

Real Estate Auction Rules

1. The auction will be conducted in accordance with the rules and any additional conditions that were made available for inspection before the start of the Auction.
2. The Auction rules prohibit an Auctioneer from accepting bids or offers for a property, after the property has been knocked down to the successful bidder.
3. The vendors have a reserved price.
4. As the auctioneer, I will indicate bidders on request.
5. The law prohibits false bids and prohibits major disruptions by bidders.

The law also prohibits bidders attempting to prevent others from bidding and will issue fines if this occurs.

6. The rules permits vendor bids.
7. During the Auction, the Auctioneer will say, "VENDOR BID", when making bids on the vendor behalf.
8. The law prohibits the making of "VENDOR BIDS", other than by the Auctioneer.

SALE OF LAND REGULATIONS 2005
SCHEDULE 5
INFORMATION CONCERNING THE CONDUCT OF PUBLIC
AUCTIONS OF LAND

Meaning of Vendor

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

Bidding by Co-owners

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

Vendor Bids

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

The Auctioneer can only make a vendor bid if-

- The auctioneer declares before bidding starts that he or she can make bids on behalf of a vendor, and states how these bids will be made; and
- The auctioneer states when making the bid for the vendors. The usual way for an auctioneer to indicate that he or she is making a vendor bid is to say, "vendor bid" in making the bid.

What rules and conditions apply to the Auction?

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

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

Copies of the rules

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

Questions

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

Forbidden activities at auctions

The law forbids –

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

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

Who made the bid?

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

It is an offence to disrupt an auction?

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

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

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

What law applies?

The information in this document is only intended as a brief summary of the law that applies to public auctions of land in Victoria. Most of the laws referred to in this document can be found in the **Sale of Land Act 1962** or the Sale of Land Regulations 2005. Copies of those laws can be found at the following web site: www.dms.dpc.vic.gov.au under the title "LawToday".

Contract of Sale

Property:

3 Westham Way, Wollert VIC 3750



JLE Conveyancing Pty Ltd
3/5 DEVONSHIRE ROAD
SUNSHINE VIC 3020
Tel: 03 9363 2075
Ref: JL:12079

Contract of Sale

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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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Contract of Sale

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

The terms of this contract are contained in the –

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

in that order of priority.

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/...../2024

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

State nature of authority, if applicable:

This offer will lapse unless accepted within [] clear business days (3 clear business days if none specified)
In this contract, "business day" has the same meaning as in section 30 of the *Sale of Land Act 1962*

SIGNED BY THE VENDOR:
..... on/...../2024

Print names(s) of person(s) signing: SON VO and HUONG THI LE

State nature of authority, if applicable:

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

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Particulars of Sale

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Particulars of Sale

Vendor's estate agent

Name: Harcourts Rata & Co
Address: _____
Email: sold@rataandco.com.au
Tel: _____ Mob: 0456 203 040 Fax: _____ Ref: Sherry

Vendor

Name: SON VO and HUONG THI LE
Address: _____
ABN/ACN: _____
Email: _____

Vendor's legal practitioner or conveyancer

Name: JLE Conveyancing Pty Ltd
Address: 3/5 DEVONSHIRE ROAD, SUNSHINE Vic 3020
Email: info@jleconveyancing.com.au
Tel: 03 9363 2075 Mob: _____ Fax: _____ Ref: 12079

Purchaser

Name: _____
Address: _____
ABN/ACN: _____
Email: _____

Purchaser's legal practitioner or conveyancer

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

Land (general conditions 7 and 13)

The land is described in the table below –

Certificate of Title reference	being lot	on plan
Volume 11332 Folio 379	3301	PS 647478K

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: 3 Westham Way, Wollert VIC 3750

Goods sold with the land (general condition 6.3(f)) (*list or attach schedule*): All fixtures and fittings of a permanent nature as inspected.

Exclusion lists : N/A

Payment

Price \$ _____

Deposit \$ _____ by _____ (of which _____ has been paid)

Balance \$ _____ payable at settlement

GST (general condition 19)

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

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

Settlement (general conditions 17 & 26.2)

is due on

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 or occupancy permit is issued.

Lease (general condition 5.1)

At settlement the purchaser is entitled to vacant possession of the property unless the words '**subject to lease**' appear in this box in which case refer to general condition 1.1.

If '**subject to lease**' then particulars of the lease are*:

- a lease for a term ending on / /20..... with [.....] options to renew, each of [.....] years
- OR
- a residential tenancy for a fixed term ending on / /20.....
- 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): NOT APPLICABLE AT AUCTION

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

Lender: _____

Loan amount: no more than _____

Approval date: _____

Building report - NOT APPLICABLE AT AUCTION

- General condition 21 applies only if the box is checked

Pest report – NOT APPLICABLE AT AUCTION

- General condition 22 applies only if the box is checked

Special Conditions

A special condition operates if the box next to it is checked or the parties otherwise agree in writing

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 – Electronic conveyancing

5.1 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.

5.2 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.

5.3 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*.

5.4 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.

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

5.6 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.

5.7 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 8.6 has not occurred by 4.00 pm, or 6.00 pm if the nominated time for settlement is after 4.00 pm.

5.8 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.

5.9 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 5 – Condition of the Property

6.1 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.

6.2 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, appurtenant easements 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.

6.3 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.

6.4 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.

6.5. 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.

6.6 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 6 – 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 7 – 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 \$110 at the settlement for each request.

Special condition 8 - 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 48 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 9 - 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 \$220 for the nomination.

Special condition 10 – 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 at the settlement for each request.

Special condition 11 - 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 requestion, 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 12 - Re-sale Deed

For the Sale of this land to take effect, both Vendor(s) and Purchaser(s) will be required to enter into a Re-Sale Deed prior to settlement date. The Re-Sale Deed will be obtained by the Vendor from Developer's (head Vendor) lawyers. The Purchaser(s) acknowledge and agree to;

- a) Allow any cost incurred by the Vendor for obtaining Re-Sale deed from Developer's (Head Vendor) Lawyers via adjustments at settlement.
- b) Execute the Re-Sale deed and deliver them to Vendor's Conveyancer at least seven (7) days prior to settlement date.

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 7.4(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 1.14 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

- 13.2 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.
- 13.10 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 lodgment 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 lodgment 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 lodgment 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 lodgment network operators do not provide otherwise:
- (a) the electronic lodgment network operator to conduct all the financial and lodgment 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 lodgment network operators after the workspace locks;
 - (b) if two or more electronic lodgment 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 lodgment.
- 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 lodgment 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 lodgment network operator of settlement.

19. GST

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

- (b) the purchaser warrants that the purchaser intends that a farming business will be carried on after settlement on the property.

19.5 If the particulars of sale specify that the supply made under this contract is a 'going concern':

- (a) the parties agree that this contract is for the supply of a going concern; and
- (b) the purchaser warrants that the purchaser is, or prior to settlement will be, registered for GST; and
- (c) the vendor warrants that the vendor will carry on the going concern until the date of supply.

19.6 If the particulars of sale specify that the supply made under this contract is a 'margin scheme' supply, the parties agree that the margin scheme applies to this contract.

19.7 In this general condition:

- (a) 'GST Act' means *A New Tax System (Goods and Services Tax) Act 1999* (Cth); and
- (b) 'GST' includes penalties and interest.

20. LOAN

20.1 If the particulars of sale specify that this contract is subject to a loan being approved, this contract is subject to the lender approving the loan on the security of the property by the approval date or any later date allowed by the vendor.

20.2 The purchaser may end the contract if the loan is not approved by the approval date, but only if the purchaser:

- (a) immediately applied for the loan; and
- (b) did everything reasonably required to obtain approval of the loan; and
- (c) serves written notice ending the contract, together with written evidence of rejection or non-approval of the loan, on the vendor within 2 clear business days after the approval date or any later date allowed by the vendor; and
- (d) is not in default under any other condition of this contract when the notice is given.

20.3 All money must be immediately refunded to the purchaser if the contract is ended.

21. BUILDING REPORT

21.1 This general condition only applies if the applicable box in the particulars of sale is checked.

21.2 The purchaser may end this contract within 7 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 7 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 lodgment 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 lodgment 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 lodgment 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.
-

INFORMATION ONLY

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 2024

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	3 WESTHAM WAY, WOLLERT VIC 3750
-------------	---------------------------------

Vendor's name	SON VO	Date	/ /
Vendor's signature	_____		
Vendor's name	HUONG THI LE	Date	/ /
Vendor's signature	_____		

Purchaser's name		Date	/ /
Purchaser's signature	_____		
Purchaser's name		Date	/ /
Purchaser's signature	_____		

1. FINANCIAL MATTERS

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

(a) Their total does not exceed: \$5,000.00

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

Not Applicable

1.3 Terms Contract

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

Not Applicable

1.4 Sale Subject to Mortgage

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

Not Applicable

2. INSURANCE

2.1 Damage and Destruction

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

Not Applicable

2.2 Owner Builder

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

Not Applicable

3. LAND USE

3.1 Easements, Covenants or Other Similar Restrictions

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

Is in the attached copies of title document/s

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

To the best of the Vendor's knowledge there is no existing failure to comply with the terms of any easements, covenants or other similar restriction.

3.2 Road Access

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

3.3 Designated Bushfire Prone Area

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

3.4 Planning Scheme

Attached is a certificate with the required specified information.

4. NOTICES

4.1 Notice, Order, Declaration, Report or Recommendation

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

Not Applicable

4.2 Agricultural Chemicals

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

NIL

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:

NIL

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*.

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*.

Not Applicable

8. SERVICES

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

Electricity supply <input type="checkbox"/>	Gas supply <input type="checkbox"/>	Water supply <input type="checkbox"/>	Sewerage <input 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

This section 10.2 only applies if the land is part of a staged subdivision within the meaning of section 37 of the

Subdivision Act 1988.

- (a) Attached is a copy of the plan for the first stage if the land is in the second or subsequent stage.
- (b) The requirements in a statement of compliance relating to the stage in which the land is included that have Not been complied With are As follows:

NIL

- (c) The proposals relating to subsequent stages that are known to the vendor are as follows:

NIL

- (d) The contents of any permit under the Planning and Environment Act 1987 authorising the staged subdivision are:

NIL

10.3 Further Plan of Subdivision

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

Not Applicable

11. DISCLOSURE OF ENERGY INFORMATION

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

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

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

Not Applicable

12. DUE DILIGENCE CHECKLIST

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

Is attached

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)

Due diligence checklist

What you need to know before buying a residential property

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

Urban living

Moving to the inner city?

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

Is the property subject to an owners corporation?

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

Growth areas

Are you moving to a growth area?

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

Flood and fire risk

Does this property experience flooding or bushfire?

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

Rural properties

Moving to the country?

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

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

Can you build new dwellings?

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

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

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

Soil and groundwater contamination

Has previous land use affected the soil or groundwater?

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

(04/10/2016)

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 2

VOLUME 11332 FOLIO 379

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LAND DESCRIPTION

Lot 3301 on Plan of Subdivision 647478K.
PARENT TITLE Volume 11283 Folio 309
Created by instrument PS647478K 11/02/2012

REGISTERED PROPRIETOR

Estate Fee Simple
Joint Proprietors
SON VO
HUONG THI LE both of 3 WESTHAM WAY WOLLERT VIC 3750
AJ643490S 07/05/2012

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AV787400M 27/06/2022
AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD

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
AG231554R 04/12/2008

AGREEMENT Section 173 Planning and Environment Act 1987
AH294279X 15/06/2010

AGREEMENT Section 173 Planning and Environment Act 1987
AH682695U 20/12/2010

DIAGRAM LOCATION

SEE PS647478K 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: 3 WESTHAM WAY WOLLERT VIC 3750

ADMINISTRATIVE NOTICES

NIL

eCT Control 16165A AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED
Effective from 28/06/2022

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

DOCUMENT END

INFORMATION ONLY



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20/12/2010 \$105.20 173



Section 181

APPLICATION BY A RESPONSIBLE AUTHORITY FOR THE MAKING OF A RECORDING OF AN AGREEMENT

Planning and Environment Act 1987

Lodged by:

Name: Macpherson+Kelley Lawyers
Phone: 8615 9900
Address: Level 22, 114 William Street, Melbourne
Ref: CLT:198305
Customer Code: 1161S

Privacy Collection Statement
The information from this form is collected under statutory authority and is used for the purpose of maintaining publicly searchable registers and indexes in the Victorian Land Registry.

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:

The land in Certificate of Title Volume 11210 Folio 080

Authority:

Whittlesea City Council of Ferres Boulevard, South Morang, 3752

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.

Signature for Authority:

Name of Officer (print full name): **LJILJANA SUCIC**

Date: **15/12/2010**

AH682695U

20/12/2010 \$105.20 173



WHITTLESEA CITY COUNCIL
"Responsible Authority"

AVJENNINGS WOLLERT PTY LTD
ACN 126 373 082
"Owner"

SECTION 173 AGREEMENT

Parts of Stage 31, Lyndarum Estate, Wollert

herbertgeer

Level 20 385 Bourke Street Melbourne 3000 Australia

Telephone +613 9641 8620

Facsimile +613 9670 5670

Reference SJS:EAL:1344783

Steven Smith

AH682695U

20/12/2010 \$105.20 173



SECTION 173 AGREEMENT

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THIS SECTION 173 AGREEMENT is made the 14 day of December 2010.

BETWEEN WHITTLESEA CITY COUNCIL of 25 Ferres Boulevard, South Morang, Victoria
"Responsible Authority"

AND AVJENNINGS WOLLERT PTY LTD ACN 126 373 082 of 6 Lakeside Drive, Burwood East, Victoria
"Owner"

ON THE BASIS THAT:

- A. The Responsible Authority is responsible for the administration and enforcement of the Planning Scheme pursuant to the Act which applies to the Land.
- B. The Owner is or is entitled to be the registered proprietor of an estate in fee simple of the Land.
- C. On 24 August 2009, the Responsible Authority issued the Planning Permit allowing the Land to be subdivided in accordance with the Endorsed Subdivision Plan.
- D. Condition 20 of the Planning Permit requires the Owner to enter into this Agreement to provide for the matters set out in that condition.
- E. The Parties enter into this Agreement:
 - (i) to give effect to the requirements of the Planning Permit; and
 - (ii) to achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Land.
- F. As at the date of this Agreement, the Land is encumbered by Mortgage No. AH141448H. The Mortgagee has consented to the Owner entering into this Agreement in respect of the Land.

