

# Contract of Sale of Real Estate

**Property address**            **15 Lavender Street, Wollert 3750**

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

The terms of this contract are contained in the -

- particulars of sale; and
  - special conditions, if any; and
  - general conditions
- in that order of priority.

## SIGNING OF THIS CONTRACT

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

Purchasers should ensure that, prior to signing this contract, they have received –

- a copy of the section 32 statement required to be given by a vendor under section 32 of the *Sale of Land Act 1962* in accordance with Division 2 of Part II of that Act; and
- a copy of the full terms of this contract.

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 name(s) of person(s) signing:** .....

State nature of authority, if applicable: .....

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

**SIGNED BY THE VENDOR:** .....

..... on ...../...../2024

**Print name(s) of person(s) signing:**            **RITTU THOMAS RAJAN AND LILU JACOB**

State nature of authority, if applicable: .....

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

### IMPORTANT NOTICE TO PURCHASERS

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

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

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

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

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

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

\*This contract is approved by the Law Institute of Victoria Limited, a professional association within the meaning of the *Legal Profession Act 2004*, under section 53A of the *Estate Agents Act 1980*.

## NOTICE TO PURCHASERS OF PROPERTY OFF-THE-PLAN

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

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

A substantial period of time may elapse between the day on which you sign

the contract of sale and the day on which you become the registered proprietor of the lot.

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

### Particulars of sale

#### Vendor's estate agent

HARCOURTS RATA & CO  
219 High Street, Thomastown, VIC 3074

Email: sold@rataandco.com.au

Tel: 03 9465 7766      Mob:      Fax: 03 9464 3177      Ref:

#### Vendor

**RITTU THOMAS RAJAN AND LILU JACOB**

#### Vendor's legal practitioner or conveyancer

**Melbourne Real Estate Conveyancing Pty Ltd**  
954 High Street Reservoir Vic 3073

Email: julia@melbournerec.com.au

Tel: 0421 704 140      Mob:      Fax:      Ref: JK:24/2614JK

#### 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	12521	Folio 586	309 838327T
Volume		Folio	

OR

described in the copy of the Register Search Statement and the document or part document referred to as the diagram location in the Register Search Statement, as attached to the section 32 statement if no title or plan references are recorded in the table above or as described in the section 32 statement if the land is general law land.

The land includes all improvements and fixtures.

**Property address**

The address of the land is: **15 Lavender Street, Wollert 3750**

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

**Payment** (general condition 14 and 17)

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

**GST** (general condition 19)

The price includes GST (if any) unless the words '**plus GST**' appear in this box

If this sale is a sale of land on which a 'farming business' is carried on which the parties consider meets requirements of section 38-480 of the GST Act or of a 'going concern' then add the words '**farming business**' or '**going concern**' in this box

If the margin scheme will be used to calculate GST then add the words '**margin scheme**' in this box

**Settlement** (general condition 17)

**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
- 14 days after the vendor gives notice in writing to the purchaser of registration of the plan of subdivision.

**Lease** (general condition 5.1)

At settlement the purchaser is entitled to vacant possession of the property unless the words '**subject to lease**' appear in this box in which case refer to general condition 5.1

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

(\*only complete the one that applies. Check tenancy agreement/lease **before** completing details)

**Terms contract** (general condition 30)

If this contract is intended to be a terms contract within the meaning of the *Sale of Land Act* 1962 then add the words '**terms contract**' in this box and refer to general condition 23 and add any further provisions by way of special conditions.

**Loan** (general condition 20)

The following details apply if this contract is subject to a loan being approved.

Lender:

Loan amount

Approval date:

**FIRB APPROVAL REQUIRED** (Special Condition 16)

YES ..... Passport Provided? Yes or No? .....

Passport Number .....

NO .....

This contract does not include any special conditions unless the words '**special conditions**' appear in this box

**Special conditions**

**GST WITHHOLDING NOTICE**

Purchaser must make a GST Withholding Payment:  No  Yes  
(if yes, vendor must provide further details)

If the further details below are not fully completed at the contract date, the vendor must provide all these details in a separate notice within 14 days of the contract date.

**GST Withholding Payment Details**

Frequently the supplier will be the vendor. However, sometimes further information will be required as to which entity is liable for GST, for example, if the vendor is part of a GST group or a participant in a GST joint venture.

Supplier's Name:

Supplier's ABN:

Supplier's Business Address:

Supplier's Email Address:

Supplier's Phone Number:

Supplier's proportion of the GST Withholding Payment:

If more than one supplier, provide the above details for each supplier.

Amount purchaser must pay – price multiplied by the GST withholding rate:

Amount must be paid:  at completion  at another time (specify):

Is any of the consideration not expressed as an amount in money?  No  Yes

If "yes", the GST inclusive market value of the non-monetary consideration:

Other details (including those required by regulation or the ATO forms):

# Special Conditions

## 1. Auction

- 1.1 If the property is sold by public auction then the property is offered for sale by public auction, subject to the vendors reserve price. The rules for the conduct of the auction shall be as set out in the schedule of the Sale of Land Regulations or any rules prescribed by regulations which modify or replace those rules.
- 1.2 The successful bidder shall immediately on the fall of the hammer sign this contract and pay the full 10% deposit to the Vendors agent.

## 2. Acceptance of title

General condition 12.4 is added:

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.

## 3. Foreign resident capital gains withholding

- 3.1 Words defined or used in Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* have the same meaning this special condition unless the context requires otherwise.
  - 3.2 Every vendor under this contract is a foreign resident for the purposes of this special condition unless the Vendor gives the Purchaser a special clearance certificate issued by the Commissioner under section 14-200 (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.
  - 3.3 This special condition only applies 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 is or will have a market value of \$750,000 or more just after the transaction, and the transaction is not excluded under section 14-215(1) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*.
  - 3.4 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.
  - 3.5 The Purchaser must:
    - (a) engage a Legal Practitioner or Conveyancer ("representative") to conduct all legal aspects of settlement, including the performance of the Purchaser's obligations in this special condition; and
    - (b) ensure that the representative does so.
  - 3.6 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 as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this special 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 special 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.
- 3.7 The representative is taken to have complied with the obligations in special condition 1B.6 if:
    - (a) the settlement is conducted through the electronic conveyancing system operated by Property Exchange Australia Ltd or any other electronic conveyancing system agreed by the parties; and
    - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
  - 3.8 Any clearance certificate or document evidencing variation of the amount in accordance with section 14-253(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.
  - 3.9 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.
  - 3.10 The Purchaser is responsible for any penalties or interest payable to the Commissioner on account of late payment of the amount.

#### 4. Electronic Conveyancing

Settlement and lodgement will be conducted electronically in accordance with the Electronic Conveyancing National Law and special condition 2 applies, if the box is marked "EC"

- 4.1 This special condition has priority over any other provision to the extent of any inconsistency. This special condition applies if the contract of sale specifies, or the parties subsequently agree in writing, that 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.
- 4.2 A party must immediately give written notice if that party reasonably believes that settlement and lodgement can no longer be conducted electronically.
- 4.3 Each party must:
- be, or engage a representative who is, a subscriber for the purposes of the Electronic Conveyancing National Law;
  - 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
  - conduct the transaction in accordance with the Electronic Conveyancing National Law.
- 4.4 The Vendor must open the Electronic Workspace ("workspace") as soon as reasonably practicable. The workspace is an electronic address for the service of notices and for written communications for the purposes of any electronic transactions legislation.
- 4.5 The Vendor must nominate a time of the day for locking of the workspace at least 7 days before the due date for settlement.
- 4.6 Settlement occurs when the workspace records that:
- the exchange of funds or value between financial institutions in accordance with the instructions of the parties has occurred; or
  - 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.
- 4.7 The parties must do everything reasonably necessary to effect settlement:
- electronically on the next business day; or
  - 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 2.6 has not occurred by 4.00 pm, or by 6.00 pm if the nominated time for settlement is after 4.00 pm.
- 4.8 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.
- 4.9 The Vendor must before settlement:
- deliver any keys, security devices and codes ("keys") to the estate agent named in the contract,
  - 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,
  - 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
  - direct the Vendor's subscriber to give (or, if there is no Vendor's subscriber, give) all those documents and items, and any such keys, to the Purchaser or the Purchaser's nominee on notification of settlement by the Electronic Network Operator.
- 4.10 The Vendor must, at least 3 days before the due date for settlement, provide the original of any document required to be prepared by the Vendor in accordance with general condition 6.

#### 5. GST withholding

- 5.1 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.
- 5.2 This general condition 15B applies if the purchaser is 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 15B is to be taken as relieving the vendor from compliance with section 14-255.
- 5.3 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.

5.4 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.

5.5 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.

5.6 The representative is taken to have complied with the requirements of general condition 15B.5 if:

- (a) settlement is conducted through the electronic conveyancing system operated by Property Exchange Australia Ltd or any other electronic conveyancing system agreed by the parties; and
- (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.

5.7 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 settlement system described in general condition 15B.6.

However, if the purchaser gives the bank cheque in accordance with this general condition 15B.7, 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.

5.8 The vendor must provide the purchaser with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) at least 14 days before the due date for settlement.

5.9 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 of 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.

5.10 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.

5.11 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 the vendor's failure, including breach of a warranty in general condition 15B.10; or
- (b) the purchaser's reasonable belief that the property is neither new residential premises nor potential residential land requiring the purchaser to pay an amount to the Commissioner in accordance with section 14-250 (1) of Schedule 1 to the *Taxation Administration Act 1953* (Cth)

The vendor is responsible for any penalties or interest payable to the commissioner on account of non-payment or late payment of the amount if either exception applies.

5.12 This general condition will not merge on settlement.

## 6. Interpretation.

In the interpretation of this contract where the context permits;

- (a) Words importing either gender shall be deemed to include the other gender.
- (b) Words importing the singular number shall be deemed to include the plural and vice versa;
- (c) Where there are two or more Purchasers the agreements and obligations of the Purchaser hereunder shall bind them jointly and each of them severally.

## 7. Whole Contract.

The Purchaser acknowledges and agrees that:

- 7.1 The Purchaser was given a Vendors Statement before signing this Contract;
- 7.2 No information, representations or warranty of the Vendor, the Vendors Conveyancer or the Vendor's Agent was supplied or made with the intention or knowledge that it would be relied upon by the Purchaser;
- 7.3 The Purchaser has relied on its judgement in purchasing the Property and has inspected the property including all improvements, fixtures and Chattels as set out in the Contract.
- 7.4 No warranty has been given as the condition or quality of the improvements, fixtures, fittings or Chattels.
- 7.5 No brochure, investment report or advertising material is to be relied on as an accurate description of the property.
- 7.5 This contract forms the entire agreement between the Vendor and the Purchaser.

## 8. Land Identity.

The Purchaser admits that the land offered for sale and inspected by them is identical to that described in the attached title. The Purchaser shall not make any requisition in respect of or claim any compensation for any alleged miss description of the land or deficiency in its area or measurements or any patent or latent defects in the land or call upon the Vendor to amend Title or to bear all or any part of the cost of doing so.

## 9. Condition Of The Property.

- 9.1 The Purchaser warrants to the vendor that as a result of the Purchaser's inspections and enquiries concerning the property, the Purchaser is satisfied with the condition, quality and state of repair of the property and accepts the property as it is and subject to any defects, need for repair or infestation.
- 9.2 The Purchaser will not make any claim or requisition or delay this transaction or rescind or terminate this contract because of anything concerning the matters referred to in these special conditions or in respect of any loss, damage, need for repair relating to the property or the requirements of a statutory authority made on or after the day of sale.
- 9.3 The Purchaser acknowledges that the improvements may be subject to or require compliance with current building regulations, municipal by-laws or any other statutory provisions or regulations or any repealed laws under which the improvements were constructed. A failure to comply with any such regulations or laws will not constitute a defect in the Vendor's title and the Purchaser must not delay settlement or refuse to settle, or make any requisition or claim any compensation from the Vendor on that ground.
- 9.4 The Purchaser acknowledges that if there is a swimming pool or spa on the property which is or may be required to be fenced by the building regulations, the Purchaser must comply, at the Purchaser's cost and expense, with the building regulations. The Purchaser indemnifies and keeps indemnified the Vendor on and from the day of sale in respect of all orders or requirements under the building regulations.
- 9.5 (a) For any deficiency or defect in the said improvements, whether as to their suitability for occupation, compliance with laws or otherwise or;
- 9.5 (b) In relations to the issue or non-issuance of building permits of the said improvements; or
- 9.5 (c) In relations to the completion of inspections by the relevant authorities in respect of the said improvements

9.6 The Purchaser acknowledges that the Vendor makes no Representation for any permits or approvals of any improvements to the property, if any. Upon signing of the Contract of Sale the Purchaser assumes full responsibility and liability in relation to special condition 9.6 and the purchaser shall make no request, claims, seek compensation or delay settlement or rescind or terminate the Contract of Sale whatsoever because of special condition 9.6. The Purchaser indemnifies and keeps the Vendor indemnified on and from the day of sale in respect to special condition 9.6.

9.7 General Condition 12 is Deleted from this Contract.

## **10. Improvements.**

The Purchaser acknowledges that any improvements on the property may be subject to or require compliance with the Victorian Building Regulations, municipal by-laws, relevant statutes or any other regulations. Any failure to comply with any one or more of those laws or regulations shall not be deemed to constitute a defect in the Vendor's title and the Purchaser shall not make any requisition or claim any compensation from the Vendor. The Purchaser must not delay settlement or refuse to settle nor require the Vendor to comply with any one or more of those laws or regulations, or provide any documents including any requirements to fence any pool or spa, or install smoke detectors.

## **11. Planning.**

The Purchaser buys the property subject to any restrictions imposed by the provisions of any applicable town planning act, orders, plans, schemes, local government by-laws or other enactment or any authority empowered to make restrictions. Any such restrictions shall not constitute a defect in the Vendor's title and the Purchaser shall not make any requisition, or objection, nor be entitled to any compensation from the Vendor in respect thereof. The Purchaser must not delay settlement or refuse to settle. Save for any warranties or representations, which cannot be legally excluded with respect to the use of the said land or any part thereof.

