of any drain or sewer to, or interference with, any sewer, drain or watercourse.

Melbourne Water Property Information Statement

Property Address	23 TRAMWAY AVENUE WOLLERT 3750
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STATEMENT UNDER SECTION 158 WATER ACT 1989

Please note: Unless prior consent has been obtained, the Water Act prohibits:

1. The erection and/or placement of any building, wall, bridge, fence, embankment, filling, material, machinery or other structure over or under any sewer or drain.
2. The connection of any drain or sewer to, or interference with, any sewer, drain or watercourse.

If you have any questions regarding Melbourne Water encumbrances or advisory information, please contact Melbourne Water on 9679 7517.

Saba Polatkesen C/- LANDATA
LANDATA
certificates@landata.vic.gov.au

RATES CERTIFICATE

Account No: 7408635152
Rate Certificate No: 30802390

Date of Issue: 18/10/2023
Your Ref: Matter 23668

With reference to your request for details regarding:

Property Address	Lot & Plan	Property Number	Property Type
23 TRAMWAY AVE, WOLLERT VIC 3750	1206\PS821106	5276984	Residential

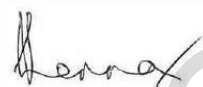
Agreement Type	Period	Charges	Outstanding
Parks Fee *	01-10-2023 to 31-12-2023	\$21.33	\$0.00
Drainage Fee	01-10-2023 to 31-12-2023	\$29.70	\$0.00

Other Charges:

Interest	No interest applicable at this time	
	No further charges applicable to this property	
	Balance Brought Forward	\$0.00
	Total for This Property	\$0.00

Please note, from 1 July 2023:

* The Parks fee will be charged quarterly instead of annually.



GENERAL MANAGER
RETAIL SERVICES

Note:

1. From 1 July 2023, the Parks Fee will be charged quarterly instead of annually.
2. From 1 July 2023, for properties that have water and sewer services, the Residential Water and Sewer Usage charge replaces the Residential Water Usage and Residential Sewer Usage charges.
3. This statement details all tariffs, charges, and penalties due and payable to Yarra Valley Water as of the date of this statement and includes tariffs and charges (other than for usage charges yet to be billed) which are due and payable to the end of the current financial quarter.
4. All outstanding debts are due to be paid to Yarra Valley Water at settlement. Any debts that are unpaid at settlement will carry over onto the purchaser's first quarterly account and follow normal credit and collection activities - pursuant to section 275 of the Water Act 1989.
5. If the total due displays a (-\$ cr), this means the account is in credit. Credit amounts will be transferred to the

purchaser's account at settlement.

6. Yarra Valley Water provides information in this Rates Certificate relating to waterways and drainage as an agent for Melbourne Water and relating to parks as an agent for Parks Victoria - pursuant to section 158 of the Water Act 1989.

7. The charges on this rates certificate are calculated and valid at the date of issue. To obtain up-to-date financial information, please order a Rates Settlement Statement prior to settlement.

8. From 01/07/2023, Residential Water Usage is billed using the following step pricing system: 249.56 cents per kilolitre for the first 44 kilolitres; 318.98 cents per kilolitre for 44-88 kilolitres and 472.56 cents per kilolitre for anything more than 88 kilolitres. From 1 July 2023, this charge is applicable for properties with water service only.

9. From 01/07/2023, Residential Water and Sewer Usage is billed using the following step pricing system: 334.38 cents per kilolitre for the first 44 kilolitres; 438.73 cents per kilolitre for 44-88 kilolitres and 509.73 cents per kilolitre for anything more than 88 kilolitres. From 1 July 2023, this charge is applicable for residential properties with both water and sewer services.

10. From 01/07/2023, Residential Recycled Water Usage is billed 188.71 cents per kilolitre.

11. From 01/07/2022 up to 30/06/2023, Residential Sewer Usage was calculated using the following equation: Water Usage (kl) x Seasonal Factor x Discharge Factor x Price (/kl) 1.1540 per kilolitre. From 1 July 2023, this charge will no longer be applicable for residential customers with both water and sewer services.

12. The property is a serviced property with respect to all the services, for which charges are listed in the Statement of Fees above.

To ensure you accurately adjust the settlement amount, we strongly recommend you book a Special Meter Reading:

- Special Meter Readings ensure that actual water use is adjusted for at settlement.
- Without a Special Meter Reading, there is a risk your client's settlement adjustment may not be correct.



YARRA VALLEY WATER
ABN 93 066 902 501

Lucknow Street
Mitcham Victoria 3132

Private Bag 1
Mitcham Victoria 3132

DX 13204

F (03) 9872 1353

E enquiry@yvw.com.au
yvw.com.au

Property No: 5276984

Address: 23 TRAMWAY AVE, WOLLERT VIC 3750

Water Information Statement Number: 30802390

HOW TO PAY



Bill Code: 314567
Ref: 74086351523

**Amount
Paid**

**Date
Paid**

**Receipt
Number**