THE PARTIES AGREE THAT:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

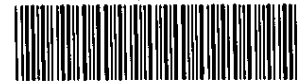
- Act** means the *Planning and Environment Act 1987* (Vic) or any modification, amendment or re-enactment of it
- Agreement** means this Section 173 Agreement and any agreement executed by the parties expressed to be supplemental to this agreement
- Business Day** means any day that is not a Saturday or Sunday on which banks are open for general banking business in Melbourne
- Commencement Date** means the date of this Agreement

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Conservation Management Plan	means the 126A and 156A Harvest Home Road, Wollert Conservation Management Plan prepared by AECOM dated 24 November 2009. A copy of the Conservation Management Plan is available for inspection at the Responsible Authority's office during normal business hours upon giving the Responsible Authority reasonable notice
Endorsed Subdivision Plan	means the plan of subdivision 637692P endorsed with the stamp of the Responsible Authority from time to time as the plan which forms part of the Planning Permit. A copy of the Endorsed Subdivision Plan is available for inspection at the Responsible Authority's office during normal business hours upon giving the Responsible Authority reasonable notice
Land	means all of the lots on the Endorsed Subdivision Plan and more particularly comprised in Certificate of Title Volume 11210 Folio 080
Lot	means a lot on the Land forming part of the Endorsed Subdivision Plan
Mortgagee	means the person registered or entitled from time to time to be registered by the Registrar as Mortgagee of the Land or any part of it
Owner	means the person or persons registered or entitled from time to time to be registered by the Registrar as proprietor or proprietors of an estate in fee simple of the Land or any part of it and includes a mortgagee-in-possession
Party or Parties	means the Owner and the Responsible Authority under this Agreement as appropriate
Planning Permit	means planning permit no. 711479 issued by the City of Whittlesea on 24 August 2009 under the Planning Scheme
Planning Scheme	means the Whittlesea Planning Scheme and any successor instrument or other planning scheme which applies to the Land
Registrar	means the Registrar of Titles, Victorian Land Registry Office
Reserve	means land that is set aside as public open space or for the use of a public authority or the Responsible Authority

1.2 Interpretation

In this Agreement unless the contrary intention appears:

- (a) a reference to a person includes a reference to a corporation firm association or other entity and that person's successors in law, and vice versa;



- (b) the singular includes the plural and vice versa;
- (c) a reference to any gender includes a reference to all other genders;
- (d) a reference to any legislation or to any provision of any legislation includes a reference to any modification or re-enactment of or any provisions substituted for such legislation or provisions;
- (e) an agreement, representation or warranty made by two or more persons is made by them jointly and by each of them severally;
- (f) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (g) if an act required to be done under this Agreement on or by a given day is done after 5:30 pm on that day, it is taken to be done on the following day;
- (h) the obligations of the Owner under this Agreement will take effect as separate and several covenants which are annexed to and run at law and equity with the Land, provided that if the Land is subdivided, this Agreement must be read and applied so that each subsequent owner of a Lot is only responsible for those covenants and obligations which relate to that owner's Lot;
- (i) a term used in this Agreement 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;
- (j) the introductory clauses to this Agreement are and will be deemed to form part of this Agreement.

1.3 Headings

Headings are inserted for convenience only and do not affect the interpretation of this Agreement.

2. SECTION 173 AGREEMENT

Without limiting the operation or effect which this Agreement otherwise has, the Responsible Authority and the Owner acknowledge that this Agreement is made as a deed pursuant to the provisions of section 173 of the Act and the obligations of the Owner under this Agreement are obligations to be performed by the Owner as conditions subject to which the Land may be used and developed pursuant to the Planning Permit.

3. OPERATION OF THE AGREEMENT

3.1 Agreement runs with the Land

This Agreement is deemed to come into force and effect as at the Commencement Date and the benefit and burden of this Agreement shall run at law and in equity with and be annexed to the Land.

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3.2 Planning Objectives

The parties acknowledge that the provisions of this Agreement are intended to achieve or advance the objectives of planning in Victoria and the objectives of the Planning Scheme and any matters incidental thereto.

3.3 Binding Covenants

The obligations of the Owner under this Agreement will take effect as separate and several covenants which shall be annexed to and run at law and equity with the Land to bind the Owner and each successor, assign or transferee of the Owner, the registered proprietor, the mortgagee-in-possession and the beneficial owner for the time being of the Land and every part of the Land.

4. SUCCESSORS IN TITLE

Without limiting the operation or effect that this Agreement has, the Owner must ensure that, until such time as a memorandum of this Agreement is registered on the title to the Land, the Owner's successors in title shall be required to:

- (a) give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement; and
- (b) execute under seal a deed agreeing to be bound by the terms of this Agreement and upon such execution this Agreement shall continue as if, in addition to the Owner's name, the successor's name appears in each clause in which the Owner's name appears.

5. OWNERS' COVENANTS

The Owner covenants and agrees that:

- (a) the Owner must, at no cost to the Responsible Authority and to the satisfaction of the Responsible Authority, implement on a progressive basis the recommendations and requirements contained in sections 2, 3, 4 and 5 of the Conservation Management Plan as it relates to the development of the Land; and
- (b) the maintenance and management regimes to be used by the Owner to achieve compliance with **Clause 5(a)** must be those contained in the Conservation Management Plan.

6. REGISTRATION OF AGREEMENT

The Owner agrees that it will:

- (a) do all things necessary to give effect to this Agreement; and
- (b) consent to the Responsible Authority making application to the Registrar to make a recording of this Agreement in the register on the certificates of title of the Land in accordance with section 181 of the Act and do all things necessary to enable the Responsible Authority to do so including signing any further agreement, acknowledgment or documents procuring the

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consent to this Agreement of any mortgagee or caveator to enable the recording to be made in the register under that section.

7. NOTICE OF AGREEMENT

The Owner further covenants and agrees that, whilst the Owner is the registered proprietor of the Land, the Owner will bring this Agreement to the attention of all prospective purchasers, lessees, mortgagees, chargees, transferees and assigns of the Land.

8. NO INTEREST

Without limiting the operation or effect which this Agreement has, and as at the Commencement Date, the Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Land which may be affected by this Agreement.

9. NO RESTRICTION

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

10. FURTHER ASSURANCES

Each of the Parties to this Agreement must sign and execute all such further documents and deeds and do all acts and things as the other party reasonably requires to effect the terms and conditions contained in this Agreement.

11. NOTICES

11.1 Any notice given under this Agreement must be in writing and must be signed by the Party giving the notice or any authorised officer of that Party.

11.2 Unless and until a Party provides notice of a different address or facsimile number to the other Parties to this Agreement, its address for service of notices shall be as stated in this Agreement.

11.3 Unless a later time is specified in a notice, the notice takes effect from the time it is received. A notice is taken to be received:

- (a) in the case of a notice delivered by hand, when so delivered;
- (b) in the case of a notice sent by pre-paid post, on the second clear Business Day after the date of posting; and
- (c) in the case of a notice sent by facsimile, upon the receipt by the sender of a transmission report from the despatching facsimile machine which confirms

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that all of the pages comprised in the notice have been successfully sent to the receiving Party's facsimile number.

12. ENDING OF AGREEMENT

12.1 The Parties agree that this Agreement ends, in accordance with section 177 of the Act, on the date upon which the Responsible Authority reasonably determines and notifies the Owner in writing that the Owner has complied with all of its obligations under this Agreement or the date upon which the Responsible Authority notifies the Owner in writing that the Responsible Authority no longer requires the Owner to perform such obligations.

12.2 As soon as reasonably practicable after this Agreement ends pursuant to **Clause 12.1**, the Responsible Authority will at the request and cost of the Owner make an application under section 183(2) of the Act to cancel the recoding of this Agreement on the register.

13. MISCELLANEOUS

13.1 Costs and Stamp Duty

The Owner further covenants and agrees that the Owner will pay to the Responsible Authority, the Responsible Authority's reasonable costs and expenses (including legal expenses) of and incidental to the preparation, drafting, review, finalisation, engrossment, execution, registration and enforcement of this Agreement which are, and until paid will remain, a debt due to the Responsible Authority by the Owner.

13.2 Entire Understanding

This Agreement supersedes all prior representations, arrangements, understandings and agreements between the Parties relating to the subject matter of this Agreement and sets forth the entire and exclusive agreement and understanding between the Parties relating to the subject matter of this Agreement.

13.3 Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon each of the Parties and their respective successors and authorised assigns.

13.4 No Waiver or Variation

Any time or other indulgence granted by the Responsible Authority to the Owner or any variation of the terms and conditions of this Agreement or any judgment or order obtained by the Responsible Authority against the Owner will not in any way amount to a waiver of any of the rights or remedies of the Responsible Authority in relation to the terms of this Agreement.

13.5 Severance

If any provision of this Agreement is judged invalid or unenforceable for any reason whatsoever by a court of competent jurisdiction, such invalidity or unenforceability (unless deletion of such provision would materially adversely affect one of the Parties) will not affect the operation or interpretation of any other provision of this Agreement to the extent that the invalid or unenforceable provision will be treated as

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severed from this Agreement and the other provisions of this Agreement will remain operative.

13.6 Recitals

The Parties acknowledge that the recitals are true and correct and form part of this Agreement.

13.7 Governing Law and Jurisdiction

This Agreement shall be construed in accordance with and shall be governed by the laws in force in the State of Victoria. Each of the Parties irrevocably submits to and accepts the exclusive jurisdiction of any of the Courts of the State of Victoria or the Commonwealth of Australia and any courts of appeal from these courts.

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EXECUTED as a DEED

SIGNED by and on behalf, and with the authority, of the **WHITTLESEA CITY COUNCIL** by in the exercise of a power conferred by an Instrument of Delegation, in the presence of:

Witness Sola Nwaka

)
) Samina L.H.
)
)
)

SIGNED by **PETER HOOD** as attorney for **AVJENNINGS WOLLERT PTY LTD ACN 126 373 082** under power of attorney dated **25 MAY 2010** in the presence of:

Signature of [Signature]
Witness
Print name..... Christine Bladeni

)
) [Signature]
)
) By executing this Agreement the attorney states that the attorney has received no notice of revocation of the power of attorney

United Overseas Banks Ltd as Mortgagee of registered mortgage No. AH141448H consents to the Owner entering into this Agreement and in the event that the Mortgagee becomes the Mortgagee-in-possession, agrees to be bound by the covenants and conditions of this Agreement.

SIGNED by **PETER HENRY MACKINLAY** as attorney for **United Overseas Bank Limited ABN 56 060 785 284** under power of attorney dated **1st August 2003** in the presence of:

Signature of [Signature]
Witness
Print name..... Ron Johnston

)
) [Signature]
)
) **Peter Henry Mackinlay**

By executing this Agreement the attorney states that the attorney has received no notice of revocation of the power of attorney

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Section 181

APPLICATION BY A RESPONSIBLE AUTHORITY FOR THE MAKING OF A RECORDING OF AN AGREEMENT

Planning and Environment Act 1987

Lodged by:

Name: Mills Oakley Lawyers

Phone: (03) 9670 9111

Address: Level 4, 121 William Street, Melbourne VIC 3000

Ref: Customer Code: 13223E

Privacy Collection Statement

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

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: Certificates of Title Volume 6561 Folio 099 and Volume 10790 Folio 858.

Authority: Whittlesea City Council of Municipal Offices, 25 Ferres Boulevard, South Morang, Victoria, 3752

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.

Signature for Authority:

Name of Officer:

DAVID TURNBULL (print full name)

Date:

28 - 11 - 2008.

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Date 28/11/2008

170 Franklin Street
Melbourne Victoria 3000 Australia
Telephone 61 3 9288 0555
Facsimile 61 3 9288 0666
Email info@maddocks.com.au
www.maddocks.com.au
DX 259 Melbourne

Agreement under Section 173 of the Planning and Environment Act 1987

Subject Land: Epping North East Local Structure Plan Area

Purpose: Transfer of Regional Open Space

Whittlesea City Council

and

AV Jennings Properties SPV No. 5 Pty Limited

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Agreement under Section 173 of the Planning and Environment Act 1987

DATE 28/11/2008

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BETWEEN

WHITTLESEA CITY COUNCIL
of Municipal Offices, Ferres Boulevard, South Morang

(Council)

AND

AV JENNINGS PROPERTIES SPV No. 5 PTY LIMITED ACN 126373082
of 6 Lakeside Drive, Burwood East, Melbourne, 3151

(Owner)

RECITALS

- A. Council is the Planning Authority pursuant to the Act for the Amendment.
- B. The Owner is or is entitled to be the registered proprietor of the Subject Land.
- C. The Subject Land is part of the Epping North Growth Area which is to be developed for urban purposes generally in accordance with the Epping North Strategic Plan.
- D. The Epping North East Local Structure Plan identifies land which is required for the purpose of regional public open space and road widening. The Owner owns certain land required for regional public open space and road widening and has agreed with Council to transfer the required land to Council on the terms and conditions set out in this Agreement.
- E. The parties enter into this Agreement to achieve and advance the objectives of planning in Victoria and in particular the objectives of the Planning Scheme in respect of the Subject Land.

THE PARTIES AGREE

1. DEFINITIONS

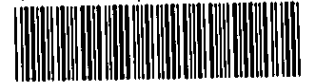
In this Agreement the words and expressions set out in this clause have the following meanings unless the context admits otherwise:

Act means the *Planning and Environment Act 1987*.

Agreement means this agreement and any agreement executed by the parties expressed to be supplemental to this agreement.

Amendment means Amendment C81 (Part 1) to the Planning Scheme.

Approval Date is the date on which a notice of approval of the Amendment is published in the Government Gazette.



Corner Land means the land described in clause 3.4 of this Agreement.

Development Plan means the development plan approved by the Council pursuant to Schedule 21 to the Development Plan Overlay of the Planning Scheme.

Easement Land means approximately 4.92 hectares of encumbered land within the transmission of electricity Easement Registered number D983798 as marked "AB" on the plan at Annexure A and referred to as "Transmission Easement" on that Plan.

Epping North East Local Structure Plan Development Contributions Plan means the Epping North East Local Structure Plan Development Contributions Plan incorporated into the Scheme.

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 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 it and includes a Mortgagee-in-possession.

Party or Parties means the Owner and Council under this Agreement as appropriate.