## **12. Restrictions.**

The property is sold subject to all easements, covenants, leases/licences, encumbrances, appurtenant easements and encumbrances and restrictions (if any) as set out herein or attached hereto. The Purchaser should make their own enquiries whether any structure 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 thereto and must not delay settlement or refuse to settle.

## **13. Settlement.**

- (a) Should settlement take place via paper and not Electronic Conveyancing, settlement shall take place no later than 3.00pm (Eastern Standard Time) on the settlement date, failing which settlement shall be deemed to take place on the next business day. Should settlement take place via Electronic Conveyancing, settlement shall take place no later than 4.00pm (Eastern Standard Time) on the settlement date, failing which settlement shall be deemed to take place on the next business day.
- (b) Should settlement take place via paper and not Electronic Conveyancing, settlement shall take place at the office of the Vendor's representative or at such other place in Victoria as the Vendor directs.
- (c) Should settlement take place via paper and not Electronic Conveyancing, and should settlement be directed by the choice of the Purchaser with the approval of the Vendor, the Purchaser will pay a settlement fee to the Vendor's representative of \$450.00 Plus GST. This fee will be due and payable at settlement.
- (d) Should settlement take place via paper and not Electronic Conveyancing, and settlement has been attended to and falls through at the fault of the Purchaser, the Purchaser will pay a re-attendance fee to the Vendor's representative of \$450.00 Plus GST, along with any other costs incurred due to the breach of the Purchaser. This fee is due and payable on the next scheduled settlement time/date.
- (e) Should settlement take place via paper and not Electronic Conveyancing, at settlement, the Purchaser must pay the fees up to six cheques drawn on an authorised deposit-taking institution.
- (f) 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 sale to this contract (due date) or request an extension to the due date, the Purchaser must pay to the Vendor's representative an amount of \$220.00 plus GST representing the Vendor's additional legal cost and disbursements, along with any other costs incurred due to the breach of the Purchaser.

## **14. Licence Agreement.**

The purchaser acknowledges should they request a licence agreement, and should the Vendor agree, the licence must be prepared by the vendors representative at the cost of the purchaser. The fee to prepare the licence is \$450.00 plus GST and shall be adjusted for and payable at settlement.

## **15. Guarantee & Indemnity.**

15.1 Immediately after being requested to do so by the Vendor, procure the execution by all directors of the Purchaser (of if the Vendor requires by the shareholders) of a guarantee and indemnity to be prepared by the Vendor's representative and to be substantially the same form as the guarantee annexed to this contract but with the necessary changes being made.

## **16. Foreign Acquisitions and Takeovers Act 1975.**

- 16.1 If ticked 'No' after the words 'FIRB approval Required?' in the particulars of sale page or this section of the particulars of sale is not complete, the Purchaser:
- 16.1.1 warrants to the vendor, as an essential term of this contract, that the acquisition of the property by the purchaser does not fall within the scope of the Takeover Act and is not examinable by FIRB: and
- 16.2 If the box is ticked YES after the words 'FIRB Approval required?' in the particulars of sale, then the Purchaser:
- 16.2.1 must, as an essential term of this contract, promptly after the day of sale take all reasonable endeavours to obtain FIRB approval pursuant to the Takeover Act of this purchase and will keep the vendor informed of the progress of the FIRB Approval application and provide evidence of the FIRB approval to the vendor
- 16.2.2 The Purchaser must give written notice to the Vendor's solicitor that approval has not been obtained by 4pm on the date which is 30 days after the day of sale, whereupon the Contract will be terminated, and all monies paid by the Purchaser shall be refunded in full. If the Purchaser has not advised the Vendor in writing that the Purchaser has obtained approval by 4pm on the date which is 30 days after the day of sale, then the Purchaser warrants that they have approval.
- 16.2.3 The Purchaser agrees that if the warranty in special conditions 12.1 is breached, the Purchaser will indemnify the Vendor against any penalties, fines, legal cost, claims, losses or damages which the Vendor suffers as a direct or indirect result of a breach of that warranty

## **17. Loans / Finance**

The purchaser warrants that he has not received any promise from the Vendor's Agent (or any person acting on behalf of the Vendor's agent) in relation to obtaining a loan for the purchase of the property.

## **18. Indemnity – Estate Agent**

The purchaser warrants that he has not been introduced to the vendor or to the property directly or indirectly by any real estate agent other than the agent herein described or other person who might be entitled to claim commission from the vendor in respect of this sale and the purchaser shall indemnify and keep indemnified the vendor, at all times notwithstanding settlement hereof from and against any claim or liability for commission or loss or damages resulting from a breach of this warranty.

## **19. Adjustments of Outgoings**

- 19.1 The Purchaser must provide copies of all certificates and other information used to calculate the adjustments, including land tax. The purchaser is to provide the statement of adjustments to the vendors representative at least 5 business days prior to settlement. A delay in the statement of adjustments will incur a fee of \$242.00 payable at settlement.
- 19.2 If the property is not separately assessed in respect of the outgoings, then the portion of any such outgoings are to be adjusted between the Vendor and the Purchaser will be either on the basis the amount to be apportioned between them is the proportion of the outgoing equal to the proportion which:
- (a) The lot liability of the property bears to the total liability of all of the lots on the plan; or
- (b) The surface area of the property bears to the surface area of the land that is subject to the assessment; or
- 19.2.2 On such other basis,
- as the Vendor may reasonably direct the Purchaser on or before the settlement date.
- 19.3 The Purchaser must pay any special fee or charge levied on the Vendor on and from the day of sale by the Owner's Corporation under the Owner's Corporation act or Owners Corporation Regulations. The special fee or charge will not be subject to appointment between the Vendor and the Purchaser.

## **20. Stamp Duty – Purchasers Buying in unequal Interest**

- 20.1 If there is more than one Purchaser, it is the Purchaser's responsibility to ensure the contract correctly records at the date of sale the proportion in which they are buying the property (the proportions).
- 20.2 If the proportions recorded in the transfer differ from those recorded in the contract, it is the Purchaser's responsibility to pay additional duty, which may be assessed as a result to the variation.
- 20.3 The Purchaser fully indemnifies the Vendor, Vendor's Agent and the Vendor's Conveyancer against any claims or demands which may be made against any or all of them in relation to any additional duty payable as a result of the proportions in the transfer differing from those in the contract.

## **21. Vendor Statement**

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

the particulars required by section 32(2) of the Sale of Land Act 1962 (as amended)

## **22. Trust**

If the Purchaser is buying the property as trustee of a Trust (**Trust**) then;

23.1.1 The Purchaser must not do anything to prejudice any right of indemnity the Purchaser may have under the Trust;

23.1.2 The Purchaser warrants that the Purchaser has power under the Trust to enter into this contract;

23.1.3 If the Trustee is an individual, that signatory is personally liable under the contract for the due performance of the Purchaser's obligations as if the signatory were the Purchaser in case of default by the Purchaser.

23.1.4 The Purchaser warrants that the Purchaser has a right of indemnity under the Trust; and

23.1.5 The Purchaser must not allow the variation of the Trust or the advance or distribution of capital of the Trust or resettlement of any property belonging to the Trust.

## **23. Personal property securities register**

Notwithstanding General Condition 11 the Vendor is not obliged to ensure that the Purchaser receives a release, statement, approval or correction in respect of any personal property that is required by the Personal Property Securities Regulations 2009 to be described in a registration by a serial number and is not described by serial number in the PPSR.

## **24. Solar Panels**

If there are any solar panels on the land, the purchaser acknowledges and agrees that:

25.1. whether or not any benefits currently provided to the vendor by agreement with the current energy supplier (including with respect to feed-in tariffs) pass to the purchaser on the sale of the land is a matter for enquiry and confirmation by the purchaser, and the vendor makes no representation in this regard;

25.2. the purchaser will negotiate with the current energy supplier or an energy supplier of the purchaser's choice with respect to any feed-in tariffs for any electricity generated or any other benefits provided by the solar panels;

25.3. the purchaser shall indemnify and hold harmless the vendor against any claims whatsoever with respect to the solar panels; and

25.4. neither the vendor nor vendor's estate agent has made any representations or warranties with respect to the solar panels in relation to their condition, state of repair, fitness for purpose for which they are installed, their input to the electricity grid, any benefits arising from and electricity generated by the solar panels, or otherwise.

## **26. PROPERTY SOLD "AS IS"**

The Purchaser acknowledges and agrees:

26.1 that the property is purchased by the Purchaser:-

(a) on an "as is" basis and as a result of the independent exercise of the purchaser's own skill and judgement after due inspection and investigation;

(b) in its present condition with all existing patent and latent defects;

26.2 the Vendor has not made nor shall be construed as having made any representation or warranty that any improvements on the property comply with the Uniform Building Regulations and any other relevant rules regulations or statutory provisions in relation to them or any permit or other authority issued with respect to them.

26.3 no representation or warranty has been made or given by the Vendor or by any person acting on behalf of the Vendor to the Purchaser or to any person acting on behalf of the Purchaser as to:

(i) the marketability, quality or fitness for any purpose of the Property or the improvements;

(ii) the freedom of the Property from defects, infestation, contamination or dangerous substances;

(iii) the use to which the Property can lawfully be put; or

(iv) whether development of any description may be carried out on the Property.

## **27. NO CLAIM FOR DAMAGES OR COMPENSATION**

The Purchaser shall not be entitled to claim any damages or compensation or to delay the settlement of the sale herein by reason of:

27.1 the state of cleanliness of any improvement erected on the land herein sold; or

27.2 the Vendor leaving on the land herein sold or any improvement erected thereon any item or thing; and the Purchaser shall not be entitled to require the Vendor to remove the same

## 28. NOTICES

The Purchaser agrees to make their own enquiries with any authority or Party they may presume applicable or relevant of any particulars of any notice, order, declaration, deed, report or recommendation of a public authority or government department or approved proposal directly and currently affecting the land, and the Purchaser agrees to assume, to the fullest extent permitted by law or equity, complete responsibility and liability for and comply with all the requirements and obligations of all notices, orders, declarations, deeds, reports or recommendations served in the respect of the Property, including any Notice, Order, declaration, deed, report or recommendation contained in the Contract herein, if any, whether the service is on the Vendor or otherwise, on or before or after the day of sale or settlement. Failure of disclosure of any such notices or orders, declaration, deed, report or recommendation to the Purchaser or failure of compliance with any notices or orders, declaration, deed, report or recommendation by the Vendor does not constitute a defect in the vendor's title or affects the validity of this contract and the purchaser shall make no request, claims, seek compensation or delay settlement or rescind the Contract whatsoever because of this special condition.

## 29. On-SALE DEED

29.1 The Purchaser acknowledges that upon signing of this Contract of Sale that they are obligated and legally bound to and must fully execute the On-Sale Deed contained herein. The Purchaser must adhere to all conditions in the On-Sale Deed, Design Guidelines and head special conditions outlined. The Purchaser assumes full responsibility and liability in relation to special condition. The Purchaser indemnifies and keeps the Vendor indemnified on and from the day of sale in respect to the special condition 29.

**GUARANTEE & INDEMNITY**

TO: The vendor as named in the contract to which this document is attached ("the vendor")

IN CONSIDERATION of the vendor, at the request of the person whose name is set forth after paragraph 2 hereto ("the guarantor"), having agreed to sell the property and chattels (if any) to the purchaser, for the price and other terms as contained in the contract, the guarantor;

1. HEREBY GUARANTEES to the vendor the due and punctual payment by the purchaser of the purchase money and interest thereon as detailed in the contract and all other monies that are payable or may become payable pursuant thereto ("the monies hereby secured") and also the due performance and observance by the purchaser of all and singular the covenants provisions and stipulations contained or implied in the contract and on the part of the purchaser to be performed and observed and the guarantor hereby expressly acknowledges and declares that it has examined the contract and has access to a copy thereof and further that this guarantee is given upon and subject to the following conditions:-

- (a) THAT in the event of the purchaser failing to pay the vendor as and when due the monies hereby secured the guarantor will immediately pay the same to the vendor.
- (b) THAT in the event of the purchaser failing to carry out or perform any of its obligations under the contract the guarantor will immediately carry out and perform same.
- (c) THE guarantor shall be deemed to be jointly and severally liable with the purchaser (in lieu of being merely a surety for it) for the payment of the monies hereby secured and it shall not be necessary for the vendor to make any claim or demand on or to take any action or proceedings against the purchaser before calling on the guarantor to pay the moneys or to carry out and perform the obligations herein contained
- (d) THAT no time or other indulgence whatsoever that may be granted by the vendor to the purchaser shall in any manner whatsoever affect a liability of the guarantor hereunder and the liability of the guarantor shall continue to remain in full force and effect until all monies owing to the vendor have been paid and all obligations have been performed.

**SCHEDULE**

**Vendor:** .....

**Purchaser:** .....

**Guarantor:** .....

**Contract:** A contract dated the ..... of ..... 2024 between the vendor and the purchaser

**EXECUTED AS A DEED** on the ..... of ..... 2024

**SIGNED SEALED AND DELIVERED BY** )

**The said guarantor in the presence of:** ) .....

.....  
Witness



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## SPECIAL CONDITIONS

### 1. Definitions and Interpretation

#### 1.1 Definitions

In these special conditions:

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

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

- (a) required by an Authority;
- (b) required by a condition of an Approval;
- (c) reasonably and properly required for the Development;
- (d) necessary to satisfy a Requirement; or
- (e) required by NBN Co Limited, or any other Network Infrastructure provider (at the vendor's discretion).

**Additional Special Conditions** means any additional special conditions entitled 'Additional Special Conditions' attached to or included within this Contract.

**Approval** means any permit, licence, consent, certificate or other approval obtained or required to be obtained from an Authority in relation to the Development of any Lot and includes an approval from the Design Assessment Panel under special condition 19.1.

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

**Balance** means the balance of the Price stated in the Payment panel in the Particulars of Sale.

**Bank** means an Australian-owned bank, on the list, current on the Day of Sale, of authorised deposit-taking institutions regulated by the Australian Prudential Regulation Authority.