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

Plan of Subdivision means a plan of subdivision relating to the Subject Land which is not a procedural plan but a plan that upon registration creates an additional lot which can be disposed of separately and is intended to be used for a dwelling or which is intended to be re-subdivided.

Regional Open Space Land means not less than 15.35 hectares of unencumbered land for regional active open space as marked "AC" on the plan at Annexure A and referred to as "Active Open Space – Regional" on that Plan.

Road Widening Land means subject at all times to the provisions of Clause 3.6, not more than 0.56 hectares of land for road widening of Harvest Home Road as shown "cross-hatched" on the plan at Annexure A and marked as Harvest Home Road Widening on that Plan.

Subject Land means the land referred to or described in the Certificate(s) of Title set out in Schedule 1 to this Agreement and any reference to the Subject Land in this Agreement includes any lot created by the subdivision of the Subject Land or any part of it.

2. INTERPRETATION

In this Agreement unless the context admits otherwise:

- 2.1 The singular includes the plural and vice versa.
- 2.2 A reference to a gender includes a reference to each other gender.
- 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 If a party consists of more than one person this Agreement binds them jointly and each of them severally.
- 2.5 A term used in this Agreement 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 a clause is a reference to a clause in this Agreement.
- 2.7 A reference to a Schedule is a reference to a Schedule to this Agreement.
- 2.8 A reference to an Act, Regulation or the Planning Scheme includes any Acts, Regulations or amendments amending, consolidating or replacing the Act, Regulation or Planning Scheme.
- 2.9 The introductory clauses to this Agreement are and will be deemed to form part of this Agreement.
- 2.10 The obligations of the Owner under this Agreement, will take effect as separate and several covenants which are annexed to and run at law and equity with the Subject Land provided that if the Subject Land is subdivided, this Agreement must be read and applied so that each subsequent owner of a lot is only responsible for those covenants and obligations which relate to that owner's lot.

3. DEVELOPMENT CONTRIBUTIONS

The Owner covenants and agrees:

3.1 Land transfers

3.1.1 the Owner must transfer to or vest in Council the following land:

- the Regional Open Space Land;
- the Road Widening Land; and
- the Easement Land –

in accordance with this Agreement.



3.2 Timing of land transfer

3.2.1 unless Council and the Owner agree on a different timetable, each of the land areas described in clause 3.1.1 of this Agreement must be transferred to or vested in Council:

- within 6 months of the Approval Date; or
- contemporaneously with the registration of a Plan of Subdivision which includes the relevant land area

whichever occurs first;



3.3 Passive Public Open Space

3.3.1 Notwithstanding anything in this Agreement a contribution for Passive Open Space purposes as envisaged under Clause 52.01 of the Planning Scheme must be provided either in cash or as land or as a combination of them generally in accordance with the Passive Open Space identified in the Epping North East Local Structure Plan and the Epping North East Local Structure Plan Development Contributions Plan; and

3.3.2 Where any part of the Passive Open Space Contribution is to be paid in cash, the site value of land for the purpose of ascertaining the required monetary amount of the cash contribution shall be deemed to be \$500,000.00 per hectare.

3.4 Corner Land

3.4.1 that part of the Subject Land which is located on the north west corner of Harvest Home Road and Epping Road comprising an area of not more than 0.5 hectares must be used as a Restaurant as defined in the Land Use Terms clause of the Planning Scheme and for no other purpose. The Owner further acknowledges and agrees that the Corner Land must not be used for a Convenience Restaurant or a Take Away Food Premises as those Land Use Terms are defined in the Planning Scheme as in force at the date of this Agreement.

3.4.2 the design of the Restaurant on the Corner Land should: -

- be architecturally designed and address Epping Road and Harvest Home Road;
- have its car park located behind the Restaurant; and
- where possible, share access point/s with the Regional Open Space Land -

to the satisfaction of Council;

3.5 Lower order infrastructure

nothing in this Agreement affects the obligations of the Owner to provide the Lower Order Infrastructure items described in Schedule 2 which must be provided by the Owner as part of the urban development of the Subject Land.

3.6 Road Widening Land

3.6.1 the defined area of the Road Widening Land is based upon the assumption that the parcel of land in Certificate of Title Volume 6561 Folio 099 has a frontage abutting Harvest Home Road of 404 metres. In the event of a licensed surveyor identifying that assumption to be incorrect the area of the Road Widening Land is to be recalculated by application of the following formula:

$$14 \times \text{length of frontage to Harvest Home Road of the parcel of land in Certificate of Title Volume 6561 Folio 099} = \text{Road Widening Land area.}$$

- 3.6.2 the recalculated area of the Road Widening Land under clause 3.6.1 is then to be substituted for the area for Road Widening Land as defined in clause 1 of this Agreement.

4. COUNCIL ACKNOWLEDGEMENT

Council acknowledges and agrees:

- 4.1 the transfer or vesting of each of the land areas described in clause 3.1.1 of this Agreement satisfies in full the obligations that would otherwise accrue to the Owner to make development contributions under the approved Epping North East Local Structure Plan Development Contributions Plan and under clause 3 (d) of Section 173 Agreement Registered No. AC707470G other than for passive public open space as referred to in Clause 3.3 of this Agreement;
- 4.2 subject to the final location and design being approved by Council which approval is not to be unreasonably withheld, the Owner may construct roads along and within the north eastern boundary of the Easement Land and lay services across the Easement Land;
- 4.3 that the location of the Regional Open Space Land as shown in the plan at Annexure A is approximate and reflects current expectations of the Council and the Owner and is subject to finalisation in both size and precise location at the time Council is approving the Development Plan for the Subject Land;
- 4.4 after each of the land areas described in clause 3.1.1 has been transferred to or vested in Council the obligation to maintain that Land at all times in a good, tidy and presentable condition will be that of the Council; and
- 4.5 that nothing in this Agreement effects or limits the right of the Owner to receive from Council reimbursement for costs incurred by it when undertaking the construction of any item of infrastructure the provision of which is covered by the Epping North East Local Structure Plan Development Contributions Plan.

5. FURTHER OBLIGATIONS OF THE OWNER

5.1 Notice and registration

The Owner further covenants and agrees that the Owner will bring this Agreement to the attention of all prospective purchasers, lessees, mortgagees, chargees, transferees and assigns.

5.2 Further actions

The Owner further covenants and agrees that:

- 5.2.1 the Owner will do all things necessary to give effect to this Agreement;
- 5.2.2 the Owner will consent to Council making application to the Registrar of Titles to make a recording of this Agreement in the Register on the Certificate of Title of the Subject Land in accordance with Section 181 of the Act and do all things necessary to enable Council to do so including signing any further agreement, acknowledgment or document or

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procuring the consent to this Agreement of any mortgagee or caveator to enable the recording to be made in the Register under that section.

5.3 Council's costs to be paid

The Owner further covenants and agrees that the Owner will immediately pay to Council, Council's reasonable costs and expenses (including legal expenses) of and incidental to the preparation, drafting, finalisation, engrossment, execution and registration of this Agreement which are and until paid will remain a debt due to Council by the Owner.

6. AGREEMENT UNDER SECTION 173 OF THE ACT

Council and the Owner agree that 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 pursuant to Section 173 of the Act, and the obligations of the Owner under this Agreement are obligations to be performed by the Owner as conditions subject to which the Subject Land may be used and developed for specified purposes.

7. OWNER'S WARRANTIES

Without limiting the operation or effect which this Agreement has, the Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Subject Land which may be affected by this Agreement.

8. SUCCESSORS IN TITLE

Without limiting the operation or effect that this Agreement has, the Owner must ensure that, until such time as a memorandum of this Agreement is registered on the title to the Subject Land, successors in title shall be required to:

- 8.1 give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement; and
- 8.2 execute a deed agreeing to be bound by the terms of this Agreement.

9. GENERAL MATTERS

9.1 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:

- 9.1.1 by delivering it personally to that party;
- 9.1.2 by sending it by prepaid post addressed to that party at the address set out in this Agreement or subsequently notified to each party from time to time; or
- 9.1.3 by sending it by facsimile provided that a communication sent by facsimile shall be confirmed immediately in writing by the sending party by hand delivery or prepaid post.

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9.2 Service of Notice

A notice or other communication is deemed served:

- 9.2.1 if delivered, on the next following business day;
- 9.2.2 if posted, on the expiration of 7 business days after the date of posting; or
- 9.2.3 if sent by facsimile, on the next following business day unless the receiving party has requested retransmission before the end of that business day.

9.3 No Waiver

Any time or other indulgence granted by Council to the Owner or any variation of the terms and conditions of this Agreement or any judgment or order obtained by Council against the Owner will not in any way amount to a waiver of any of the rights or remedies of Council in relation to the terms of this Agreement.

9.4 Severability

If a court, arbitrator, tribunal or other competent authority determines that a word, phrase, sentence, paragraph or clause of this Agreement is unenforceable, illegal or void then it must be severed and the other provisions of this Agreement will remain operative.

9.5 No Fettering of Council's Powers

It is acknowledged and agreed that this Agreement does not fetter or restrict the power or discretion of Council to make any decision or impose any requirements or conditions in connection with the granting of any planning approval or certification of any plans of subdivision applicable to the Subject Land or relating to any use or development of the Subject Land.

10. GOODS AND SERVICES TAX

- 10.1 In this clause words that are defined in *A New Tax System (Goods and Services Tax) Act 1999* 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. COMMENCEMENT OF AGREEMENT

Unless otherwise provided in this Agreement, this Agreement commences from the Approval Date.

12. ENDING OF AGREEMENT

- 12.1 This Agreement ends as against all of the Subject Land except the Corner Land when the Owner has complied with all of the obligations imposed on the Owner under this Agreement and both Council and the Owner agree that the Agreement can be removed from the title to the Subject Land.
- 12.2 If any part of the Subject Land is subdivided the Council and the Owner may agree that this Agreement is no longer required in relation to one or more particular allotments shown on the Plan of Subdivision and that:
 - 12.2.1 the Agreement will end in relation to that allotment; and
 - 12.2.2 a recording of the Agreement is not required to be registered on any subsequent certificate of title generated for that allotment.
- 12.3 As soon as reasonably practicable after the Agreement has ended, Council will, at the request and at the cost of the Owner make application to the Registrar of Titles under Section 183(2) of the Act to cancel the recording of this Agreement on the register.

SIGNED, SEALED AND DELIVERED as a Deed by the parties on the date set out at the commencement of this Agreement.

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

[Signature]
..... Chief Executive Officer

AG231554R



Executed by AV JENNINGS PROPERTIES SPV NO. 5 PTY LIMITED ACN 126 373 082 by its Attorney PETER VLITAS under Power of Attorney dated 21 April 2008 who certifies that he has received no notice of revocation and in the presence of:

[Signature]
.....
Witness *ANTHONY GEORGE*

[Signature]
..... Peter Vlitas

Mortgagee's Consent

BOS International (Australia) Ltd as Mortgagee of registered mortgage No. AF341762D consents to the Owner entering into this Agreement and in the event that the Mortgagee becomes Mortgagee-in-possession, agrees to be bound by the covenants and conditions of this Agreement.



ROB MOULDEN
DIRECTOR.

AG231554R

04/12/2008 \$99.90 173



Schedule 1

Certificates of Title comprising the Subject Land

Firstly, Lot 1 on Title Plan No. TP832702N being the land contained in Certificate of Title Volume 6561 Folio 099.

Secondly, Lot 1 on Plan of Subdivision No. PS519651P being the land contained in Certificate of Title Volume 10790 Folio 858.

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Schedule 2

Lower Order Infrastructure Items

Lower Order Infrastructure items include:

- all internal roads and associated traffic management measures except those items specifically included in the Epping North East Local Structure Plan Development Contributions Plan
- internal flood mitigation works;
- local drainage systems;
- main drainage works except those specifically included in the Epping North East Local Structure Plan Development Contributions Plan ;
- water, sewerage, underground power, gas and telecommunications services;
- local pathways and connections to the regional or district pathway network;
- basic levelling, water tapping and landscaping of public open space except those specifically included in the Epping North East Local Structure Plan Development Contributions Plan;
- public open space improvements and any agreed associated works.
- other works not specifically included in the Epping North East Local Structure Plan Development Contributions Plan.

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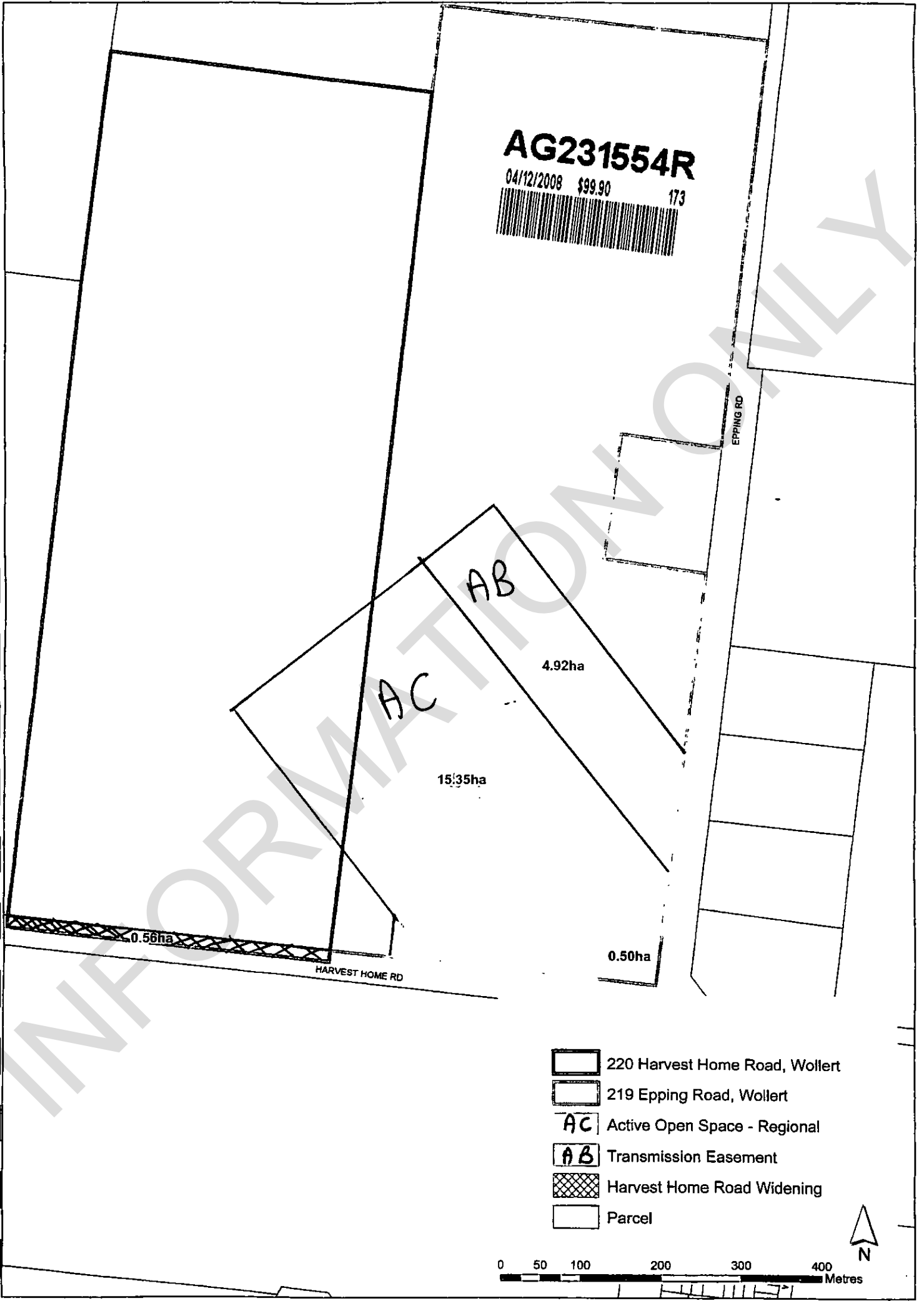
ANNEXURE "A"