**Bank Guarantee** means an unconditional and irrevocable guarantee or undertaking by a Bank, subject to the terms of this Contract and in favour of the Vendor's Solicitor with an expiry date (if any) at least 60 days after the expiry of the Registration Period or such other date authorised by the Vendor in writing and in a form satisfactory to the Vendor and the Vendor's financier and includes any replacement bank guarantee that is accepted by the Vendor.

**Building Envelope** means the area shaded grey on the 'The Patch Building Envelopes' plan attached at Annexure E as may be amended from time to time.



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

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

**Commissioner** has the meaning given to that term in the TA Act;

**Common Property** means the common property (if any) created by registration of the Plan.

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

**Council** means the City of Whittlesea.

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

**Deposit** means the amount that is set out as the deposit in the particulars of sale.

**Design Guidelines** means the design, development and use controls for all Lots as amended from time to time by the Design Assessment Panel for the purposes of achieving the expressly stated objectives of the guidelines which will be generally in accordance with the design guidelines attached at Annexure D.

**Design Assessment Panel** means a panel appointed by the Vendor and comprising for the purpose of assessing compliance by lot owners with the Design Guidelines.

**Developer** means JD Wollert Bodycoats Dev Nom Pty Ltd ACN 619 799 790.

**Development** means the land in the Plan and any surrounding land developed, being developed or to be developed by the Vendor in stages and known as The Patch.

**Dwelling** means a permanent dwelling for residential purposes.

**FIRB** means the Foreign Investment Review Board.

**General Conditions** are the conditions set out in the Contract.

**GST** means GST within the meaning of the GST Act.

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

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

**Guarantor** means the guarantor(s) named in the Guarantee.

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

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

- (a) a party, being an individual, commits an act of bankruptcy;



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

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

**Land** means the land described in the particulars of sale.

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

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

**Nature Strip** means that part of the land between the Lot and the road not forming part of the Purchaser's title.

**NBN Building Ready Specifications** means specifications governing the building requirements for connection of a dwelling house to the national broadband fibre optic network as may be provided by the Vendor.

**Network Infrastructure** means the national broadband fibre optic network infrastructure.

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

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

**Parent Title** means the land comprised in certificate of title volume 10662 folio 905.

**Plan** means proposed Plan of Subdivision number PS826168E a copy of which is included in the Vendor's Statement and includes any amendments or alterations made to the Plan and any restriction noted on the Plan and on Registration by the Registrar, means the Plan in the form in which it is registered.



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**Planning Permit** means planning permit 717154 issued by Council on 11 June 2019 (as may be amended from time to time) authorising the Vendor's proposed use and development of the land comprised in the Parent Title.

**Planning Scheme** means the Whittlesea Planning Scheme.

**Precinct Structure Plan** means the precinct structure plan adopted by the Responsible Authority and affecting the Site and as at the Day of Sale known as the Wollert Precinct Structure Plan.

**Price** means the price stated in the Payment panel in the particulars of sale.

**Proper Landscaping** means:

- (a) the landscaping of the front of the Property with turf, garden beds, trees and shrubs to a standard acceptable to the Vendor, consistent with the Design Guidelines and consistent with the presentation of a high quality development; and
- (b) the installation of landscaping in the Nature Strip approved by the Design Assessment Panel.

**Property** means the property described in the Land panel in the particulars of sale. The terms Land, Lot, Property are used intermittently throughout this Contract, however, they all mean the property sold pursuant to this Contract.

**Property Controls** means all existing and future planning, environmental, building, heritage and similar controls relating to the use or development of the Property, including (as applicable), the Precinct Structure Plan, the Planning Scheme, the Planning Permit and any Approval.

**Public Works** means the public infrastructure and community facilities proposed for part of the Development which may or may not be constructed by the Developer, including without limitation wetlands areas, neighbourhood activity centre(s), local town centre, schools, active open space such as footy ovals and sports fields, passive open space such as parks and noise attenuation barriers contemplated by the Precinct Structure Plan, or any public infrastructure plan.

**Purchaser** means the purchaser specified in the particulars of sale.

**Purchaser Rights** means:

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

under or in connection with this Contract.



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

**Registrar** means the Registrar of Titles of Victoria.

**Registration Period** means the period commencing on the Day of Sale and expiring 48 months after the Day of Sale.

**Required Rating** means:

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

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

**Restrictions** means the restrictions noted on the Plan, the Building Envelope, or included in a Memorandum of Common Provisions (if applicable).

**Sale** or **Sell** includes a sale, agreement to sell, the granting of an option and a transfer.

**Sale of Land Act** means the *Sale of Land Act 1962 (Vic)*.

**Settlement Date** means the date on which the balance of the Price must be paid.

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

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

**TA Act** means the Taxation Administration Act 1953 (Cth);

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

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

**Vendor** means the vendor specified in the particulars of sale.

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

**Vendor's Solicitor** means the Vendor's legal practitioner as specified in the particulars of sale or such other legal practitioner as the Vendor may nominate from time to time.

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

**Works** means all design, building, construction and landscaping work that the Purchaser intends to complete on the Property including because of a Law that applies to the Site.



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## 1.2 Interpretation

In this Contract:

1.2.1 a reference to:

- (a) any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any statutory instrument issued under, that legislation or legislative provision;
- (b) the singular includes the plural and vice versa;
- (c) an individual or person includes a corporation, firm, authority, government or government authority and vice versa;
- (d) any gender includes the other genders;
- (e) a party to this Contract includes that party's executors, administrators, successors and permitted assigns; and
- (f) a condition, annexure or schedule is a reference to a condition, annexure or schedule of this Contract.

1.2.2 including and singular expressions are not words of limitation;

1.2.3 headings are for convenience and reference only and do not affect the meaning or interpretation of this Contract;

1.2.4 if the whole or any part of a provision of this Contract is invalid or unenforceable, the validity or enforceability of the remaining provisions will not be affected; and

1.2.5 any obligation on the part of two or more persons under this Contract binds all of them jointly and each of them severally, unless expressed to be only several.

1.3 The obligations imposed and the benefits conferred under this Contract on each of the parties are binding upon and enure for the benefit of the respective parties and each of their respective successors in title, legal personal representatives and permitted assigns.

1.4 If an act must be done on a specified day which is not a Business Day, the act must be done on the Business Day immediately after that specified day.

1.5 If the whole or any part of a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision (or part thereof) must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable.

1.6 If it is not possible to read down a provision (or part thereof) as required in special condition 1.5, that provision (or part thereof) is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Contract.

## 2. Amendments to General Conditions

2.1 The parties agree that if there is any inconsistency between the provisions of the General Conditions, these special conditions and the Additional Special Conditions then, except in the case of manifest error, to the extent of any inconsistency the ranking in priority will be as follows:

2.1.1 first the Additional Special Conditions;



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- 2.1.2 second, these special conditions; and
- 2.1.3 third, the General Conditions.
- 2.2 Without limiting the specific provisions of any other special condition, the General Conditions are amended as set out in this special condition 2.
- 2.3 The General Conditions (GC) are amended as follows:
- 2.3.1 GC2.1 is deleted and replaced with the following:
- '2.1 The vendor warrants that these general conditions 1 to 28 (other than this general condition 2.1) are identical to the general conditions 1 to 28 in the standard form of contract of sale of real estate prescribed by the Estate Agents (Contracts) Regulations 2008 for the purposes of section 53A of the Estate Agents Act 1980 prior to the revocation of the Estate Agents (Contracts) Regulations 2008 on 11 August 2018'.
- 2.3.2 GC6 is amended by inserting the following sentences at the end of the General Condition:
- 'The vendor is not required to effect settlement until 10 days after the transfer of land is given to the vendor's solicitor if the purchaser fails to give the transfer of land in accordance with this General Condition. The purchaser will be deemed to default in payment of the balance from the date settlement is due under the contract to the date settlement takes place if, pursuant to this General Condition, the vendor effects settlement after the date settlement is due under the contract.'
- 2.3.3 GC 7 is deleted and replaced with the following:
7. Release of security interest
- 7.1 This general condition applies if any part of the property is subject to a Security Interest registered under the *Personal Property Securities Act 2009* (Cth). Words and phrases used in general condition 7 which are defined in the *Personal Property Securities Act 2009* (Cth) have the same meaning in general condition 7.
- 7.2 If a Security Interest in respect to any part of the Property is registered in the Personal Property Securities Register, the vendor must ensure that at or before settlement, the purchaser receives a release from the secured party releasing the property that is subject to the security interest from the security interest.
- 7.3 The vendor is not obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of any personal property that is required by the Personal Property Securities Regulations 2009 to be described in a registration by a serial number and is not described by serial number in the Personal Property Securities Register.
- 7.4 If the purchaser receives a release under general condition 7.2, the purchaser must provide the vendor with a copy of the release at or as soon as practicable after settlement.
- 7.5 The purchaser must not grant a Security Interest over any part of the property prior to the settlement date. The purchaser must indemnify and hold harmless the vendor against all claims, damages or loss incurred by the vendor as a consequence of the Purchaser granting a Security Interest over any part of the property in breach of this condition.
- 7.6 If the land is sold subject to a lease and the vendor has registered a security interest over any part of the property being sold or the tenant's property, the vendor must transfer the security interest to the purchaser on



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the settlement date and execute all documents necessary to facilitate registration of the transfer of the security interest.'

2.3.4 GC8 is deleted.

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

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

2.3.6 GC10.3 is deleted and replaced with:

'10.3 Settlement must be conducted between the hours of 10.00a.m. and 3.00p.m. unless the parties agree otherwise. A settlement which occurs after 3pm will, unless the vendor agrees otherwise, be treated as having occurred at 9am on the following business day.'

2.3.7 GC11.1(c) is deleted.

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

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

2.3.9 GC11.5 is amended to read:

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

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

2.3.11 GC13 is amended as follows:

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

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

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

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

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

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

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

2.3.12 Insert a new GC 17.4 as follows:



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

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

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

18.2 The Purchaser may nominate an additional or substitute purchaser if the nominee is either a:

- a) husband (including de facto), wife (including de facto), mother, father, brother, sister, son or daughter of the Purchaser; or
- b) company of which the Purchaser is a director or shareholder who controls more than 50% of the shares within the company; or
- c) custodian or trustee relating to the Purchaser's superannuation fund,

provided that:

d) the nominee is not a Foreign Person for the purposes of the Takeovers Act as set out in special condition 15; and

e) the nominee has not purchased (either as an original purchaser or as a nominee) 2 or more lots in the Development that remain unsettled at the time the nomination occurs.

18.3 If the Purchaser nominates in accordance with general condition 18.2, the named purchaser remains personally liable for the due performance of all the purchaser's obligations under this Contract.

18.4 Any nomination under general condition 18.2 must be made at least 10 days before the settlement date. If the Purchaser wishes to nominate it must deliver to the Vendor's legal representative or conveyancer:

- (a) a nomination deed executed by the nominee and the Purchaser in the form attached at Annexure C;
- (b) if the nominee is a custodian or trustee as referred to in general condition 18.2, satisfactory evidence that it relates to the Purchaser's superannuation fund;
- (c) if the nominee is a corporation to which General Condition 20 applies, a guarantee and indemnity in the form attached to this Contract as Annexure A but includes changes necessary by reason of the nomination;
- (d) a written acknowledgment from the Guarantors that the nomination of the nominee does not vitiate the Guarantors' obligations;
- (e) a written statement from the Purchaser and the nominee that the nominee is not obliged by the Takeovers Act to furnish the notice to the Treasurer of its intention to acquire an interest in the Property;
- (f) a written statement from the Purchaser and the nominee whereby the Purchaser and the nominee agrees that if the warranty in General Condition 18(e)(i) is breached, the Purchaser and the nominee must indemnify the vendor against any penalties, fines, legal costs, claims, losses or damages which the vendor suffers as a direct or indirect result of a breach of that warranty; and
- (g) a cheque payable by the nominee to the Vendor's legal representative or conveyancer for \$420 (including GST), in respect of the legal costs payable by the nominee under the nomination deed."



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2.3.14 GC19 is amended to read as follows:

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

2.3.15 GC20 is deleted and replaced with the following:

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

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

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

2.3.16 GC21 is amended to read:

'Subject to any special condition to the contrary, the purchaser is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made on or after the settlement date.'

2.3.17 GC22 is deleted.

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

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

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

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

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

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

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

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



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

### 3. **Deposit**

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

### 4. **Bank Guarantee**

- 4.1 The Vendor may accept a Bank Guarantee from the Purchaser instead of actual payment of the Deposit or any part of the Deposit.
- 4.2 The Vendor is not deemed to accept a Bank Guarantee unless it notifies the Purchaser in writing that it accepts a Bank Guarantee. For the avoidance of doubt, the Vendor is not deemed to accept a Bank Guarantee merely by reason of its receipt of a Bank Guarantee or 'Yes' being selected in relation to 'Bank Guarantee' in Schedule 1 to the particulars of sale.
- 4.3 If the Vendor agrees to accept a Bank Guarantee, the Purchaser must deliver it to the Vendor's Solicitor on the Day of Sale, for an amount equal to the Deposit. For the avoidance of doubt, the Vendor's Agent is not authorised to hold the Bank Guarantee.
- 4.4 If the Purchaser complies with special condition 4.3, the Purchaser must pay the Deposit in cleared funds to the Vendor's Solicitor by no later than the first to occur of:
- 4.4.1 the Settlement Date;
  - 4.4.2 the date that is 30 days before the Bank Guarantee expires;
  - 4.4.3 any earlier date on which:



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- (a) the Vendor is entitled to the release to it of the Deposit having regard to the provisions of this contract and section 27 of the Sale of Land Act;
- (b) the Vendor rescinds or otherwise terminates this Contract for breach by the Purchaser;
- (c) the Bank Guarantee becomes ineffective; or
- (d) issuer of the Bank Guarantee is not of at least the Required Rating and the Purchaser has not served on the Vendor's Solicitor a replacement Bank Guarantee from an issuer of at least the Required Rating.

When the Purchaser pays the Deposit in cleared funds, the Vendor must return the Bank Guarantee.

- 4.5 If the Purchaser breaches special condition 4.3, the Purchaser must immediately pay the Deposit in cleared funds to the Vendor's Solicitor.
- 4.6 If the Purchaser breaches special condition 4.4 or 4.5 (time being of the essence), the Purchaser is in default under this Contract and without limiting the Vendor's rights the Vendor's Solicitor (but in no circumstances the Vendor) is irrevocably authorised to draw on the Bank Guarantee if one has been provided.
- 4.7 Any Bank Guarantee provided to the Vendor under this special condition 4 must be held on trust by the Vendor's Solicitor for the Purchaser until Registration of the Plan or the date that the Vendor rescinds or otherwise terminates this Contract for breach by the Purchaser whichever occurs earlier.
- 4.8 Any moneys paid by:
  - 4.8.1 the Purchaser pursuant to special condition 4.4 or 4.5; or
  - 4.8.2 the Bank pursuant to special condition 4.6,must be dealt with by the Vendor's Solicitor in accordance with special condition 3.1 and otherwise the Sale of Land Act. For the avoidance of doubt, this special condition takes precedence over anything else in this special condition 4.
- 4.9 Should the Purchaser pay the Deposit or any part of the Deposit by way of Bank Guarantee, the Purchaser will procure the Bank to pay a fee of \$360 plus GST to the Vendor's Solicitor before such Bank Guarantee (including any replacement Bank Guarantee) is accepted and in any event before or as a condition of settlement.

## 5. Registration of Plan

- 5.1 This Contract is subject to the condition subsequent that the Plan is registered by the Registrar within the Registration Period.
- 5.2 The Vendor must at its own cost endeavour to procure registration of the Plan by the Registrar within the Registration Period. The obligation arising pursuant to this special condition 5.2 does not require the Vendor to carry out, manage or arrange the carrying out of domestic building work as defined in the *Domestic Building Contracts Act 1995 (Vic)*.
- 5.3 If the Plan is not registered by the Registrar within the Registration Period then, prior to the Plan being registered:
  - 5.3.1 the Purchaser has the right to rescind this Contract by giving notice in writing to that effect to the Vendor; or



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- 5.3.2 the Vendor may give the Purchaser notice in writing in accordance with section 10B of the Sale of Land Act that it intends to rescind the Contract in 28 days (**Rescission Date**) subject to obtaining the Purchaser's consent. If the Purchaser consents to the rescission in writing prior to the Rescission Date, then this Contract is rescinded effective on the Rescission Date. If the Purchaser consents to the rescission after the Rescission Date, the Contract is rescinded effective on the date the Purchaser gives consent.
- 5.4 The Vendor discloses to the Purchaser the following:
- 5.4.1 the Vendor is required to give notice to the Purchaser of the proposed rescission of the Contract under this special condition;
- 5.4.2 the Purchaser has the right to consent to the proposed rescission of the Contract but is not obliged to consent;
- 5.4.3 the Vendor has the right to apply to the Supreme Court of Victoria for an order permitting the Vendor to rescind the Contract; and
- 5.4.4 the Supreme Court of Victoria may make an order permitting the rescission of the Contract if satisfied that making the order is just and equitable in all the circumstances.
- 5.5 If this Contract is rescinded pursuant to special condition 5.3:
- 5.5.1 the Vendor must refund to the Purchaser all deposit money paid under this Contract;
- 5.5.2 any Bank Guarantee accepted by the Vendor under special condition 4 will be returned to the Purchaser or the Bank for cancellation; and
- 5.5.3 unless otherwise provided for in this Contract, neither party has any Claim against the other under this Contract or arising from or out of the rescission of this Contract including the failure of the Vendor to procure Registration of the Plan.
6. **Amendments to Plan**
- Subject to section 9AC of the Sale of Land Act:
- 6.1 the Vendor may make such minor alterations to the Plan that:
- 6.1.1 may be necessary to:
- (a) accord with surveying practice; or
- (b) alter the Plan so that the land in the Plan is developed in stages or so that the Lots being sold under this Contract are combined into one lot or retained as separate Lots, the Purchaser acknowledging that any such alteration does not materially affect the Lots to which this Contract relates; or
- (c) comply with any Requirement, or any requirement, recommendation or requisition of an Authority or a consultant to the Vendor or a combination of them; or
- 6.1.2 in the opinion of the Vendor, are required for the development, use, occupation, proper management or adequate servicing of the Site or any part of it.



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- 6.2 the Purchaser acknowledges and agrees that section 10(1) of the Sale of Land Act 1962 does not apply to this Contract in respect of the final location of an easement shown on the certified Plan.
- 6.3 the Purchaser must accept the Property described on the Plan as ultimately registered notwithstanding that there may be minor variations or discrepancies between the Lot or Lots sold under this Contract and any other Lot or Lots on the registered Plan.
- 6.4 the Purchaser must not make any objection, requisition or exercise any of the Purchaser Rights because of:
- 6.4.1 any amendment or alteration to the Plan (including alterations to the lot entitlement or lot liability attributed to the Property) which does not materially affect the Purchaser;
  - 6.4.2 any alleged misdescription of the Property or deficiency in its area or measurements;
  - 6.4.3 any renumbering of Lots (including the Purchaser's Lot) or stages on the Plan;
  - 6.4.4 an alteration to the Plan which results in a change to the area of the Property of less than 5%;or
  - 6.4.5 the reconfiguration and/or consolidation of Lots (other than the Purchaser's Lot) including Lots beside the Purchaser's Lot; and
- 6.5 for the purposes of special condition 6.4, the Purchaser agrees that those changes contemplated are a minor variation or discrepancy and do not materially affect the Purchaser.
7. **Caveat**
- 7.1 The Purchaser must not lodge or cause or allow any person claiming through it or acting on its behalf to lodge on the Purchaser's behalf any caveat in relation to the Property prior to the Settlement Date.
- 7.2 The Purchaser acknowledges that this special condition is an essential term of the Contract.
- 7.3 The Purchaser must indemnify the Vendor for all loss or damage which the Vendor suffers as a direct or indirect result of a breach by the Purchaser of this special condition 7. This does not prejudice any other rights that the Vendor may have in respect of a breach by the Purchaser of this special condition 7.
- 7.4 The Purchaser appoints the Vendor's Solicitors as its attorney to withdraw any such caveat or to sign a withdrawal of such caveat. This appointment survives the rescission or termination of this Contract by either party.
8. **Disclosure of Surface Level Works**
- 8.1 The Vendor notifies the Purchaser pursuant to section 9AB of the Sale of Land Act that details of all works affecting the natural surface level of the Property or any land abutting the Property in the same subdivision as the Property which:
- 8.1.1 have been carried out on that land after the certification of the Plan and before the date of this Contract; or
  - 8.1.2 are at the date of this Contract being carried out, or at the date of this Contract are proposed to be carried out on that land,



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

- 8.2 The Purchaser acknowledges and agrees that the Vendor and/or the Developer does not make any representation as to the classification of soil used for fill (including any reports on fill levels that may (or may not) be produced by the Vendor and/or the Developer at any time), and the Purchaser must rely on its own enquires and investigations in respect of such fill classification.
- 8.3 The Purchaser must not exercise the Purchaser Rights in respect of any works affecting the natural surface level of the Property or any land abutting the Property which is in the same subdivision as the Property disclosed to the Purchaser in accordance with section 9AB of the Sale of Land Act, including if those works are not consistent with the works described in Annexure B.

## 9. Property Controls

### 9.1 The Purchaser:

9.1.1 accepts the Property:

- (a) with all Property Controls and Approvals; and
- (b) in its present condition with all defects including fill and any non-compliance with any Property Controls or Approvals (subject to any change in condition arising from the Vendor fulfilling its obligations under this contract);

9.1.2 acknowledges that the Vendor has been or may be in the course of carrying out infrastructure and other works on the Site and that the Site may be filled, raised, levelled, compacted or cut;

9.1.3 acknowledges that the decision to purchase the Property was based on the Purchaser's own investigations and that no representations were made by or on behalf of the Vendor as to the condition of the Property or any of the matters referred to in special condition 9.1.1; and

9.1.4 must not exercise the Purchaser Rights in relation to any of the matters referred to in this special condition and agrees that those matters do not affect the Vendor's title to the Property.

9.2 The Purchaser assumes full responsibility for compliance with each Property Control and Approval as from the Settlement Date and agrees to hold the Vendor indemnified at all times against all loss or damage which the Vendor suffers arising directly or indirectly out of the Purchaser's failure to comply with a Property Control or the Purchaser's breach of or failure to obtain an Approval as from the Settlement Date.

## 10. Encumbrances

### 10.1 Subject to all Laws

The Purchaser buys the Property subject to any applicable Law including, without limitation, any Requirement or Approval.

### 10.2 Easements

The Purchaser:

10.2.1 admits that the Property is sold subject to the provisions of the Act; and



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10.2.2 buys the Property subject to:

- (a) all easements and encumbrances affecting the Site including those disclosed in Schedule 2 of the particulars of sale to this Contract and/or created or implied by the Act, the Plan or any Approval;
- (b) the rights of the Vendor under special condition 10.3.

The Purchaser must not make any requisition or objection or exercise the Purchaser Rights in relation to any other matter referred to in this special condition 10.2.

### 10.3 Additional Restrictions

10.3.1 The Purchaser acknowledges that as at the Day of Sale and the Settlement Date not all of the Additional Restrictions may have been entered into, granted or finalised.

10.3.2 Without limiting special condition 10.3.1, the Purchaser acknowledges that the Vendor may be required to

- (a) grant leases or other occupation rights to third parties including, without limitation, Authorities, and suppliers of Utilities; or
- (b) create or grant easements, covenants, restrictions or other rights and obligations including the entering into of any agreement under section 173 of the *Planning and Environment Act 1987* (Vic), including without limitation agreements for the implementation of:
  - (i) a heritage conservation management plan for the protection and enhancement of heritage sites within the Development (as contemplated by conditions 4 and 6 of the Planning Permit); and
  - (ii) public infrastructure, completion of internal and external works within the Development and incorporation of public open spaces (as contemplated by conditions 10 and 11 of the Planning Permit);
- (c) enter into a bushfire management plan, as contemplated by condition 13 of the Planning Permit; and
- (d) enter into a kangaroo management plan, as contemplated by condition 14 of the Planning Permit,

for the certification or registration of the Plan or to comply with any planning permit granted or to be granted for the Development or if it is in the opinion of the Vendor, necessary or desirable for the development, use, occupation, proper management or adequate servicing of the Site or of any part of it.

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

10.3.4 The Vendor does not give any assurance:

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



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

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

10.3.6 The Purchaser acknowledges and agrees that:

- (a) the Vendor may create in a memorandum of common provisions and/or require the Purchaser to create in the instrument of transfer of the Land (including by reference to a memorandum of common provisions) or otherwise, any Additional Restrictions in the form of easements or covenants which burden the Land;
- (b) if the Restrictions are not included in the Memorandum of Common Provisions and, for any reason, the Restrictions cannot be registered, the Vendor may create restrictive covenants in a memorandum of common provisions on the same terms as the Restrictions and refer to the memorandum of common provisions in the Plan.

10.3.7 Subject to the Purchaser's rights under the Sale of Land Act, the Purchaser must not exercise the Purchaser Rights by reason of the existence, granting, entering into or imposition of Additional Restrictions or the Restrictions.

10.4 **Not Used**

11. **Vendor's right to terminate**

11.1 If:

11.1.1 any Requirement imposed by an Authority for the Plan is in the opinion of the Vendor (acting reasonably) too onerous on the Vendor to perform or accept;

11.1.2 on or before 12 months from the Day of Sale, the Vendor has not entered into a sufficient number of unconditional contracts of sale for the Lots, in its absolute discretion; or

11.1.3 the Vendor cannot obtain finance on terms and conditions acceptable to the Vendor, or

11.1.4 the Vendor determines in its absolute discretion that the Development is not financially viable,

then the Vendor may elect to terminate this Contract by giving notice in writing to that effect to the Purchaser.

11.2 If this Contract is terminated or rescinded under special condition 11.1:

11.2.1 the Contract ends immediately on the Vendor giving notice in writing to that effect to the Purchaser;

11.2.2 General Conditions 27 and 28 no longer apply to this Contract;

11.2.3 the Vendor must refund to the Purchaser all deposit money paid under the Contract;



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- 11.2.4 any Bank Guarantee accepted by the Vendor under special condition 4 will be returned to the Purchaser or the Bank for cancellation; and
- 11.2.5 unless otherwise provided for in this Contract, neither party has any Claim against the other under this Contract or arising from or out of the termination or rescission of this Contract.
- 11.3 This special condition 11 is for the sole benefit of the Vendor and may only be waived by the Vendor notifying the Purchaser in writing of the waiver.

### 12. Outgoings

- 12.1 All Outgoings for the Property must be adjusted between the Vendor and the Purchaser on the basis that they have or must be paid by the Vendor. Despite this special condition the Vendor is only obliged to pay all Outgoings when they are due to be paid and the Purchaser must not require them to be paid on an earlier date.
- 12.2 If the Property is not separately assessed in respect of the Outgoings, then the portion of any such Outgoings to be adjusted between the Vendor and the Purchaser is either:
- 12.2.1 on the basis that the amount to be apportioned between them is the proportion of the Outgoing equal to the proportion which:
- (a) the lot liability of the Property bears to the total liability of all of the lots on the Plan; or
  - (b) the surface area of the Property bears to the surface area of the land that is subject to the assessment; or
- 12.2.2 on such other basis,
- as the Vendor may reasonably direct the Purchaser on or before the Settlement Date.

### 13. Land Tax

- 13.1 Despite any other provision in this Contract, the parties agree that:
- 13.1.1 for the purpose of special condition 12.2 or General Condition 15, the relevant assessment for land tax is that effected on 31 December of the year preceding the Settlement Date which includes all the titles that comprise the Parent Title (**Land Tax Assessment**); and
- 13.1.2 land tax is adjusted:
- (a) based on the proportional land tax stated on the Land Tax Assessment; and
  - (b) between the Vendor and the Purchaser on the basis that the amount to be apportioned between them is the proportion of the proportional land tax equal to the proportion which the surface area of the Property bears to the surface area of the land that is subject to the assessment;
  - (c) from the Settlement Date,
  - (d) on such other basis.
- as the Vendor may reasonable direct the Purchaser on or before the Settlement Date.