INFORMATION ONLY

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[Barcode]

AC

AB

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4.92ha

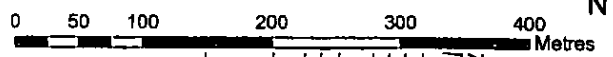
0.56ha

0.50ha

HARVEST HOME RD

EPHING RD

- [Symbol] 220 Harvest Home Road, Wollert
- [Symbol] 219 Epping Road, Wollert
- AC** Active Open Space - Regional
- AB** Transmission Easement
- [Symbol] Harvest Home Road Widening
- [Symbol] Parcel



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Section 181

APPLICATION BY A RESPONSIBLE AUTHORITY FOR THE MAKING OF A RECORDING OF AN AGREEMENT

Planning and Environment Act 1987

Lodged by:

Name: Macpherson+Kelley Lawyers
Phone: 8615 9900
Address: Level 22, 114 William Street, Melbourne
Ref: CLT:197581
Customer Code: 1161S

Privacy Collection Statement
The information from this form is collected under statutory authority and is used for the purpose of maintaining publicly searchable registers and indexes in the Victorian Land Registry.

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: LOTS 3001 + 03041 (b.i) + 1002 to 1004 (b.i) ON PS 633444 & BEING PART OF THE LAND IN CERTIFICATES OF TITLE VOLUME 1112 FOLIOS 765 and 769 IN NOW = 11210/040 TO 11210/083

Authority:
Whittlesea City Council of Ferres Boulevard, South Morang, 3752

18/6/10

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.

Signature for Authority: *David Turnbull*

Name of Officer (print full name):

DAVID TURNBULL

Date: 11.6.10

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WHITTLESEA CITY COUNCIL
"Responsible Authority"

AVJENNINGS WOLLERT PTY LTD
ACN 126 373 082
"Owner"

SECTION 173 AGREEMENT

Parts of Stage 30, Lyndarum Estate, Wollert

herbertgeer

Level 20 385 Bourke Street Melbourne 3000 Australia

Telephone +613 9641 8744

Facsimile +613 9600 4412

Reference SJS:EYG:1341130

Steven Smith

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SECTION 173 AGREEMENT

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THIS SECTION 173 AGREEMENT is made the day of 2010.

BETWEEN **WHITTLESEA CITY COUNCIL** of 25 Ferres Boulevard, South Morang, Victoria
"Responsible Authority"

AND **AVJENNINGS WOLLERT PTY LTD** ACN 126 373 082 of 6 Lakeside Drive, Burwood East, Victoria
"Owner"

ON THE BASIS THAT:

- A.** The Responsible Authority is responsible for the administration and enforcement of the Planning Scheme pursuant to the Act which applies to the Land.
- B.** The Owner is or is entitled to be the registered proprietor of an estate in fee simple of the Land.
- C.** On 24 August 2009, the Responsible Authority issued the Planning Permit allowing the Land to be subdivided in accordance with the Endorsed Subdivision Plan.
- D.** Condition 20 of the Planning Permit requires the Owner to enter into this Agreement to provide for the matters set out in that condition.
- E.** The Parties enter into this Agreement:
 - (i) to give effect to the requirements of the Planning Permit; and
 - (ii) to achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Land.
- F.** As at the date of this Agreement, the Land is encumbered by Mortgage No. AH141448H. The Mortgagee has consented to the Owner entering into this Agreement in respect of the Land.

THE PARTIES AGREE THAT:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

- Act** means the *Planning and Environment Act 1987 (Vic)* or any modification, amendment or re-enactment of it
- Agreement** means this Section 173 Agreement and any agreement executed by the parties expressed to be supplemental to this agreement
- Business Day** means any day that is not a Saturday or Sunday on which banks are open for general banking business in Melbourne
- Commencement Date** means the date of this Agreement

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Conservation Management Plan	means the 126A and 156A Harvest Home Road, Wollert Conservation Management Plan prepared by AECOM dated 24 November 2009. A copy of the Conservation Management Plan is available for inspection at the Responsible Authority's office during normal business hours upon giving the Responsible Authority reasonable notice
Endorsed Subdivision Plan	means the plan of subdivision 633444G endorsed with the stamp of the Responsible Authority from time to time as the plan which forms part of the Planning Permit. A copy of the Endorsed Subdivision Plan is available for inspection at the Responsible Authority's office during normal business hours upon giving the Responsible Authority reasonable notice
Land	means all of the lots on the Endorsed Subdivision Plan and more particularly comprised in Certificates of Title Volume 11112 Folios 765 and 769
Lot	means a lot on the Land forming part of the Endorsed Subdivision Plan
Mortgagee	means the person registered or entitled from time to time to be registered by the Registrar as Mortgagee of the Land or any part of it
Owner	means the person or persons registered or entitled from time to time to be registered by the Registrar as proprietor or proprietors of an estate in fee simple of the Land or any part of it and includes a mortgagee-in-possession
Party or Parties	means the Owner and the Responsible Authority under this Agreement as appropriate
Planning Permit	means planning permit no. 711479 issued by the City of Whittlesea on 24 August 2009 under the Planning Scheme
Planning Scheme	means the Whittlesea Planning Scheme and any successor instrument or other planning scheme which applies to the Land
Registrar	means the Registrar of Titles, Victorian Land Registry Office
Reserve	means land that is set aside as public open space or for the use of a public authority or the Responsible Authority

1.2 **Interpretation**

In this Agreement unless the contrary intention appears:

- (a) a reference to a person includes a reference to a corporation firm association or other entity and that person's successors in law, and vice versa;

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- (b) the singular includes the plural and vice versa;
- (c) a reference to any gender includes a reference to all other genders;
- (d) a reference to any legislation or to any provision of any legislation includes a reference to any modification or re-enactment of or any provisions substituted for such legislation or provisions;
- (e) an agreement, representation or warranty made by two or more persons is made by them jointly and by each of them severally;
- (f) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (g) if an act required to be done under this Agreement on or by a given day is done after 5:30 pm on that day, it is taken to be done on the following day;
- (h) the obligations of the Owner under this Agreement will take effect as separate and several covenants which are annexed to and run at law and equity with the Land, provided that if the Land is subdivided, this Agreement must be read and applied so that each subsequent owner of a Lot is only responsible for those covenants and obligations which relate to that owner's Lot;
- (i) a term used in this Agreement 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;
- (j) the introductory clauses to this Agreement are and will be deemed to form part of this Agreement.

1.3 **Headings**

Headings are inserted for convenience only and do not affect the interpretation of this Agreement.

2. **SECTION 173 AGREEMENT**

Without limiting the operation or effect which this Agreement otherwise has, the Responsible Authority and the Owner acknowledge that this Agreement is made as a deed pursuant to the provisions of section 173 of the Act and the obligations of the Owner under this Agreement are obligations to be performed by the Owner as conditions subject to which the Land may be used and developed pursuant to the Planning Permit.

3. **OPERATION OF THE AGREEMENT**

3.1 **Agreement runs with the Land**

This Agreement is deemed to come into force and effect as at the Commencement Date and the benefit and burden of this Agreement shall run at law and in equity with and be annexed to the Land.



3.2 Planning Objectives

The parties acknowledge that the provisions of this Agreement are intended to achieve or advance the objectives of planning in Victoria and the objectives of the Planning Scheme and any matters incidental thereto.

3.3 Binding Covenants

The obligations of the Owner under this Agreement will take effect as separate and several covenants which shall be annexed to and run at law and equity with the Land to bind the Owner and each successor, assign or transferee of the Owner, the registered proprietor, the mortgagee-in-possession and the beneficial owner for the time being of the Land and every part of the Land.

4. SUCCESSORS IN TITLE

Without limiting the operation or effect that this Agreement has, the Owner must ensure that, until such time as a memorandum of this Agreement is registered on the title to the Land, the Owner's successors in title shall be required to:

- (a) give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement; and
- (b) execute under seal a deed agreeing to be bound by the terms of this Agreement and upon such execution this Agreement shall continue as if, in addition to the Owner's name, the successor's name appears in each clause in which the Owner's name appears.

5. OWNERS' COVENANTS

The Owner covenants and agrees that:

- (a) the Owner must, at no cost to the Responsible Authority and to the satisfaction of the Responsible Authority, implement on a progressive basis the recommendations and requirements contained in sections 2, 3, 4 and 5 of the Conservation Management Plan as it relates to the development of the Land; and
- (b) the maintenance and management regimes to be used by the Owner to achieve compliance with **Clause 5(a)** must be those contained in the Conservation Management Plan.

6. REGISTRATION OF AGREEMENT

The Owner agrees that it will:

- (a) do all things necessary to give effect to this Agreement; and
- (b) consent to the Responsible Authority making application to the Registrar to make a recording of this Agreement in the register on the certificates of title of the Land in accordance with section 181 of the Act; and do all things necessary to enable the Responsible Authority to do so including signing any further agreement, acknowledgment or documents procuring the

consent to this Agreement of any mortgagee or caveator to enable the recording to be made in the register under that section.

7. NOTICE OF AGREEMENT

The Owner further covenants and agrees that, whilst the Owner is the registered proprietor of the Land, the Owner will bring this Agreement to the attention of all prospective purchasers, lessees, mortgagees, chargees, transferees and assigns of the Land.

8. NO INTEREST

Without limiting the operation or effect which this Agreement has, and as at the Commencement Date, the Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Land which may be affected by this Agreement.

9. NO RESTRICTION

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

10. FURTHER ASSURANCES

Each of the Parties to this Agreement must sign and execute all such further documents and deeds and do all acts and things as the other party reasonably requires to effect the terms and conditions contained in this Agreement.

11. NOTICES

11.1 Any notice given under this Agreement must be in writing and must be signed by the Party giving the notice or any authorised officer of that Party.

11.2 Unless and until a Party provides notice of a different address or facsimile number to the other Parties to this Agreement, its address for service of notices shall be as stated in this Agreement.

11.3 Unless a later time is specified in a notice, the notice takes effect from the time it is received. A notice is taken to be received:

- (a) in the case of a notice delivered by hand, when so delivered;
- (b) in the case of a notice sent by pre-paid post, on the second clear Business Day after the date of posting; and
- (c) in the case of a notice sent by facsimile, upon the receipt by the sender of a transmission report from the despatching facsimile machine which confirms



that all of the pages comprised in the notice have been successfully sent to the receiving Party's facsimile number.

12. ENDING OF AGREEMENT

12.1 The Parties agree that this Agreement ends, in accordance with section 177 of the Act, on the date upon which the Responsible Authority reasonably determines and notifies the Owner in writing that the Owner has complied with all of its obligations under this Agreement or the date upon which the Responsible Authority notifies the Owner in writing that the Responsible Authority no longer requires the Owner to perform such obligations.

12.2 As soon as reasonably practicable after this Agreement ends pursuant to **Clause 12.1**, the Responsible Authority will at the request and cost of the Owner make an application under section 183(2) of the Act to cancel the recoding of this Agreement on the register.

13. MISCELLANEOUS

13.1 Costs and Stamp Duty

The Owner further covenants and agrees that the Owner will pay to the Responsible Authority, the Responsible Authority's reasonable costs and expenses (including legal expenses) of and incidental to the preparation, drafting, review, finalisation, engrossment, execution, registration and enforcement of this Agreement which are, and until paid will remain, a debt due to the Responsible Authority by the Owner.

13.2 Entire Understanding

This Agreement supersedes all prior representations, arrangements, understandings and agreements between the Parties relating to the subject matter of this Agreement and sets forth the entire and exclusive agreement and understanding between the Parties relating to the subject matter of this Agreement.

13.3 Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon each of the Parties and their respective successors and authorised assigns.

13.4 No Waiver or Variation

Any time or other indulgence granted by the Responsible Authority to the Owner or any variation of the terms and conditions of this Agreement or any judgment or order obtained by the Responsible Authority against the Owner will not in any way amount to a waiver of any of the rights or remedies of the Responsible Authority in relation to the terms of this Agreement.

13.5 Severance

If any provision of this Agreement is judged invalid or unenforceable for any reason whatsoever by a court of competent jurisdiction, such invalidity or unenforceability (unless deletion of such provision would materially adversely affect one of the Parties) will not affect the operation or interpretation of any other provision of this Agreement to the extent that the invalid or unenforceable provision will be treated as



severed from this Agreement and the other provisions of this Agreement will remain operative.

13.6 Recitals

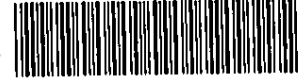
The Parties acknowledge that the recitals are true and correct and form part of this Agreement.

13.7 Governing Law and Jurisdiction

This Agreement shall be construed in accordance with and shall be governed by the laws in force in the State of Victoria. Each of the Parties irrevocably submits to and accepts the exclusive jurisdiction of any of the Courts of the State of Victoria or the Commonwealth of Australia and any courts of appeal from these courts.

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EXECUTED as a DEED

SIGNED by and on behalf, and with the authority, of the WHITTLESEA CITY COUNCIL by DAVID TURNBULL in the exercise of a power conferred by an Instrument of Delegation, in the presence of:

[Handwritten signature of David Turnbull]

Witness: [Handwritten signature]

SIGNED by PETER HOOD as attorney for AVJENNINGS WOLLERT PTY LTD ACN 126 373 082 under power of attorney dated 25 MAY 2010 in the presence of:

[Handwritten signature]

By executing this Agreement the attorney states that the attorney has received no notice of revocation of the power of attorney

Signature of Witness: [Handwritten signature]

Print name: NICK ELLIOTT

United Overseas Bank Ltd as Mortgagee of registered mortgage No. AH141448H consents to the Owner entering into this Agreement and in the event that the Mortgagee becomes the Mortgagee-in-possession, agrees to be bound by the covenants and conditions of this Agreement.

Signed by Peter Henry Mackinlay as attorney for United Overseas Bank Limited ABN 56 060 785 284 under power of attorney dated 1st August 2003 in the presence of

[Handwritten signature of Ronald Samuel Johnston]

Ronald Samuel Johnston

Name of witness (print)

[Handwritten signature of Peter Henry Mackinlay]

Peter Henry Mackinlay



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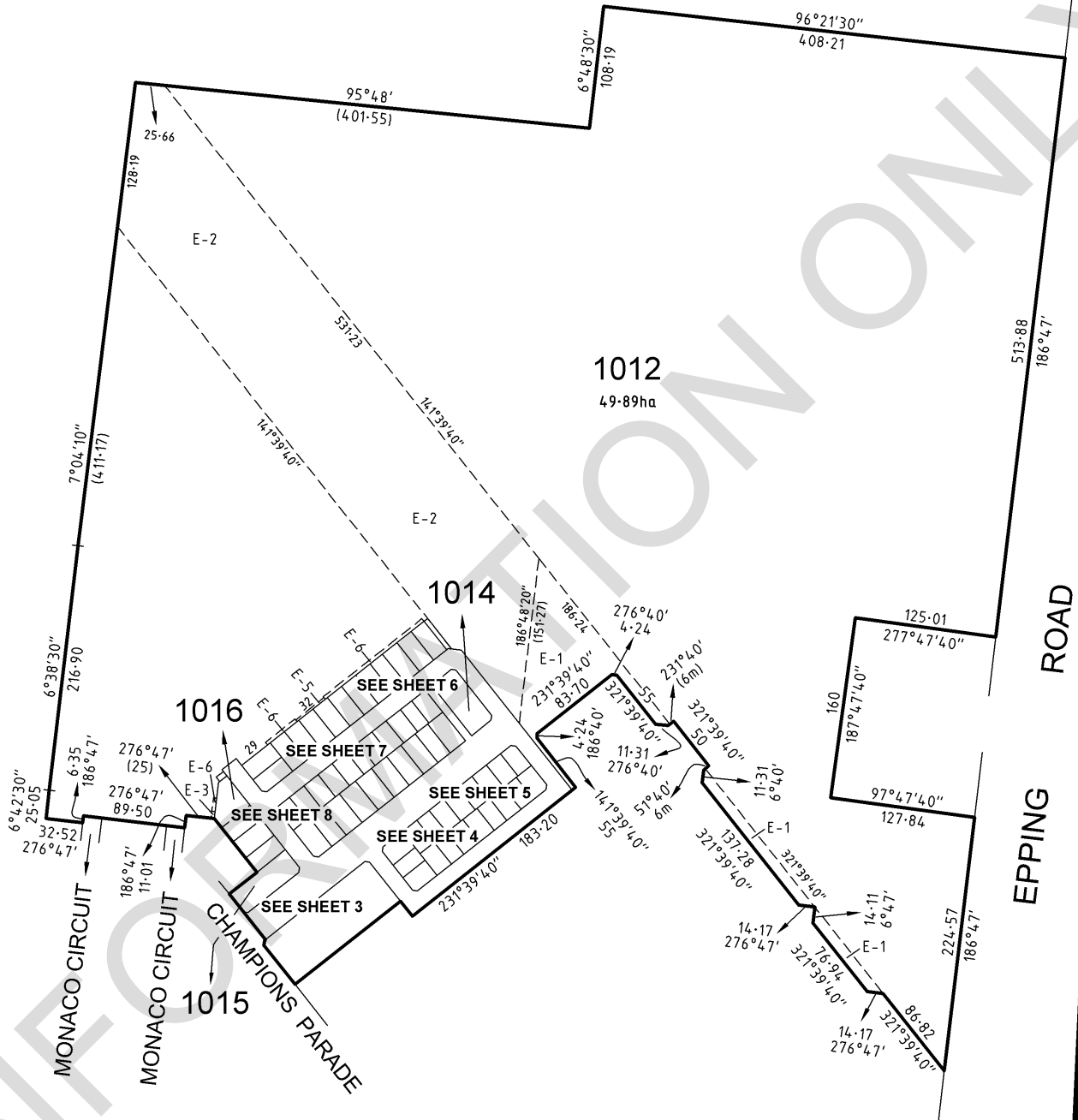
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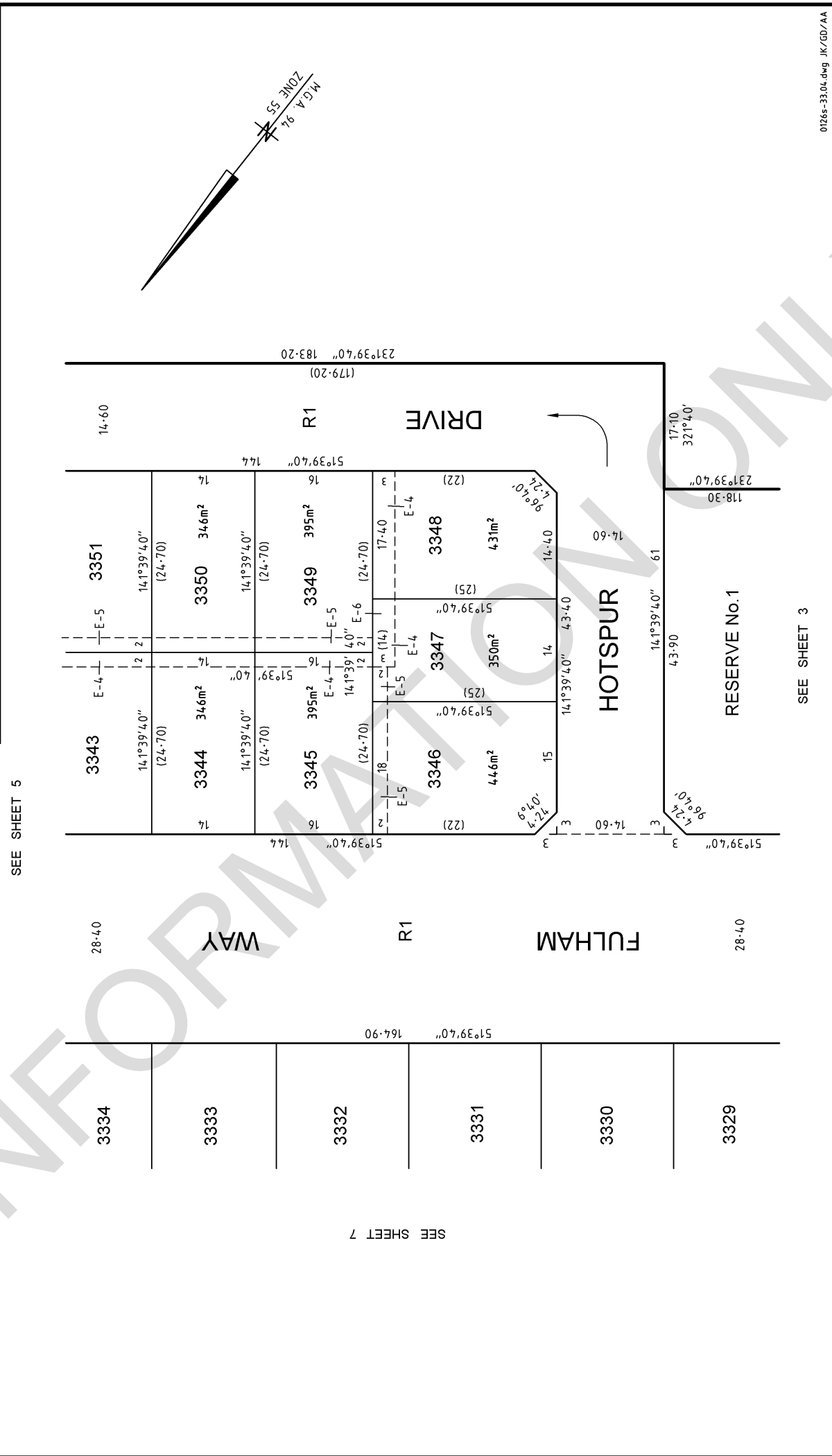
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STAGE No. /

PLAN NUMBER
PS 647478K



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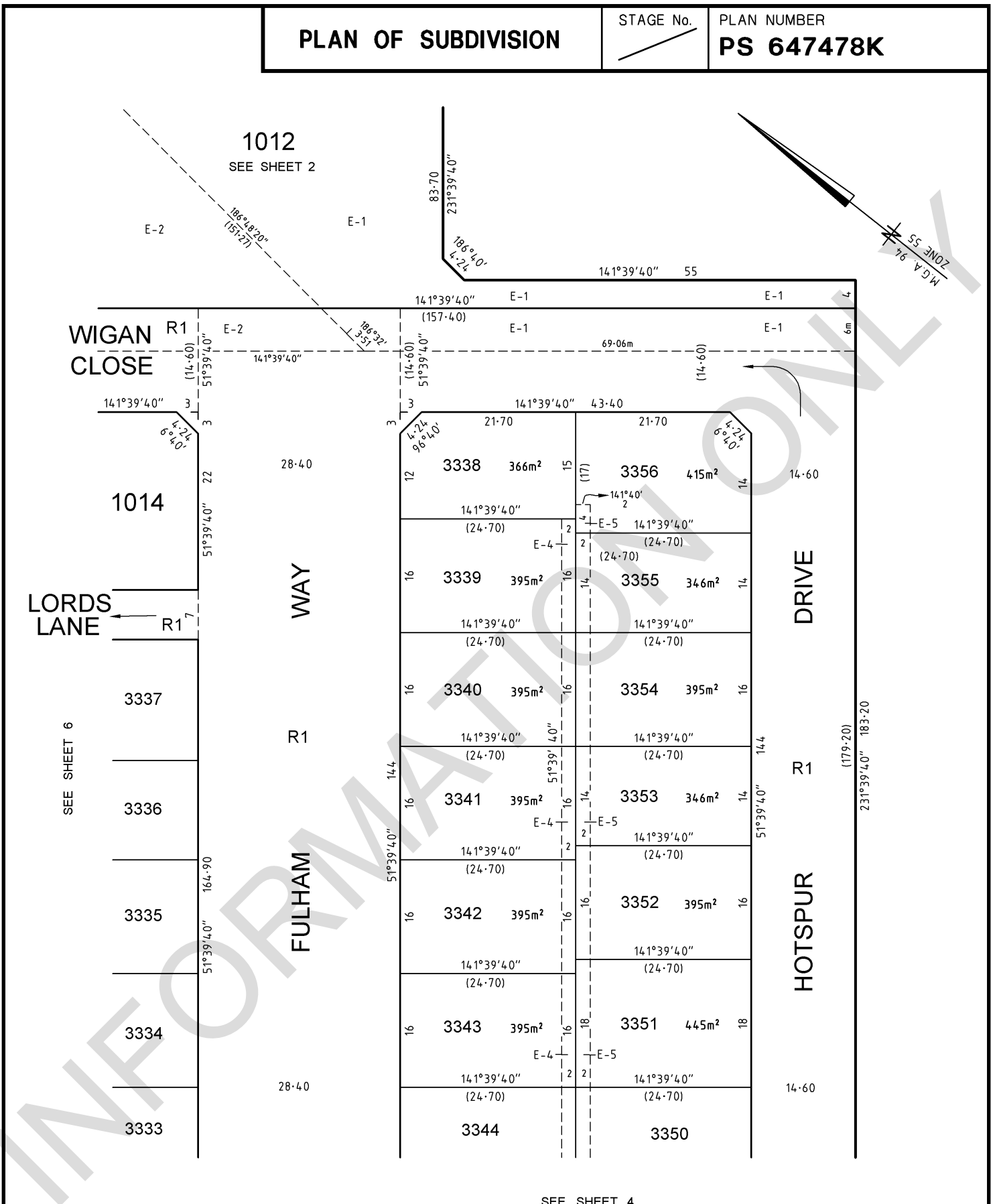
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PLAN NUMBER