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- 13.2 The Purchaser acknowledges and agrees that:
- 13.2.1 if the Purchaser is in breach of this Contract by not completing this Contract on the Settlement Date; and
  - 13.2.2 if as a result of the Purchaser's breach, completion of this Contract takes place on a date that is after 31 December in the year that completion of this Contract is due to take place (**Settlement Year**); then
  - 13.2.3 the Purchaser's breach will result in an increase in the amount of the Vendor's land tax assessment for the year following the Settlement Year as a result of the Property continuing to be included in the Vendor's total landholdings in Victoria; and
  - 13.2.4 the additional tax which the Vendor will incur in accordance with this special condition (**Additional Land Tax**) is a reasonably foreseeable loss incurred by the Vendor as a result of the Purchaser's breach in respect of which the Vendor is entitled to compensation from the Purchaser.
- 13.3 If special condition 13.2 applies, then, on the Settlement Date, the Purchaser must in addition to the Balance payable to the Vendor under this Contract pay to the Vendor on account of the Additional Land Tax an amount equal to 2.25% of the Price of the property (**Amount Paid**).
- 13.4 The parties agree that if the Additional Land Tax as assessed by the Commissioner of State Revenue is:
- 13.4.1 less than the Amount Paid, the Vendor must refund the difference to the Purchaser; or
  - 13.4.2 more than the Amount Paid, the Purchaser must pay the difference to the Vendor within 7 days of being served with a written demand for such payment.
- 13.5 Despite special condition 12.2, payment of the Price must not be delayed and no money must be withheld by the Purchaser from the Vendor out of the Price on account of any land tax which may be or may subsequently become charged on the Property.
- 13.6 The Vendor acknowledges that:
- 13.6.1 it is liable and responsible for payment of land tax chargeable on the Property until the date upon which the Purchaser becomes entitled to possession; and
  - 13.6.2 subject to special condition 13.1, it must pay any such land tax assessed to the Vendor within the time limit specified in the assessment notice.

14. **Certificate of title**

If on the Settlement Date, a separate certificate of title for the Property:

- 14.1 has not issued; or
- 14.2 is not available from the Land Registry,

the Purchaser must accept a nomination request form endorsed by the Vendor's Solicitor or Vendor's mortgagee to register the transfer of land and issue the certificate of title to the Purchaser or as directed by the Purchaser or the Purchaser's mortgagee.



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15. **Non-Australian resident – FIRB Warranty**
- 15.1 If the Australian Resident box is ticked after the words 'FIRB-Purchaser's Status Declaration' in Schedule 1 of the particulars of sale or this section of the particulars of sale is otherwise not completed, then the Purchaser:
- 15.1.1 warrants to the Vendor, as an essential term of this Contract, that it is an Australian Resident and the acquisition of the Property by the Purchaser does not fall within the scope of the Takeovers Act and is not examinable by FIRB; and
  - 15.1.2 agrees that if the warranty in special condition 15.1.1 is breached, the Purchaser must indemnify the Vendor against any penalties, fines, legal costs, claims, losses or damages which the Vendor suffers as a direct or indirect result of a breach of that warranty.
- 15.2 If the Non-Australian Resident box is ticked after the words 'FIRB-Purchaser's Status Declaration' in Schedule 1 of the particulars of sale:
- 15.2.1 the Purchaser must, as an essential term of this Contract, promptly after the Day of Sale take all reasonable endeavours to obtain FIRB approval pursuant to the Takeovers Act of this purchase and keep the Vendor informed of the progress of the FIRB approval application;
  - 15.2.2 the Purchaser must provide a copy of the Purchaser's passport to the Vendor on the Day of Sale;
  - 15.2.3 this Contract is subject to the condition precedent that the Purchaser obtains FIRB approval pursuant to the Takeovers Act for the purchase of the Property within 30 days of the Day of Sale (**FIRB Sunset Date**) (or such other time as is mutually agreed between the parties in writing) failing which:
    - (a) the Purchaser may by notice in writing within 5 days of the FIRB Sunset Date (or such other time as is mutually agreed between the parties in writing) withdraw from the Contract; or
    - (b) the Vendor may, at its discretion, elect to rescind the Contract by giving notice in writing to the Purchaser at any time prior to receiving written confirmation and evidence from the Purchaser that the Purchaser has obtained FIRB approval,and the Deposit will be refunded to the Purchaser, or any Bank Guarantee accepted by the Vendor under special conditions 4 will be returned to the Purchaser or the Bank for cancellation; and
  - 15.2.4 the Purchaser must provide evidence of the FIRB approval to the Vendor's Solicitors immediately upon receipt.
- For the avoidance of doubt, if the Purchaser does not withdraw from the Contract in accordance with special condition 15.2.3(a), special condition 15.2.3(a) will be of no further force or effect and thereafter the Purchaser will be taken to have warranted to the Vendor that it has obtained or no longer requires FIRB approval for the purchase of the Property.
- 15.3 General Conditions 16.2 and 27 do not apply to special condition 15.2.3.
- 15.4 The Purchaser and any substitute or additional transferee nominated pursuant to General Condition 18 acknowledges that it is responsible for any fees payable in respect of an application to obtain FIRB approval.



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**16. Restriction on re-sale prior to settlement**

16.1 The Purchaser must not:

16.1.1 Sell (other than a mortgage to finance its acquisition of the Property under this Contract) the whole or any part of its interest in the Property;

16.1.2 erect or display, or cause to be erected or displayed, any sign, notice or advertisement (whether visible from the outside of the Property or not) offering the Property for sale; or

16.1.3 publish or broadcast, or cause to be published or broadcasted, any sign, notice or advertisement offering the Property for sale (including any sign, notice or advertisement in print, electronic or online form),

until after the Settlement Date.

16.2 The Purchaser must not assign or transfer the Purchaser's rights or interest pursuant to this Contract prior to the Settlement Date.

16.3 On or before the Settlement Date, the Purchaser must not without the prior written consent of the Vendor (which may be given or withheld at the Vendor's absolute discretion or subject to conditions as the Vendor deems fit) publish or broadcast, or cause to be published or broadcasted, any sign, notice or advertisement (including any sign, notice or advertisement in print, electronic or online form) which, in the Vendor's opinion, is published:

16.3.1 in connection with a proposed nomination by the Purchaser of a substitute or additional transferee pursuant to GC18 of this Contract; or

16.3.2 in an attempt to find or secure a person who the Purchaser may wish to nominate as a substitute or additional transferee pursuant to GC18 of this Contract.

16.4 If the Purchaser breaches special conditions 16.1.2, 16.1.3 or 16.3, the Purchaser must procure the removal of such sign(s), notice(s) or advertisement(s) within 2 Business Days after receiving a written request from the Vendor or the Vendor's Solicitor to do so, failing which, and without limiting any of the Vendor's rights under the Contract, the Purchaser irrevocably appoints the Vendor as its attorney to do all things necessary to cause any such sign(s), notice(s) or advertisement(s) to be removed or withdrawn and acknowledges that the Vendor will be entitled to recover its costs in doing so from the Purchaser.

16.5 The Purchaser indemnifies the Vendor against any loss arising out of a breach of this special condition 16.

16.6 The Purchaser acknowledges and agrees that not all of the Lots may be sold before the Settlement Date.

**17. Restriction on re-sale after settlement**

17.1 Without limiting special condition 16, if the Purchaser at any time before the Purchaser has completed the construction of a Dwelling on the Land has, or intends to, enter into a contract for the sale or transfer of the Property, the Purchaser:

17.1.1 must obtain the Vendor's prior written consent to the intended or actual sale or transfer of the Property (which may be given, or withheld, or given subject to conditions as the Vendor deems fit);

17.1.2 agrees and acknowledges that it must not be in breach of this Contract at the time it seeks the Vendor's consent;



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- 17.1.3 must not publish or broadcast, or cause to be published or broadcasted, any sign, notice or advertisement (including any sign, notice or advertisement in print, electronic or online format) and appoints the Vendor as its attorney to do all things necessary to remove or withdraw any such notice or advertisement (at the Purchaser's cost); and
- 17.1.4 if the Vendor gives consent to the sale or transfer of the Property, must deliver to the Vendor or the Vendor's Solicitor within thirty (30) days of entering into a contract of sale or transfer of the Property whichever is earlier:
- (a) details of the new owner of the Property (**New Owner**);
  - (b) a cheque payable by the New Owner to the Vendor's Solicitor for \$380 (plus GST) being the Vendor's costs for preparing the deed contemplated by special condition 17.1.4(c);
  - (c) a deed executed by the New Owner in favour of the Vendor and in the form reasonably required by the Vendor under which the New Owner agrees as follows:
    - (i) to comply with all of the obligations of the Purchaser under special conditions 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 41, 42, 43, 44, 45, 47;
    - (ii) where the Vendor owns any land adjoining the Property, that the Vendor's contribution towards the cost of constructing any dividing fence is \$1.00; and
    - (iii) to require, at the New Owner's cost, any purchaser or transferee from the New Owner to execute a further acknowledgment in favour of the Vendor in the same terms as are set out in this special condition 17.1;
- 17.1.5 must make the contract or agreement with the New Owner conditional upon the Purchaser obtaining the Vendor's consent to the sale or transfer and the New Owner executing the deed contemplated by special condition 17.1.4(c); and
- 17.1.6 must include in its contract or agreement with the New Owner an entitlement to procure the New Owner to execute the deed contemplated by special condition 17.1.4(c).
- 17.2 The Purchaser agrees to keep the Vendor indemnified against all Claims incurred by the Vendor and arising in respect of the matters set out in this special condition (including a failure by the Purchaser to comply with the provisions of this special condition).
- 17.3 The Purchaser acknowledges and agrees that not all of the Lots will be sold before the Settlement Date.
18. **Design Guidelines**
- 18.1 The Purchaser acknowledges and agrees that it:
- 18.1.1 has read and understood the Design Guidelines;
  - 18.1.2 must comply with the Design Guidelines; and
  - 18.1.3 the Design Guidelines may be varied after the Day of Sale.



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- 18.2 The Purchaser must not commence construction of any Works on the Property without the prior written consent of the Design Assessment Panel.
- 18.3 Despite Design Assessment Panel approval, the Purchaser may still need any relevant Approvals including but not limited to endorsement of the plans and specifications by Council. The Purchaser acknowledges that no approval granted by the Vendor or the Design Assessment Panel will constitute any representations that the plans and specifications will be approved by Council.
- 18.4 In the event of any conflict arising between the Restrictions these special conditions or the Design Guidelines, the ranking in priority will be as follows:
- 18.4.1 first the Restrictions;
  - 18.4.2 second these special conditions; and
  - 18.4.3 third the Design Guidelines.
- 18.5 The Purchaser acknowledges that:
- 18.5.1 the Vendor may, at any time, at its absolute discretion be entitled, to vary or waive, any of its requirements (including requesting changes to the Purchaser's plans and specifications) as set out in the Design Guidelines. The Purchaser must not exercise the Purchaser's Rights by reason of such waiver or variation;
  - 18.5.2 neither the Vendor nor the Design Assessment Panel will be liable to the Purchaser in respect of:
    - (a) any approval given by the Vendor, the Design Assessment Panel or any other person for the construction of any buildings or works which do not comply with the Design Guidelines;
    - (b) any failure by the Vendor or the Design Assessment Panel to enforce any of the terms of the Design Guidelines; or
  - 18.5.3 where there is any ambiguity or any dispute arises as to the interpretation or meaning of the terms of the Design Guidelines, the matter shall be determined by the Design Assessment Panel whose decision shall be final and binding;
  - 18.5.4 Part 4 of the *Building Regulations* 2006 (Vic) (**ResCode**) applies to any relevant Works on the Property and that the Works will be considered by the relevant Authority or private building surveyor (as the case may be) (**Statutory Authorities**) under the provisions of ResCode (**Statutory Approval**); and
  - 18.5.5 where the Lot is a small lot, any small lot housing code adopted by the Whittlesea Planning Scheme from time to time will apply to any Works on the Property.
- 18.6 The Purchaser indemnifies the Vendor against any loss or damage it suffers as a result of the Purchaser breaching special condition 18.1.
- 18.7 This condition will enure for the benefit of the Vendor after the Settlement Date.
19. **Works**
- 19.1 Without limiting special condition 18, the Purchaser must not commence or carry out or permit the commencement or carrying out of any Works on the Property unless the Works:



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- 19.1.1 have first been approved in writing by the Design Assessment Panel and (unless the Design Assessment Panel agrees otherwise) the Works are in accordance with the Design Guidelines and the approved plans and specifications;
- 19.1.2 have been granted all other necessary Approvals;
- 19.1.3 are carried out strictly in accordance with the terms of all Approvals granted under special conditions 19.1.1 and 19.1.2;
- 19.1.4 are contained strictly within the Building Envelope (and the Purchaser agrees and acknowledges that the contents of the Building Envelope may or may not be included in the Restrictions and/or memorandum of common provisions); and
- 19.1.5 comply with all Property Controls.
- 19.2 The Purchaser must at the Vendor's request remove any Works carried out on the Property in breach of this special condition 19 and reinstate the Property to its condition prior to carrying out of the Works. If the Purchaser fails to do so within 60 days of a request being made, the Vendor may do so and may enter the Property for that purpose (with contractors and equipment if required) and may dispose of the Works as the Vendor sees fit without being liable to the Purchaser in that regard. The Purchaser must pay to the Vendor on demand all costs and expenses incurred by the Vendor in exercising its rights under this special condition 19.2.
- 19.3 The Purchaser must promptly at the Vendor's option either reinstate or reimburse the Vendor for the cost of reinstating and damage done to any part of the Development by any person carrying out Works on the Property.
- 19.4 The Purchaser must:
- 19.4.1 commence construction of the Dwelling on the Property in accordance with approvals given under this special condition and special condition 18 within 6 months of the Settlement Date (or such longer period agreed in writing by the Vendor);
- 19.4.2 complete construction of the Dwelling on the Property to the satisfaction of the Vendor within 12 months of the commencement of the construction of the Dwelling (or such longer period agreed in writing by the Vendor at its absolute discretion);
- 19.4.3 not leave the Works incomplete for more than 3 months without work being carried out.
- 19.5 Without limiting special condition 19.4.2, the purchaser acknowledges that the Vendor will not grant an extension in relation to the completion of construction of the Dwelling where the Purchaser requests an extension later than 12 months from the Settlement Date.
- 19.6 For the purposes of special condition 19.4:
- 19.6.1 commencement of the construction of the Dwelling will be deemed to be when the footings of the Dwelling have been laid; and
- 19.6.2 completion of construction of the Dwelling will be deemed to be the issue of the Occupancy Permit.
- 19.7 The Purchaser must notify the Vendor in writing upon the commencement and completion of the Dwelling and provide the Vendor with a copy of the Occupancy Permit.