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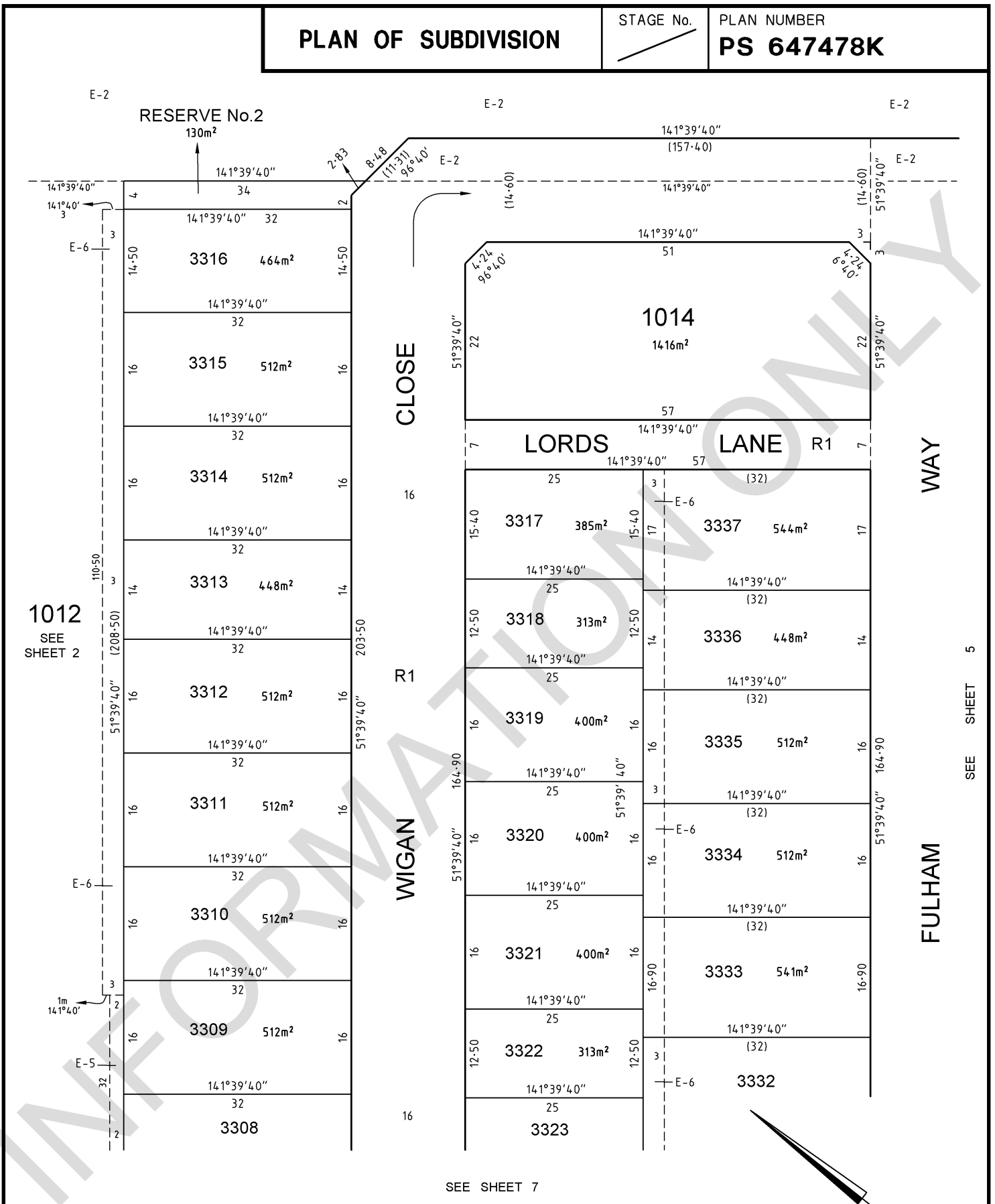
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PLAN OF SUBDIVISION

STAGE No.

PLAN NUMBER

PS 647478K



smec urban
consulting group

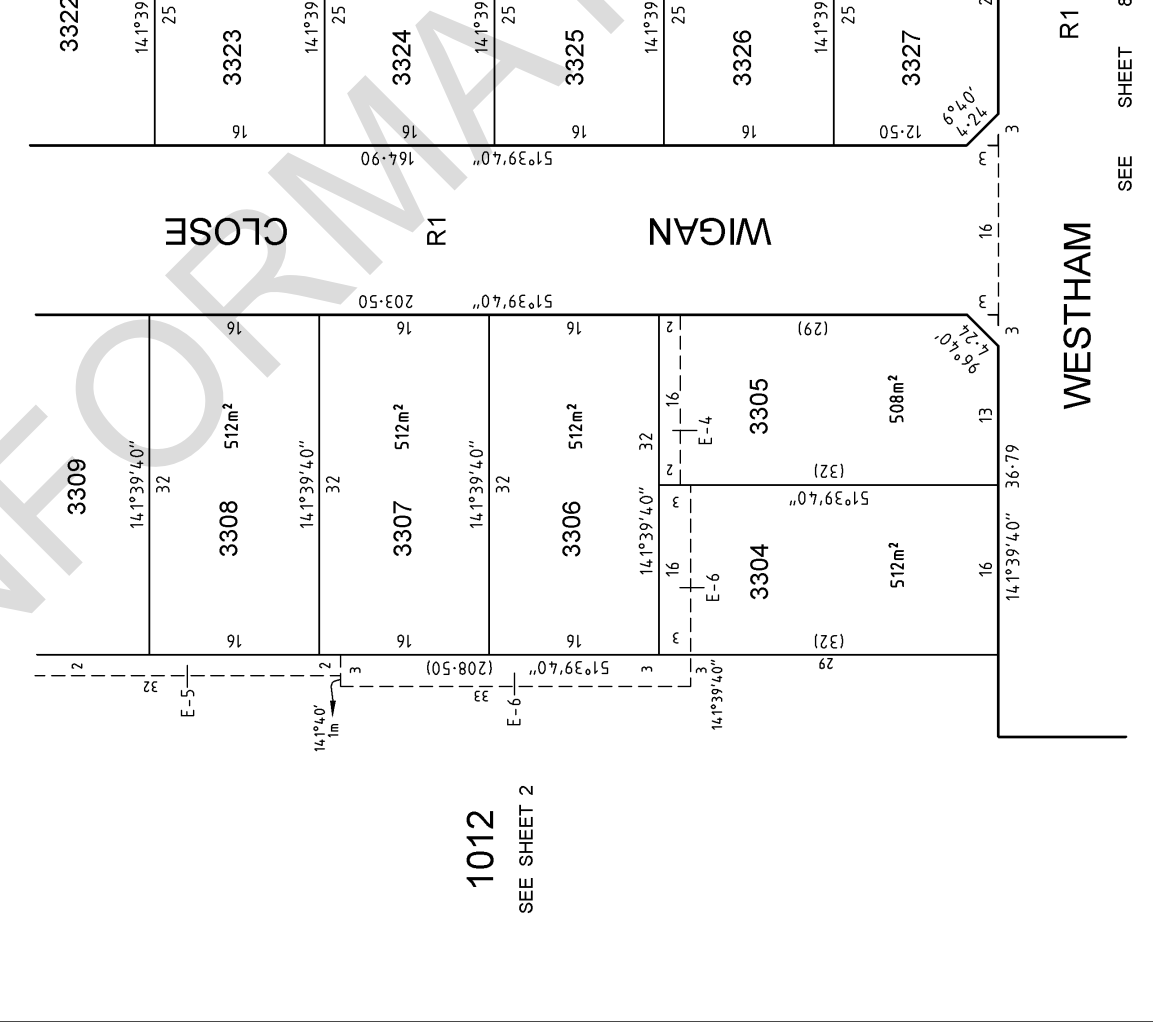
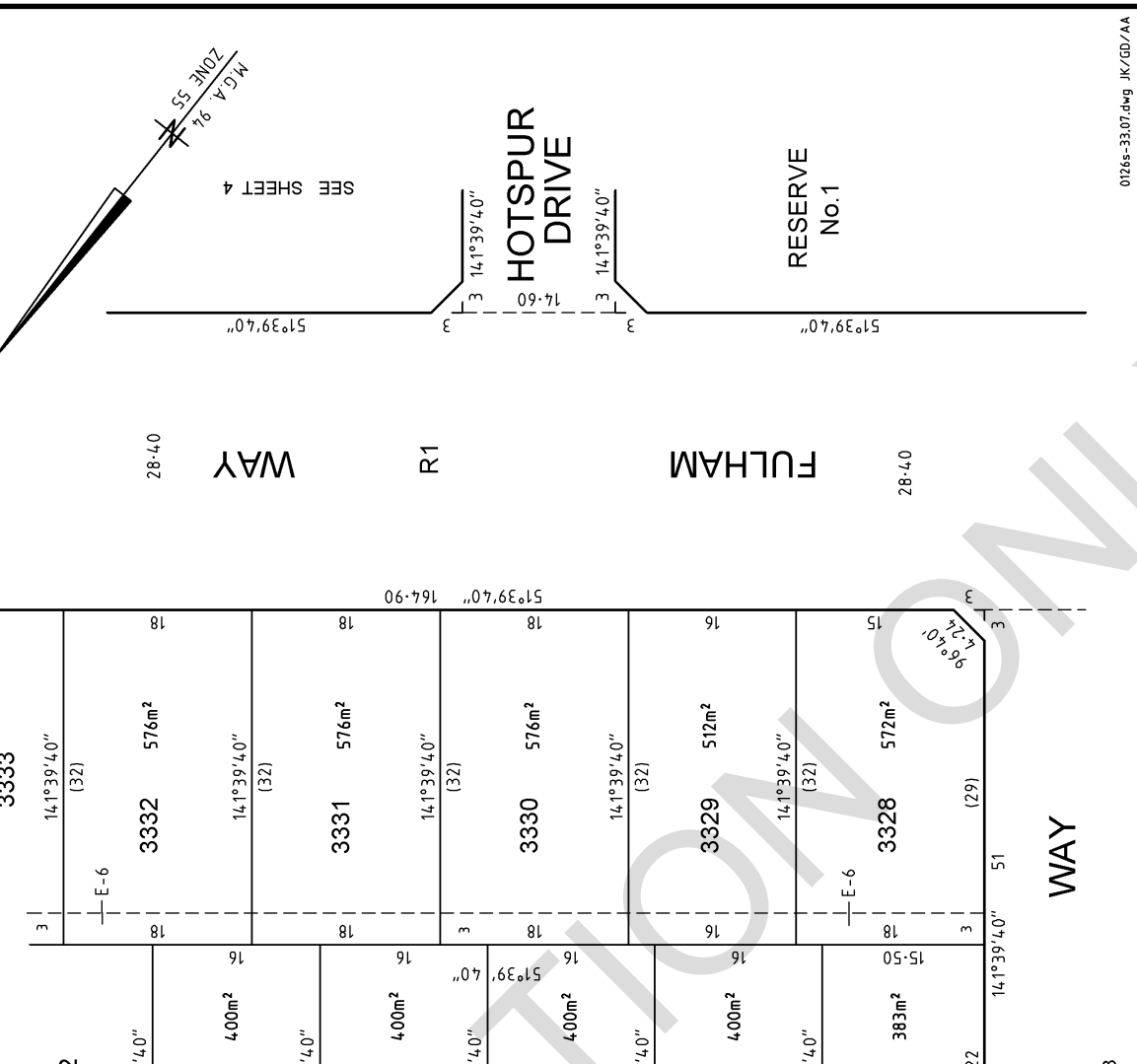
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PLAN OF SUBDIVISION

SEE SHEET 6



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SEE SHEET 2

SEE SHEET 8

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VERSION F

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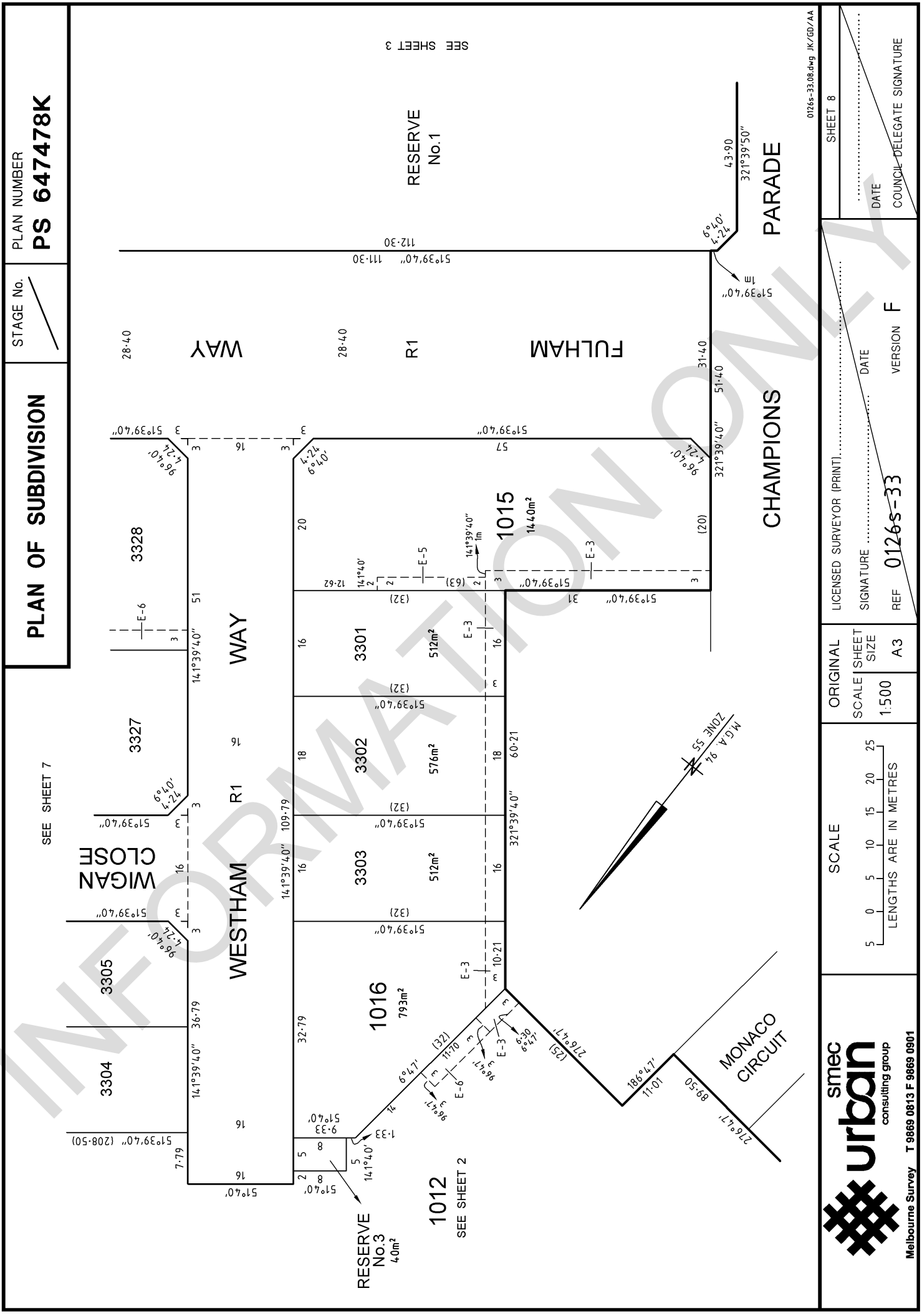
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SMC Urban consulting group
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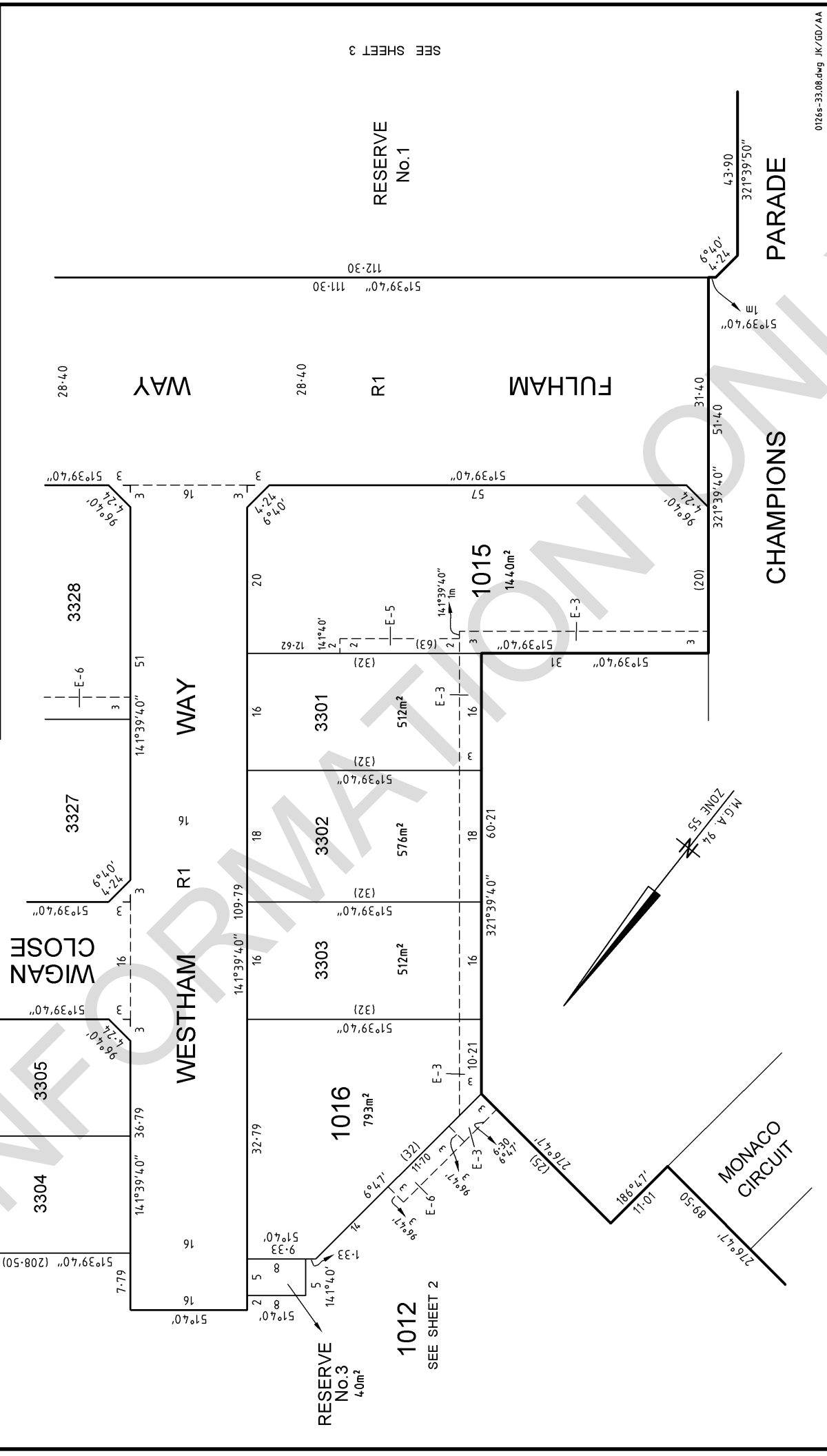
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PLAN OF SUBDIVISION

STAGE No. /

PLAN NUMBER
PS 647478K



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COUNCIL DELEGATE SIGNATURE

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SIGNATURE

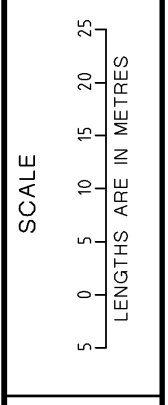
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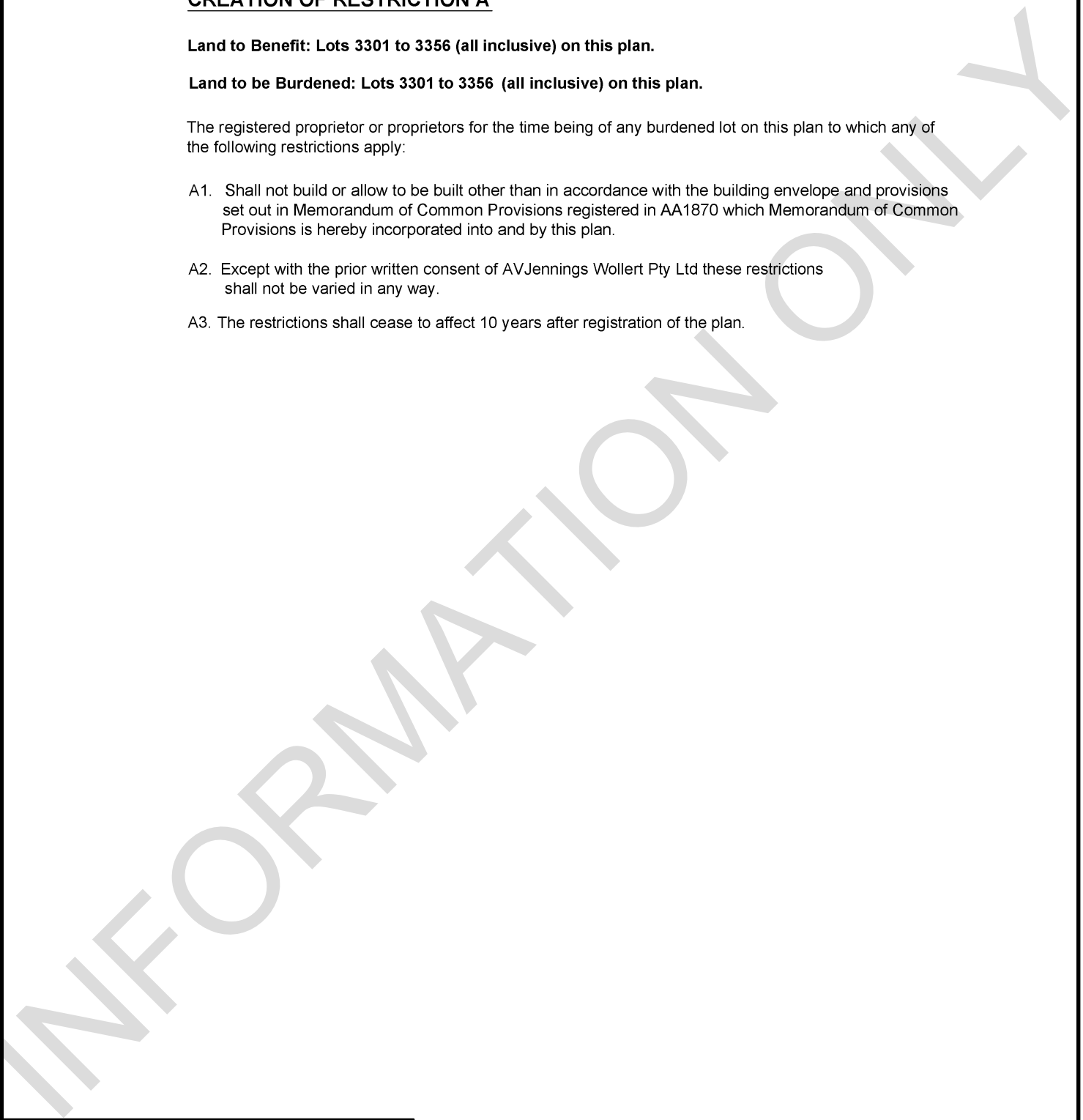
CREATION OF RESTRICTION A

Land to Benefit: Lots 3301 to 3356 (all inclusive) on this plan.

Land to be Burdened: Lots 3301 to 3356 (all inclusive) on this plan.

The registered proprietor or proprietors for the time being of any burdened lot on this plan to which any of the following restrictions apply:

- A1. Shall not build or allow to be built other than in accordance with the building envelope and provisions set out in Memorandum of Common Provisions registered in AA1870 which Memorandum of Common Provisions is hereby incorporated into and by this plan.
- A2. Except with the prior written consent of AVJennings Wollert Pty Ltd these restrictions shall not be varied in any way.
- A3. The restrictions shall cease to affect 10 years after registration of the plan.




Melbourne Survey T 9869 0813 F 9869 0901

0126s-33.09.dwg JK/GD/AA

SCALE 0 ----- LENGTHS ARE IN METRES	ORIGINAL SCALE SHEET SIZE A3	LICENSED SURVEYOR (PRINT)..... SIGNATURE DATE REF 0126s-33 VERSION F	SHEET 9 DATE COUNCIL DELEGATE SIGNATURE
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PLAN OF SUBDIVISION	STAGE No. <hr/>	PLAN NUMBER PS 647478K
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CREATION OF RESTRICTION B

Land to Benefit: Lots 3301 to 3356 (all inclusive) on this plan.

Land to be Burdened: Lots 3301 to 3356 (all inclusive) on this plan.

B1. The registered proprietor or proprietors for the time being of any lot on this plan to which the following restrictions applies shall not:-

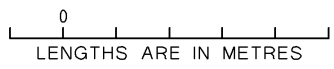
- a. At any time erect, construct, build or permit to be erected, constructed or built on the lot, any building other than one private dwelling house with usual outbuildings.
- b. Without the prior written consent of AVJennings Wollert Pty Ltd, permit the construction of any outbuilding, carport or other 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 metres and a maximum area of 10 square metres.
- c. Without the prior written consent of AVJennings Wollert Pty Ltd erect or permit to be erected, any side or rear boundary fence on the lot unless such fence is 1.8 metres in height and constructed of treated pine with continuous capping.
- d. Without the prior written consent of AVJennings Wollert Pty Ltd erect or permit to be erected on the lot any side boundary fence being less than of 6 metres from the front boundary except for any side boundary fence erected which abuts a secondary street of a Road Reserve or Public Open Space.
- e. Without the prior written consent of AVJennings Wollert Pty Ltd delay construction of all driveways, paths and fences, sowing of lawns, landscaping of gardens, and landscaping of nature strips to the back of the kerb, for more than 6 months from the date of issue of the occupancy permit in relation to the dwelling house constructed on the lot.
- f. Permit the deterioration of the property and adjacent nature strips including any accumulation of rubbish, weeds or debris to less than the general standard of the locality and a standard that is acceptable to AVJennings Wollert Pty Ltd. AVJennings Wollert Pty Ltd shall not act capriciously in determining the standard acceptable to it.
- g. Without the prior written consent of AVJennings Wollert Pty Ltd use any lot for the purposes associated with the sale and marketing of a dwelling house or as a Display Home, for which consent shall not be unreasonably withheld.
- h. At any time park or store or cause to be parked or stored, on or within such lot any vehicle having a carrying capacity of one tonne or more, or any boat, caravan or trailer in such a way to be visible from any street adjacent to or abutting such lot.
- i. Without the prior written consent of AVJennings Wollert Pty Ltd erect or permit to be erected on the lot any advertisement, hoarding, notice, sign or similar structure and will not permit the lot 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, this restriction shall not prevent the erection of a signboard advertising the lot for sale.
- j. 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 being submitted to and approved by AVJennings Wollert Pty Ltd and prepared in accordance with the Lyndarum - Neighbourhood Design Principles and then only in compliance with any condition imposed by AVJennings Wollert Pty Ltd in respect of that approval.
- k. Without the prior written consent of AVJennings Wollert Pty Ltd erect or permit to be erected upon any building erected on the lot any external roll down security shutters.

B2. The restrictions shall cease to affect 10 years after registration of the plan.



Melbourne Survey T 9869 0813 F 9869 0901

0126s-33.10.dwg JK/GD/AA

SCALE	ORIGINAL SCALE	LICENSED SURVEYOR (PRINT)..... SIGNATURE DATE REF 0126s-33 VERSION F	SHEET 10
 LENGTHS ARE IN METRES	SHEET SIZE A3		DATE COUNCIL DELEGATE SIGNATURE

**Plan of Subdivision PS647478K
Certifying a New Version of an
Existing Plan with Statement of
Compliance (Form 22)**



**City of
Whittlesea**

SUBDIVISION (PROCEDURES) REGULATIONS 2000

SPEAR Reference Number: S013125E
Plan Number: PS647478K
Council Name: Whittlesea City Council
Council Reference Number 1: 607628
Surveyor's Plan Version: 0126s-33 Version F

Certification

This plan is certified under section 11 (7) of the Subdivision Act 1988
Date of original certification under section 6: 21/10/2011

Statement of Compliance

This is a statement of compliance issued under section 21 of the Subdivision Act 1988

Public Open Space

A requirement for public open space under section 18 of the Subdivision Act 1988

Has been made and the requirement has been satisfied

Digitally signed by Council Delegate: Courtney Turner
Organisation: Whittlesea City Council
Date: 02/02/2012

INFORMATION ONLY

Valuations and Rates Notice

For the period 1 July 2023 to 30 June 2024

☎ NRS 133 677 ask for (03) 9217 2170
 📞 Phone (03) 9217 2170
 ✉ Email info@whittlesea.vic.gov.au

Terms and Conditions apply
 Sewer Water
 Green Waste
 Timber Waste
 Parks & Public Works

S Vo & H T Le
 3 Watercarter Crescent
 WOLLERT VIC 3750

Issue Date 25/08/2023

Assessment Number
 0822569

For emailed notices register at
whittlesea.eservices.com.au
 Reference No: AAS178F61U

Property Details 3 Westham Way WOLLERT VIC 3750
 LOT 3301 PS 647475K
 Owner : S Vo & H T Le

Valuation Details
 Site Value \$480,000 Capital Improved Value \$800,000 Net Annual Value \$40,000
 Level of value date 01/01/2023 Valuation operative date 01/07/2023
 AVPCC 110 Detached Dwelling

Rates and Charges

Council Charges		
General rate 40,000 x 0.04724460		\$1,889.78
Food/Green waste bin charge 1 x 105.15		\$105.15
Waste Service Charge (Res/Rural) 1 x 171.45		\$171.45
State Government Charges		
Fire services charge (Res) 1 x		\$125.00
Fire services levy (Res) 600,000 x 0.00004600		\$36.50
Waste Landfill Levy Res/Rural 1 x 11.85		\$11.85
Total		\$2,340.03

INSTALMENT 1
\$585.03 Due By 30/09/2023
INSTALMENT 2
\$585.00 Due By 30/01/2024
INSTALMENT 3
\$585.00 Due By 29/03/2024
INSTALMENT 4
\$585.00 Due By 31/05/2024

***If Instalment 1 is not paid by 30/09/2023, your account will change to the lump sum option shown below.**

LUMP SUM
 \$2,340.03
 Due By 30/06/2024



Scan here to pay



Where to pay

- www.whittlesea.vic.gov.au
- Phone 1300 301 385
- Council Offices
 Rates: \$20/min to \$1.00 per min. to PA.
 (except public holidays)



Billpay Code: 5157
 Ref: 0822569
 Use the payment details or phone banking
 "Pay Now" - view and pay this bill using internet banking
 or view Registration No. 0822569



Billpay Code: 0350
 Ref: 0822569
 Pay in person at any post office, phone 13 13 13 or go to
whittlesea.com.au
 Scan & pay this invoice with your iPhone, iPad or Android
 device. Download the Australia Post mobile app.