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- 19.8 The Purchaser agrees to keep the Vendor indemnified against all Claims incurred by the Vendor and arising in respect of the matters set out in this special condition (including a failure by the Purchaser to comply with the provisions of this special condition).
20. **No Owner Builders**
- 20.1 The Purchaser covenants that it will:
- 20.1.1 engage a registered builder and enter into a Major Domestic Building Contract in relation to the construction of the Dwelling on the Land; and
- 20.1.2 not commence or carry out the Works or permit the commencement or carrying out of the Works on the Land unless it has engaged a registered builder and entered into a Major Domestic Building Contract.
- 20.2 The Purchaser acknowledges that the provisions of special condition 20.1 are required to ensure the Development is completed in a timely and consistent fashion and in accordance with the Vendor's and the Developer's usual standards of quality and design.
21. **Restrictions as to Use**
- 21.1 The Purchaser purchases the Property subject to the Restrictions and must comply with the Restrictions.
- 21.2 The Vendor and Purchaser acknowledge and agree that:
- 21.2.1 if the Purchaser fails to comply with all or any of the Restrictions and fails to remedy the breach in accordance with special condition 21.2.3, the Purchaser grants the Vendor a licence to enter the Property for the purposes of rectifying the Purchaser's breach of the relevant Restriction;
- 21.2.2 if required by the Vendor at the Vendor's sole discretion, the Purchaser must promptly pay or reimburse the Vendor on request, the costs incurred by the Vendor in remedying the Purchaser's breach of any Restriction; and
- 21.2.3 the Vendor must not exercise its rights under special condition 21.2.1, unless and until the Vendor provides the Purchaser with at least 14 days prior written notice, advising the Purchaser of the particular Restriction that has been breached and providing the Purchaser with 14 days in which to remedy the breach of the Restrictions.
- 21.3 So long as the Vendor is the owner or occupier of any part or parts of the Development:
- 21.3.1 the Purchaser unconditionally and irrevocably assigns the benefit of the Purchaser's right as a benefited lot owner on the Plan to enforce the Restrictions against other lot owners on the Plan; and
- 21.3.2 the Purchaser must, if requested by the Vendor, permit the Vendor to exercise the Purchaser's rights as a benefited lot owner on the Plan in the name of the Purchaser. The Purchaser must do all things reasonably required by the Vendor, at the Vendor's reasonable cost, to enable the Vendor to exercise the Purchaser's rights.
22. **Display Homes**
- 22.1 The Purchaser covenants with the Vendor that it will not use the Dwelling for the purposes of a display home. This restriction may also be included in the Restrictions.



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- 22.2 The Purchaser acknowledges that both before and after the Settlement Date the Vendor and persons authorised by the Vendor may operate display homes on one or more of the Lots.
- 22.3 The Purchaser must not:
- 22.3.1 object to any noise, interference or increased traffic (pedestrian and vehicle) and reduction in available street parking that may occur during the:
- (a) operation of the display homes; or
  - (b) construction of the display homes;
- 22.3.2 object to or oppose or procure any other person to object to or oppose any application which the Vendor or any person with the authority of the Vendor makes or any planning or other approval required for the use, construction and operation of the display homes;
- 22.3.3 exercise any Purchaser Rights by reason of any of the matters contemplated by this special condition 22.
- 22.4 The Purchaser indemnifies and will keep indemnified the Vendor against all Claims for which the Vendor may suffer due to a breach of special condition 22.3.2. The Purchaser agrees that this indemnity will not merge on settlement.
23. **Hazardous Materials**
- 23.1 The Purchaser acknowledges that the Vendor makes no representation or warranty in relation to the presence of any Hazardous Material at the Property.
- 23.2 On and from the Settlement Date, the Purchaser:
- 23.2.1 assumes full responsibility for the presence of Hazardous Materials on the Property and anything incidental to them, including compliance with all relevant legislation, all Property Controls and Requirements in respect of them.
- 23.2.2 agrees to keep the Vendor indemnified against:
- (a) the responsibilities referred to in special condition 22.1; and
  - (b) all Claims resulting in any way from the existence of Hazardous Materials on or emanating from the Property, including actions based on injury to any person or property; and
- 23.2.3 waives all Purchaser Rights in relation to any of the matters referred to in this Special Condition and agrees that those matters do not affect the Vendor's title to the Property.
24. **Fencing**
- 24.1 The Purchaser must construct a fence on all sides and rear boundaries in accordance with the Design guidelines within 3 months of the issue of the Occupancy Permit for the Dwelling and Completion of construction of a driveway.
- 24.2 The Purchaser acknowledges that it is responsible for construction of any retaining walls required on any boundary of the Lot.
- 24.3 Without limiting Special Condition 24.8, the Vendor reserves the right in its absolute discretion to:



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- 24.3.1 fence along the boundary of the Lot and any adjoining land (**Fence Works**); and
- 24.3.2 choose the style of fencing in its absolute discretion.
- 24.4 If the Vendor constructs or contributes to the cost of constructing any fencing pursuant to Special Condition 24.3 other than fencing of outer boundaries of the stage of which the Lot forms part, then the Purchaser acknowledges that it will:
- 24.4.1 reimburse the Vendor on the Settlement Date the full amount of any expenses incurred by it for doing so; and
- 24.4.2 accept as final evidence of the amount referred to in Special Condition 24.4.1, notification of that cost from the Vendor's legal representative or conveyancer subject to the fence being generally in accordance with the Design Guidelines.
- 24.5 The Purchaser must comply with any reasonable direction of the Vendor and agrees to allow the Vendor access to the Property to carry out the Fence Works.
- 24.6 The Purchaser indemnifies the Vendor from any claims, loss and damages the Purchaser may suffer as a result of the Fence Works.
- 24.7 Except as otherwise provided in this Contract, the Purchaser agrees with the Vendor that, the Purchaser will not make any claim against the Vendor (or any agent or assignee of the Vendor) for any contribution to the cost of erecting any dividing fences or walls or any other types of fencing on any other part of the Property pursuant to the provisions of the *Fences Act 1968*, including any sums for liabilities which the Vendor may (whether or not it is aware of any) have incurred with any adjoining owners.
- 24.8 The Purchaser acknowledges that it buys subject to this Special Condition 24 and will not make any requisition, objection or claim any compensation or rescind, terminate or delay completion of this Contract in respect of any matter referred to in this special condition.
- 24.9 This Special Condition will not merge upon settlement of this Contract.
25. **Proper Landscaping**
- The Purchaser must carry out and complete Proper Landscaping of the frontage of the Property at its own cost and expense within 6 months of the date of issue of the Occupancy Permit for the Dwelling in accordance with the Design Guidelines.
26. **State of the Property**
- 26.1 The Purchaser agrees that until the Purchaser has completed the construction of a Dwelling on the Property, the Purchaser must:
- 26.1.1 keep the Property neat and tidy;
- 26.1.2 promptly remove rubbish and debris from the Property;
- 26.1.3 cut the grass on the Property;
- 26.1.4 not dump or permit to be dumped any rubbish, debris or fill from the Property on any other public or private land in the Development;
- 26.1.5 not allow the Property to be left in a condition which in the reasonable opinion of the Vendor is unsightly; and



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- 26.1.6 take all reasonable steps to protect the Property from any damage to avoid rubbish being dumped on the Property, including, without limitation, installing temporary fencing to secure the Property, if required.
- 26.2 The Purchaser must ensure that no boats, caravans, trailers, commercial vehicles or other recreational vehicles are parked on the Property unless they are screened from public view.
- 26.3 If the Purchaser breaches special condition 26.1 or 26.2, the Vendor may give the Purchaser a notice requiring the Purchaser to remedy the breach within 24 hours.
- 26.4 If the Purchaser fails to comply with a notice given under special condition 26.3, the Purchaser
- 26.4.1 authorises the Vendor and its employees, agents and contractors to do whatever works are necessary to remedy the breach, and, if necessary, to enter the Property for that purpose and to remove property from the Property and dispose of it as the Vendor thinks fit without being liable to the Purchaser in any way, and
- 26.4.2 the Purchaser agrees to pay to the Vendor on demand all costs and expenses incurred by the Vendor in so doing.
- 26.5 This special condition does not merge on the settlement of this Contract.
27. **Maintenance of Land**
- 27.1 Without limiting special condition 26 the Purchaser must maintain, slash or mow the Property to a standard as determined by the Vendor acting reasonably having reference to adjoining properties (**Maintenance Standard**).
- 27.2 If the Maintenance Standard has not been met, the Vendor or its agents may enter the Property at any time, without creating liability for trespass or otherwise, to maintain, slash or mow the Property without receiving authority from the Purchaser.
- 27.3 Where the Vendor enters the Property for the purposes stated in special condition 27.2, the Purchaser must pay the Vendor a sum of \$320 (plus GST) upon the Vendor presenting the Purchaser with an invoice.
- 27.4 This condition will ensure for the benefit of the Vendor after the Settlement Date.
28. **Option**
- 28.1 To ensure the Purchaser's compliance with the provisions of special conditions 18 and 19, the Purchaser hereby grants the Vendor an irrevocable option (option) to purchase the Land (including any improvements on the Land) from the Purchaser upon the following terms:
- 28.1.1 the option may be exercised by the Vendor only if either the Purchaser:
- (a) fails to construct the dwelling within the time limits specified in special condition 19.4; or
  - (b) otherwise breaches the provisions of special conditions 18 and 19;
- 28.1.2 the option may be exercised by the Vendor or the Vendor's nominee at any time from the date the Vendor becomes aware of the Purchaser's breach up to the date 90 days after the Vendor becomes aware of the breach or notice;
- 28.1.3 the option must be exercised by the Vendor or the Vendor's nominee by notice in writing to the Purchaser or the Purchaser's solicitor;



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- 28.1.4 if the Vendor or its nominee exercises the option, the sale Price shall be an amount equal to 90% of:
- (a) the Price paid by the Purchaser to the Vendor pursuant to this contract; and
  - (b) any money paid for Works to the Land carried out in accordance with the Design Guidelines.
- 28.1.5 if the option is exercised, the Land shall be deemed to have been purchased on the date of the option being exercised upon the terms of this contract save for this special condition and special conditions 4, 5, 6, 7, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 31, 32, 33, 34, 35, 37, 41, 42, 43, 44, 45, 49, 50, 51, 55 and 59 with settlement to take place and the Price to be paid in full within 60 days from the date of the contract;
- 28.1.6 if the option is exercised, pursuant to sections 17 to 20 of the *Powers of Attorney Act 2014 (Vic)* the Vendor is irrevocably appointed as the Purchaser's attorney for security for the purpose of signing the statutory declaration, transfer of land, statement for goods transferred with residential land and any other documents necessary to effect the registration of the transfer to the Vendor; and
- 28.1.7 if the option is exercised, then notwithstanding anything to the contrary in law or anything contained in this contract, the Purchaser shall pay all costs associated with the sale including stamp duty and registration fees on the transfer, the Vendor's legal fees and agent's fees expected on a re-sale of the Property and all legal and other costs incurred or likely to be incurred by the Vendor in exercising its rights under this special condition 28.
- 28.2 The Purchaser acknowledges the right of the Vendor to lodge a caveat in respect of the Land to protect the Vendor's rights pursuant to this special condition.
29. **Execution of necessary documents**
- Each party to this Contract must execute and deliver all such documents, instruments and writings and must do or procure to be done all such acts and things necessary or desirable or reasonable to give effect to this Contract.
30. **Utilities**
- 30.1 The Purchaser acknowledges that the Property is sold subject to all Utilities (if any) affecting the Property.
- 30.2 The Purchaser must not exercise the Purchaser Rights:
- 30.2.1 by reason of any Utility which is a joint service with any other land or building;
  - 30.2.2 by reason of any Utility servicing the Property or any other property passing through, under or over the Land whether subject to a registered easement or otherwise; or
  - 30.2.3 if, as a result of the presence of Utilities on the Land, any Authority or any other person or property has the benefit of any right or easement over the Property in respect of Utilities.



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- 30.3 The Purchaser acknowledges that:
- 30.3.1 the Utilities may be laid outside the boundary of the Property and it is the responsibility of the Purchaser to connect those Utilities to the Property, including a payment of any connection fee; and
  - 30.3.2 it is responsible for complying with any of NBN Co Limited's (or any other Network Infrastructure provider selected by the Vendor) requirements for the connection of the national broadband network to the Property.
- 30.4 The Purchaser acknowledges that recycled water may be supplied to the Property (in addition to potable water) and that there may be restrictions imposed on the use of potable water. The Vendor makes no warranty as to whether or not recycled water will be supplied by the relevant supply authority to the Property and, if it is supplied, as to the quality of the recycled water or its fitness for use for any purpose. The Purchaser must comply with all requirements of the relevant supply authority in relation to the installation and use of the recycled water. The Purchaser indemnifies the Vendor in respect of all Claims which the Purchaser or the Vendor may suffer or incur in respect of the supply of recycled water to the Property.
- 30.5 Without limiting special condition 30.4, the Purchaser acknowledges that recycled water is required to be plumbed into any residence of the Property for toilet flushing and external garden irrigation.
31. **Vendor financing**
- The Vendor may at any time prior to settlement, mortgage, assign charge or otherwise deal in any of its rights, privileges, benefits or obligations under this Contract or all or part of the Property without reference to the Purchaser.
32. **Insolvency Event Deemed Default**
- 32.1 If an Insolvency Event occurs in relation to the Purchaser or any Guarantor, the Purchaser is deemed to have fundamentally breached a term of this Contract at the time that the Insolvency Event occurs and the Vendor may terminate this Contract at any time after the Insolvency Event by notice in writing to the Purchaser.
- 32.2 An Insolvency Event in respect of the Vendor does not constitute a breach of this Contract by the Vendor.
33. **Vendor's Statement**
- The Purchaser acknowledges that:
- 33.1 prior to signing this Contract or any agreement or document in respect of the sale hereby made which is legally binding upon or intended to legally bind the Purchaser, the Purchaser has been given:
    - 33.1.1 a Vendor's Statement in writing containing the particulars required by Section 32(1) of the Sale of Land Act (as amended); and
    - 33.1.2 a due diligence checklist in accordance with sections 33A and 33B of the Sale of Land Act ;
  - 33.2 the Purchaser has read and understood those documents including all attachments; and
  - 33.3 no promise with respect to the obtaining of a loan of money to defray some or all of the cost of the Price has been made by or on behalf of the Vendor's Agent.



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34. **Vendor to Assign**

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

35. **Novation**

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

35.1.1 a deed in the form prepared by the Vendor novating this Contract to a third party (**New Vendor**); and

35.1.2 a Vendor's Statement in the form prepared by the New Vendor.

35.2 If this Contract is novated to a New Vendor, the Purchaser:

35.2.1 irrevocably authorises the Vendor's Solicitor to transfer the Deposit to the New Vendor's solicitor to be held in accordance with the Sale of Land Act;

35.2.2 if the Purchaser has provided a Bank Guarantee or Deposit Bond, must within 30 days of being requested to do so, do whatever is necessary to give that New Vendor the benefit of the Bank Guarantee or Deposit Bond provided by the Purchaser under special conditions 4, including if necessary delivering a new replacement Bank Guarantee in favour of the New Vendor; and

35.2.3 must not exercise any Purchaser Rights in respect of special conditions 35.1 or 35.2.2 or any matter arising from special conditions 35.1 or 35.2.2.

35.3 If the Purchaser breaches special condition 35.2 the Purchaser must immediately pay the Deposit in cleared funds to the Vendor's Solicitor.

35.4 The Purchaser irrevocably appoints the New Vendor and each authorised officer of the New Vendor individually as the Purchaser's attorney (**Attorney**) and agrees to ratify anything an attorney does under special condition 35.5.

35.5 In the event of either the Purchaser or the guarantor, or both, failing to comply with their obligations in special condition 35.1, the Attorney may do whatever is necessary or convenient to enable the Vendor to procure that the Purchaser and the guarantor enter into a deed of novation including signing the deed of novation as attorney for either the Purchaser or guarantor. The purpose of this power of attorney is to enable the Vendor to transfer the Vendor's interest to the New Vendor in accordance with its rights under this special condition 35.

36. **Trust**

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

36.1 the Purchaser must not do anything to prejudice any right of indemnity the Purchaser may have under the Trust;



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- 36.2 the Purchaser warrants that the Purchaser has power under the Trust to enter into this Contract;
- 36.3 if the trustee is an individual, that signatory is personally liable under the Contract for the due performance of the Purchaser's obligations as if the signatory were the Purchaser in case of default by the Purchaser;
- 36.4 the Purchaser warrants that the Purchaser has a right of indemnity under the Trust; and
- 36.5 the Purchaser must not allow the variation of the Trust or the advance or distribution of capital of the Trust or resettlement of any property belonging to the Trust.

37. **Indemnity**

Subject to any provision to the contrary in this Contract, the Purchaser must indemnify and keep indemnified the Vendor against all Claims of any nature whatsoever which the Vendor may suffer, sustain or incur on or subsequent to the Settlement Date or from events or occurrences happening or arising on or subsequent to the Settlement Date out of or in respect of the Property or any act, matter or thing occurring on the Property.

38. **No warranties**

The Purchaser acknowledges that it:

- 38.1 has made all the enquiries with Authorities that a prudent and careful person would make before entering into this contract;
- 38.2 enters into this Contract on the basis of its inspection and the enquiries it has carried out, and relying on its own judgment;
- 38.3 has not relied, and does not rely, on any representation or warranty of any nature made by or on behalf of the Vendor, the Vendor's Solicitors or the Vendor's Agent other than those expressly set out in this Contract.

39. **Non-merger**

Any provision of this Contract, which is capable of taking effect after settlement of this Contract, does not merge on settlement but rather continues in full force and effect.

40. **Whole Agreement**

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

41. **Staged Development**

41.1 The Purchaser acknowledges that the:

- 41.1.1 Land forms part of the Development by the Vendor, which may occur in stages;
- 41.1.2 Vendor may elect to stage the Development; and



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41.1.3 Vendor who is, or is entitled to be, registered proprietor of the Subsequent Stage Land, reserves the right in its absolute discretion to develop or to refrain from developing the Subsequent Stage Land. The Vendor gives notice to the Purchaser that the Vendor or the Vendor's successors in title may, at any time in future:

- (a) subdivide the Subsequent Stage Land;
- (b) carry out or permit the carrying out of building works on the Subsequent Stage Land;
- (c) construct or cause to be constructed improvements including, without limitation, structures, buildings, roads, footpaths and access-ways over any part or parts of the Subsequent Stage Land;
- (d) apply to relevant Authorities for any approval required to develop the Subsequent Stage Land; or
- (e) refrain from doing any or all of these things; and

41.1.4 Vendor cannot and does not give any assurances as at the Day of Sale as to:

- (a) the timetable for carrying out the Development;
- (b) the nature of the Development (including the number of lots, height of the Development, types of uses and the facilities to be provided); and/or
- (c) the manner in which the Development will be carried out.

41.2 The Purchaser further acknowledges that as the person who is, or is entitled to be, registered proprietor of the Subsequent Stage Land the Vendor proposes to create further stages of the Plan and the Purchaser acknowledges and consents to such subdivision including the altering of the lot entitlement or lot liability of any of the lots on the Plan as authorised by section 37(3)(c)(iv)(C) of the Subdivision Act.

41.3 The Purchaser must (whether before or after the Settlement Date) do all things and execute all documents as may be reasonably required by the Vendor to give effect to provisions of this special condition 41.

41.4 The Purchaser covenants with the Vendor that it will not, nor cause anybody on its behalf to either directly or indirectly hinder, delay, impede, object or prevent the Vendor exercising the rights set out in special condition 41.1.2, 41.1.3 and 41.1.4.

41.5 The Purchaser indemnifies and will keep indemnified the Vendor against all claims, damages and costs for which the Vendor may suffer due to a breach of this special condition 41. The Purchaser agrees that the indemnity will not merge on completion.

41.6 This special condition will not merge on settlement but will continue in full force and effect.

## 42. Vendor may conduct activities

42.1 The Purchaser acknowledges that both before and after the Settlement Date, but only for as long as the Vendor remains an owner of a Lot or Lots the Vendor and persons authorised by the Vendor may:

- 42.1.1 conduct selling activities from the Site;
- 42.1.2 conduct community and marketing events from the Site;



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- 42.1.3 place and maintain on and outside the Site (excluding the Property) signs in connection with those selling activities; and
- 42.1.4 place and maintain on and about the Site an office or facility or both for the Vendor and its representatives.
- 42.2 The Purchaser waives all rights to make or take any objection to the methods used by the Vendor and persons authorised by the Vendor in their efforts to sell by public auction or otherwise the remaining Lots in the Development including without limitation the use of signs and public auctions.
- 42.3 The Purchaser covenants with the Vendor that upon the Purchaser or any of the Purchaser's tenants being entitled to possession or occupation of the Property, they must do all things necessary to cooperate with the Vendor's marketing and selling of the other Lots. The Purchaser must not, and must ensure that all persons authorised by the Purchaser to occupy the Property do not, cause any nuisance which may hinder the marketing and sale of the Lots.
- 42.4 If the Purchaser wishes to sell or lease their Property, the Purchaser agrees not to erect any signs including advertising boards on the Property and, for as long as the Vendor remains an owner of a Lot or Lots, the Vendor. The Purchaser acknowledges and agrees that the Vendor may remove any such signs that are erected on the Property at the Purchaser's cost, if such sign is not installed in compliance with this special condition 42.4.
- 42.5 This special condition 42 will not merge on settlement, but will continue in full force and effect.
43. **Additional Construction**
- If construction of the Development has not been completed on the Settlement Date, the Purchaser must not at any time after the Settlement Date:
- 43.1 object to the carrying out of any works on the Development by any party;
- 43.2 object to the dust, noise or other discomforts that may arise during the course of completion of these works; or
- 43.3 institute or prosecute any action or proceeding for injunctions or damages arising out of or connected with the completion of these works,
- provided they do not materially or unreasonably affect the Purchaser's use and enjoyment of the Property and, if material and unreasonable, the Purchaser has provided the Vendor with reasonable notice prior to exercising the rights contemplated by this special condition.
44. **Completion of Development**
- 44.1 The Purchaser acknowledges that at the Settlement Date some buildings within the Site or the Development may not have commenced construction or be incomplete and the Vendor or the Developer may need access to the Site to carry out construction or rectification works to other buildings on the Site or the Development which may include:
- 44.1.1 excavation works relating to the foundations of the dwellings and laying of concrete slabs;
- 44.1.2 roadworks, servicing and drainage works;
- 44.1.3 landfill works;



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- 44.1.4 construction of retaining walls;
  - 44.1.5 construction of the Public Works; and
  - 44.1.6 landscape works.
- 44.2 The Purchaser must not exercise any of the Purchaser Rights including making any requisition or objection or seeking to claim damages or delaying settlement of this Contract or bringing any proceedings against the Vendor, or any other person in relation to:
- 44.2.1 any nuisance, dust, odour, noise or other inconvenience associated with any ongoing works conducted in or around the Property after settlement has occurred;
  - 44.2.2 any alteration:
    - (a) to the Site or Development (including changes in uses, layouts, open space, facilities and services); or
    - (b) in the number of lots of the Site or Development; or
    - (c) to the number, size, shape or location or permitted use of or restrictions effecting any Lot (other than the Property) or in any future stage or plan of subdivision relating to any other part of the Development; or
  - 44.2.3 the presence of any electrical or water substation or telecommunications towers or associated equipment in proximity to the Site and/or the Property which may be visible from the Site and/or the Property and any associated noise and/or emissions (if any); or
  - 44.2.4 the location of any electricity powerlines (and the Purchaser acknowledges that such powerlines may or may not be above or below ground); or
  - 44.2.5 any delay in the completion of the Site or Development; or
  - 44.2.6 the abandonment of any part of the Site or Development.
- 44.3 The Purchaser must not object to or oppose or procure any other person to object to or oppose any application which the Vendor or any person with the authority of the Vendor makes or any planning or other approval required to vary the Site or the Development or to carry out any part of the Site or the Development (including any part of the Site or the Development as varied).
45. **Public Works**
- 45.1 The Purchaser acknowledges and agrees that:
- 45.1.1 the Development may or may not include the Public Works;
  - 45.1.2 the Precinct Structure Plan will govern development and designate zoning of the Development;
  - 45.1.3 the Public Works may or may not be carried out in accordance with the Precinct Structure Plan and the development plan approved under the Precinct Structure Plan;
  - 45.1.4 the Planning Permit contains conditions governing how the Vendor completes construction of the Public Works;



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- 45.1.5 third parties may be responsible for carrying out the Public Works;
- 45.1.6 the Vendor does not make any representations or give any assurances:
- (a) when, if at all, the Public Works will be completed including whether they will be constructed before the Settlement Date;
  - (b) as to the nature, shape, design, final location or layout of the Public Works.
- 45.1.7 special condition 44 applies to the Public Works with consequential amendments.
- 45.2 The Purchaser must not exercise any Purchaser Rights by reasons of any of the matters contemplated by this special condition 45 including not completing the Public Works before the Settlement Date.
- 45.3 The Purchaser must not object to or oppose or procure any other person to object to or oppose any application which the Vendor, the Developer or any person with the authority of the Vendor makes or any planning or other approval required in respect of the Public Works.
- 45.4 The Purchaser indemnifies and will keep indemnified the Vendor against all claims, damages and costs for which the Vendor may suffer due to a breach of special condition 45.3.
- 45.5 The Vendor reserves the right in its absolute discretion on the timing and scope of delivery and ongoing maintenance of the Public Works.
- 45.6 This special condition will not merge on settlement, but will continue in full force and effect.
46. **Personal Information**
- 46.1 In this special condition:
- 46.1.1 **Privacy Act** means the *Privacy Act* 1988 (Cth) and any ancillary rules, regulations, guidelines, orders, directions, directives, codes of conduct or practice or other instrument made or issued under it, including:
    - (a) any consolidation, amendment, re-enactment or replacement of any of them; and
    - (b) the Australian Privacy Principles under that Act.
  - 46.1.2 **Personal Information** has the meaning given to it in the Privacy Act.
- 46.2 The Purchaser consents to the collection, use and disclosure of the Personal Information of the Purchaser by the Vendor and its related entities:
- 46.2.1 for entering into, administering and completing this Contract and any development by the Vendor referred to in this Contract;
  - 46.2.2 for planning, marketing and product development by the Vendor or a Related Body Corporate including in relation to a development other than the Development;
  - 46.2.3 to comply with the Vendor's obligations or to enforce its rights under this Contract;
  - 46.2.4 to owners of adjoining land to enable them to deal with the Purchaser concerning any development or other work which they wish to undertake on their land (including disclosure of personal information to contractors to assist adjoining land owners to comply with their obligations and to enforce their rights in relation to fencing);