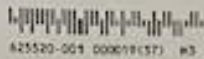
*300 08225690



*300 08225690

INFORMATION

Your quarterly bill



625520-004 000619(37) K3

MR S VO & MS H LE
3 WATERCARTER CRES
WOLLERT VIC 3750

Enquiries 1300 304 888
Faults (24/7) 13 27 62
Account number 96 2854 6060
Invoice number 9621 7115 85630
Issue date 14 May 2024
See Invoice Yarra Valley Water ABN 93 065 802 501

Amount due
\$184.98

Due date
4 Jun 2024

Summary

3 WESTHAM WAY, WOLLERT

Property Number 5048 509, PS 847478

Product/Service	Amount
Water Supply System Charge	\$20.03
Sewerage System Charge	\$114.47
Yarra Valley Water Total	\$134.50
Other Authority Charges	
Waterways and Drainage Charge on behalf of Melbourne Water	\$29.38
Parks Charge	\$21.10
TOTAL (GST does not apply)	\$184.98

Recycled water is available.
It's not to be used for drinking, preparing food or bathing, but it's great for watering, washing clothes, gardens and flushing toilets.

Important note
Your bill includes the parks charge, which is now billed quarterly.
No water usage has been charged on this account.

Payment summary

Last Account	\$184.98
Paid/Adjusted	-\$184.98
Balance	\$0.00
Total this Account	+\$184.98
Total Balance	\$184.98

\$267.98

244 366

715 92409629



How to pay



3042 962171158563 0

Direct Debit
Sign up for Direct Debit
at yvwa.com.au/directdebit or
call 1300 304 888.

EFT
Transfer direct from your bank
account to ours by Electronic
Funds Transfer (EFT)
Account name
Yarra Valley Water
BSB: 082-885
Account number: 962832365

BPAY
Billar code: 344366
Ref: 962 8546 0607

Centrelink
Arrange regular deductions
from your Centrelink payments.
Visit yvwa.com.au/paying
OR reference: 555 064 118T

Credit card
Online: yvwa.com.au/paying
Phone: 1300 362 332

Post Shop
Pay in person at any post
office, by phone on 13 28 16 or
at postshops.com.au
Billar code: 3042
Ref: 9621 7115 85630

MR S VO & MS H LE

Account number 96 2854 6060
Invoice number 9621 7115 85630
Total due **\$184.98**
Due date **4 Jun 2024**
Amount paid \$

INFORMATION

From www.land.vic.gov.au at 21 June 2024 01:09 PM

PROPERTY DETAILS

Address: **3 WESTHAM WAY WOLLERT 3750**

Lot and Plan Number: **Lot 3301 PS647478**

Standard Parcel Identifier (SPI): **3301\PS647478**

Local Government Area (Council): **WHITTLESEA**

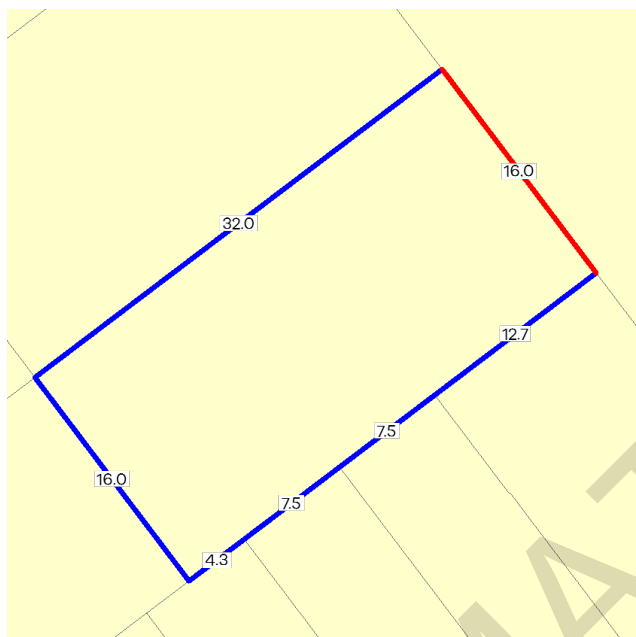
Council Property Number: **822569**

Directory Reference: **Melway 182 A3**

www.whittlesea.vic.gov.au

SITE DIMENSIONS

All dimensions and areas are approximate. They may not agree with those shown on a title or plan.



Area: 512 sq. m

Perimeter: 96 m

For this property:

— Site boundaries

— Road frontages

Dimensions for individual parcels require a separate search, but dimensions for individual units are generally not available.

Calculating the area from the dimensions shown may give a different value to the area shown above

For more accurate dimensions get copy of plan at [Title and Property Certificates](#)

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**

PLANNING INFORMATION

Property Planning details have been removed from the Property Reports to avoid duplication with the Planning Property Reports from the Department of Transport and Planning which are the authoritative source for all Property Planning information.

The Planning Property Report for this property can found here - [Planning Property Report](#)

Planning Property Reports can be found via these two links

Vicplan <https://mapshare.vic.gov.au/vicplan/>

Property and parcel search <https://www.land.vic.gov.au/property-and-parcel-search>

Area Map



 Selected Property

From www.planning.vic.gov.au at 21 June 2024 01:07 PM

PROPERTY DETAILS

Address: **3 WESTHAM WAY WOLLERT 3750**
Lot and Plan Number: **Lot 3301 PS647478**
Standard Parcel Identifier (SPI): **3301\PS647478**
Local Government Area (Council): **WHITTLESEA**
Council Property Number: **822569**
Planning Scheme: **Whittlesea**
Directory Reference: **Melway 182 A3**

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

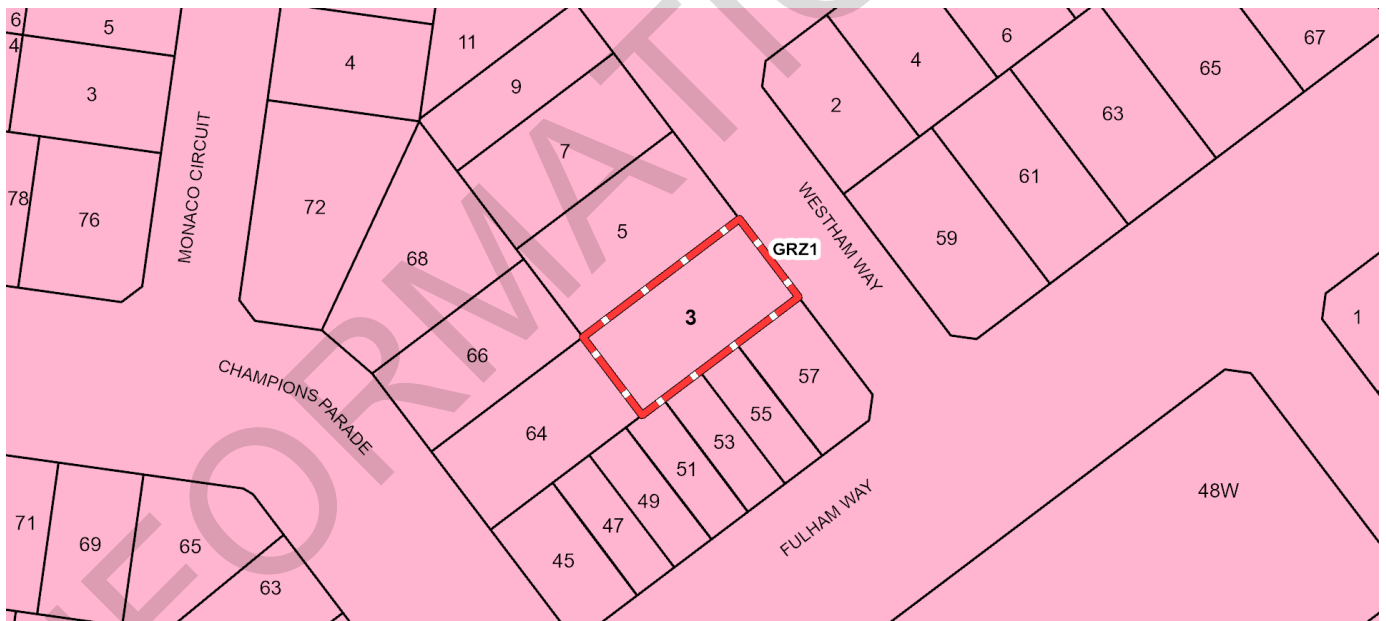
Registered Aboriginal Party: **Wurundjeri Woi Wurrung Cultural
Heritage Aboriginal Corporation**

[View location in VicPlan](#)

Planning Zones

[GENERAL RESIDENTIAL ZONE \(GRZ\)](#)

[GENERAL RESIDENTIAL ZONE - SCHEDULE 1 \(GRZ1\)](#)



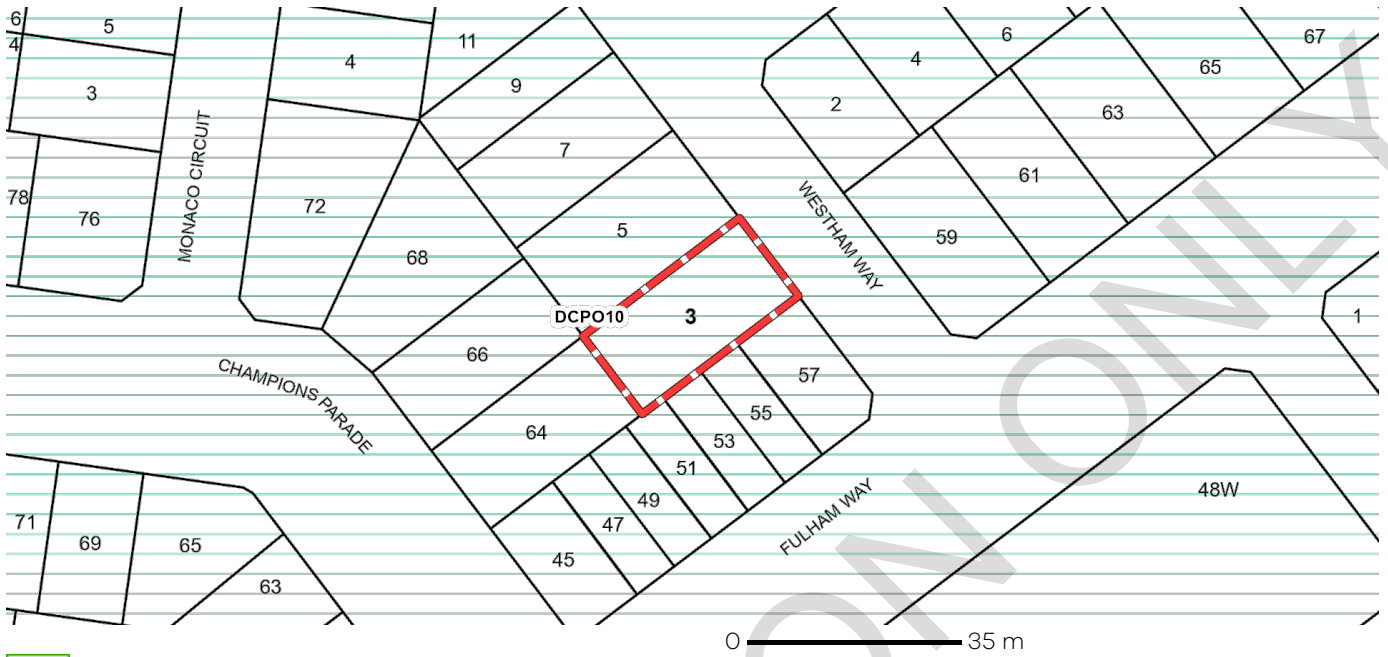
GRZ - General Residential

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

Planning Overlays

DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY (DCPO)

DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY - SCHEDULE 10 (DCPO10)



DCPO - Development Contributions Plan Overlay

Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

DEVELOPMENT PLAN OVERLAY (DPO)

DEVELOPMENT PLAN OVERLAY - SCHEDULE 21 (DPO21)



DPO - Development Plan Overlay

Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

Planning Overlays

[VEGETATION PROTECTION OVERLAY \(VPO\)](#)

[VEGETATION PROTECTION OVERLAY - SCHEDULE 2 \(VPO2\)](#)



 VPO - Vegetation Protection Overlay

Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

Further Planning Information

Planning scheme data last updated on 12 June 2024.

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 apply to 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>.

Native Vegetation

Native plants that are indigenous to the region and important for biodiversity might be present on this property. This could include trees, shrubs, herbs, grasses or aquatic plants. There are a range of regulations that may apply including need to obtain a planning permit under Clause 52.17 of the local planning scheme. For more information see [Native Vegetation \(Clause 52.17\)](#) with local variations in [Native Vegetation \(Clause 52.17\) Schedule](#)

To help identify native vegetation on this property and the application of Clause 52.17 please visit the Native Vegetation Information Management system <https://nvim.delwp.vic.gov.au/> and [Native vegetation \(environment.vic.gov.au\)](https://www.environment.vic.gov.au) or please contact your relevant council.

You can find out more about the natural values on your property through NatureKit [NatureKit \(environment.vic.gov.au\)](https://www.environment.vic.gov.au)