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- 46.2.5 to surveyors, engineers and other parties who are engaged by the Vendor to carry out works which may affect the Property;
- 46.2.6 to service providers engaged by the Vendor, such as legal advisers, financial advisers, information technology and data storage providers, market research organisations, mail houses and delivery companies;
- 46.2.7 to any third party who has a right or entitlement to share in the monies paid or payable to the Vendor under this Contract or takes or proposes to take an assignment or novation of the Vendor's rights under this Contract;
- 46.2.8 to any of the Vendor's and/or the Developer's financiers and those financiers' advisers; and
- 46.2.9 in other circumstances where the Vendor is legally entitled, obliged or required to do so, including any disclosure which is permitted or authorised under the Privacy Act.
- 46.3 The Vendor's Privacy Policy can be found at <http://www.jindingau.com/privacy-policy/>.
47. **National Broadband Network**
- 47.1 The Purchaser must adopt and ensure compliance with the NBN Building Ready Specifications and appropriate building wiring specifications when constructing a Dwelling on the Property.
- 47.2 The Purchaser acknowledges that:
- 47.2.1 the NBN Building Ready Specifications must be complied with to enable the Property to be connected to the Network Infrastructure; and
- 47.2.2 failure to comply with the NBN Building Ready Specifications will either:
- (a) prevent connection to the Network Infrastructure; or
- (b) require the Purchaser to incur additional costs in order to connect to the Network Infrastructure.
48. **Pre-Settlement Inspection**
- 48.1 The Purchaser may inspect the Property at an agreed time during the period of seven (7) days preceding and including the Settlement Date, but not more than once (**Pre-settlement Inspection**), and on the condition that in exercising its rights under this special condition 48, the Purchaser:
- 48.1.1 must be accompanied by a customer relations consultant of the Vendor;
- 48.1.2 must give reasonable prior notice to the Vendor of its wish to undertake a Pre-settlement Inspection; and
- 48.1.3 acknowledges that failure to undertake a Pre-settlement Inspection must not, in any way, delay settlement.
- 48.2 The Purchaser acknowledges that:
- 48.2.1 it may not be able to undertake a Pre-settlement Inspection if, in the Vendor's absolute discretion, works at the Site render the Pre-settlement Inspection unsafe or undesirable;



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- 48.2.2 it may be required to undertake a Site induction program before conducting the Pre-settlement Inspection;
- 48.2.3 it must comply with all reasonable requirements of the Vendor in relation to the Pre-settlement Inspection including, without limitation, all requirements relating to occupational health and safety; and
- 48.2.4 it must not make any objection requisition or claim nor exercise any Purchaser Rights if, as a result of special conditions 48.2.1, 48.2.2 or 48.2.3, the Purchaser is not able to undertake a Pre-settlement Inspection.

#### 49. **Delayed Settlement**

Without limiting any other rights of the Vendor, if the Purchaser:

- 49.1 fails to settle on the due date for settlement as set out in the particulars of sale to this Contract (**Due Date**); or
- 49.2 requests an extension to the Due Date,

the Purchaser must pay to the Vendor's Solicitors an amount of \$500 plus GST representing the Vendor's additional legal costs and disbursements.

#### 50. **Commercial Interests**

- 50.1 The Vendor discloses, and the Purchaser acknowledges and agrees that all of the provisions in this Contract, including the provisions listed below in special condition 50.2, are reasonably necessary to protect the Vendor's legitimate interests by:

- 50.1.1 providing the Vendor with sufficient flexibility in the design, planning, construction and management of the Development due to the Development being at a stage where the Vendor has no certainty as to design and construction constraints; and

- 50.1.2 ensuring that the Vendor has sufficient flexibility under this Contract if the economic viability of the Development for the Vendor is affected by anything including changes in market conditions, construction costs or other matters.

- 50.2 Without limiting the operation of special condition 50.1, the parties agree that special conditions 5, 6, 7, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 31, 32, 33, 34, 35, 37, 41, 42, 43,44, 45, 49, 50, 51, 55 and 59 of this Contract are reasonably necessary to protect the Vendor's legitimate interests for the reasons stated in special condition 50.1.

#### 51. **Protection of Neighbourhood's Interests**

The Purchaser acknowledges that:

- 51.1 the Vendor's vision for the Development includes but is not limited to building a residential neighbourhood with an attractive and cohesive streetscape that includes dwellings completed contiguously;

- 51.2 it is required to comply with special conditions 18 and 19 to give effect to the Vendor's vision contemplated by special condition 51.1;

- 51.3 if the Vendor fails to comply with special conditions 18 and 19 of this Contract, the Vendor and other purchasers of Lots within the Development may suffer loss and damage; and



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- 51.4 special conditions 17 and 28 of this Contract are reasonably necessary to give effect to the Vendor's vision contemplated by special condition 51.1 and ensure that the Purchaser complies with special conditions 18 and 19.
52. **Electronic Conveyancing**
- 52.1 In this special condition:
- ECNL** means the Electronic Conveyancing National Law Victoria;
- Electronic Settlement** means settlement of a conveyancing transaction by the use of an Electronic Lodgement Network within the meaning of the ECNL operated by an ELNO;
- ELN** means Electronic Lodgement Network.
- ELNO** means Electronic Lodgement Network Operator within the meaning of the ECNL;
- Settlement Parties** means the Vendor, Purchaser, their respective financiers (if any) and any other parties that are required to be a party to the ELN to effect settlement.
- 52.2 The parties agree to effect an Electronic Settlement unless the Registrar's guidelines or Laws from time to time require the parties to effect a paper settlement.
- 52.3 The Purchaser agrees to act in good faith to do all things necessary to give effect to an Electronic Settlement including:
- 52.3.1 signing and lodging all necessary documents and compelling the Settlement Parties for whom it is responsible to do so;
- 52.3.2 being, or engaging a representative who is, a subscriber for the purposes of the ECNL;
- 52.3.3 ensuring that all other Settlement Parties for whom it is responsible are, or engage, a subscriber for the purposes of the ECNL; and
- 52.3.4 complying with any requirements of the ECNL and an ELNO and compelling the Settlement Parties for whom it is responsible to do so.
- 52.4 Without limiting special condition 52.3, the parties agree to adopt the following process in respect of an Electronic Settlement:
- 52.4.1 the Vendor or the Vendor's Solicitor must open the workspace within 5 days of lodging the Plan with the Registrar;
- 52.4.2 the Vendor or the Vendor's Solicitor must invite the Purchaser or its representative to the workspace on or before the Registration of the Plan (at which point the Vendor's Solicitor sets the Settlement Date and time);
- 52.4.3 the Purchaser must prepare the transfer of land, notice of acquisition and lodging instructions no later than 7 days before settlement;
- 52.4.4 the Purchaser must ensure that the transfer of land and notice of acquisition are signed and completed correctly no later than 5 days before settlement;
- 52.4.5 once the transfer of land and notice of acquisition are signed by both parties, the Purchaser must not unsign or make any changes to the documents without the Vendor's prior written consent;



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- 52.4.6 the Purchaser must accept the Settlement Date and time proposed by the Vendor or the Vendor's Solicitor in its invite no later than 5 days before settlement;
- 52.4.7 once the Purchaser accepts the Settlement Date and time the Purchaser must not, and must procure that its financier does not, change the Settlement Date or time without the Vendor's prior written consent;
- 52.4.8 the Vendor or the Vendor's Solicitor must prepare the adjustments and input destination funds into the ELN no later than 3 days before settlement;
- 52.4.9 the Purchaser must input source funds into the ELN no later than 1 day before settlement;
- 52.4.10 if the Vendor has complied with its obligations in this special condition 52.4, the Purchaser must ensure the workspace is 'Ready Ready' by 10am on the Settlement Date;
- 52.4.11 if the Purchaser fails to comply with special condition 52.4.10, the Vendor is not required to effect settlement until a day on which the workspace is 'Ready Ready' by 10am. The Purchaser will be deemed to default in payment of the balance from the date settlement is due under this Contract to the date settlement takes place if, pursuant to this special condition 52.4.11 the Vendor effects Electronic Settlement after the date settlement is due under this Contract;
- 52.4.12 subject to special condition 52.4.10, once the workspace is 'Ready Ready', the Vendor is ready, willing and able to settle and the Purchaser must effect settlement;
- 52.4.13 if, pursuant to special condition 52.4.11 the Vendor effects Electronic Settlement after the date settlement is due under this Contract or the Purchaser fails to effect settlement on the date settlement is due under this Contract in accordance with special condition 52.4.12, special condition 49 will apply.
- 52.5 The Purchaser acknowledges that:
- 52.5.1 the workspace is an electronic address for the service of notices and for written communications for the purposes of any electronic transactions legislation;
- 52.5.2 Settlement occurs when the workspace records that:
- (a) the exchange of funds or value between financial institutions in accordance with the instructions of the parties has occurred; or
  - (b) if there is no exchange of funds or value, the documents necessary to enable the Purchaser to become registered proprietor of the Land have been accepted for electronic lodgement.
- 52.6 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any missing or mistaken payment and to recover the missing or mistaken payment.
- 52.7 The Vendor is not responsible for any error caused by the ELN or ELNO.
- 52.8 The Purchaser and the Vendor must not make any Claim on the Vendor's Solicitor for any matter arising out of this special condition 52.
- 52.9 The parties agree that if there is any inconsistency between this special condition and the General Conditions and other special conditions then, except in the case of manifest error, to



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the extent of any inconsistency this special condition will prevail and have priority over the General Conditions and other special conditions.

53. **Marketing materials**

The Purchaser acknowledges and agrees that any drawings, mock ups, displays or other material depicting the Development or prospective Dwellings at the Development (including without limitation in any display village) contained in any display suite or marketing material provided to or inspected by the Purchaser prior to the Day of Sale is intended as an indicative representation only, and the Purchaser acknowledges that the Purchaser has not relied on its inspection of that display suite or other marketing material in entering into this Contract.

54. **Stamp Duty**

54.1 The parties agree to adopt the following process in respect of the on-line duties form:

- 54.1.1 the Vendor or the Vendor's Solicitor must create the on-line duties form and invite the Purchaser to complete and sign the form within 5 days of lodging the Plan with the Registrar;
- 54.1.2 the Purchaser must accept the Vendor's on-line duties form invitation within 7 days of receipt;
- 54.1.3 the Purchaser must ensure that the on-line duties form is signed and completed no later than 5 days before settlement;
- 54.1.4 if the Purchaser has complied with special condition 54.1.3, the Vendor must sign the on-line duties form no later than 3 days before settlement;
- 54.1.5 once the on-line duties form is signed by both parties, the Purchaser must not unsign or make any changes to the form without the Vendor's prior written consent;
- 54.1.6 despite special condition 54.1.5, the on-line duties form must not be unsigned or amended by the Purchaser on the Settlement Date; and
- 54.1.7 if the Purchaser fails to comply with special condition 54.1.6 and unsigns or amends the on-line duties form on the Settlement Date, the Vendor is not required to effect settlement until the next Business Day after the on-line duties form is signed by both parties. The Purchaser will be deemed to default in payment of the balance from the date settlement is due under this Contract to the date settlement takes place if, pursuant to this special condition 54.1.7, the Vendor effects settlement after the date settlement is due under this Contract and special condition 49 will apply.

54.2 The Purchaser warrants to the Vendor, as at the date that settlement takes place, that the information provided by it in the on-line duties form is true and correct and agrees that, if this warranty is breached, it must indemnify the Vendor against any penalties, fines, legal costs, claims, losses or damages which the Vendor suffers as a direct result of a breach of that warranty.

54.3 The Purchaser must provide the Vendor with a settlement statement in respect of the completed on-line duties form signed by both parties on the date settlement is due under this Contract. The Vendor is not required to effect settlement until the Purchaser has provided the Vendor with a settlement statement in respect of the completed on-line duties form signed by both parties if the Purchaser fails to give the settlement statement in accordance with this special condition. The Purchaser will be deemed to default in payment of the Balance from the date settlement is due under this Contract to the date settlement takes



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place if, pursuant to this special condition 54.3, the Vendor effects settlement after the date settlement is due under this Contract.

54.4 The Purchaser acknowledges and agrees that:

54.4.1 neither the Vendor nor anyone acting on its behalf has made any warranty to the Purchaser as to the stamp duty payable by the Purchaser in connection with the sale and transfer of the Property under this Contract and that the Purchaser has made its own enquiries and investigations;

54.4.2 it is liable to pay any amount of duty assessed by the State Revenue Office;

54.4.3 if the Purchaser is a foreign purchaser, as that term is defined in section 3(1) of the *Duties Act 2000* (Vic), the Purchaser is liable to pay additional stamp duty at a rate of 8% (or such other rate applying to additional stamp duty payable by foreign purchasers from time to time) of the Price and the Vendor has not made any representation or warranty to the Purchaser concerning the amount of such additional stamp duty; and

54.4.4 it must not make any objection, requisition or exercise the Purchaser Rights because of the amount of stamp duty assessed in connection with the sale and transfer of the Property to the Purchaser under this Contract.

## 55. **Pegging**

The Purchaser acknowledges and agrees that:

55.1.1 the Vendor will, prior to registration of the Plan, define the boundaries of the Land by pegging the Land; and

55.1.2 the Vendor will not replace any pegs on the Land in the event that pegs are moved or taken by any party after the installation by the Vendor.

## 56. **Electronic Exchange**

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

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

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

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

56.4.1 first, the Purchaser will execute the Vendor's Statement and then this Contract by way of electronic signature;

56.4.2 second, the Vendor will execute this Contract by way of an electronic signature;

56.4.3 third, the Contract will be exchanged by email or other electronic means; and

56.4.4 lastly, a copy of the Contract as executed and exchanged will be provided to the parties.



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- 56.5 If, at any time, as a result of this Contract being entered into using electronic means the Contract or any of its terms and conditions are invalid or unenforceable or the Vendor or Purchaser are not bound by them, the parties agree to execute and exchange printed copies of the Contract and Vendor's Statement (in the same form and with the same Day of Sale as set out in this document) and to take such other steps or provide such assurances as are reasonably necessary to satisfy the Vendor's financier that the Contract is binding upon the parties and enforceable.
- 56.6 If, at any time, as a result of this Contract being entered into using electronic means the Vendor is advised or reasonably believes that it will be unable to obtain sufficient finance for and to carry out the Development, the parties agree to execute and exchange printed copies of the Contract and Vendor's Statement (in the same form and with the same Day of Sale as set out in this document) and to take such other steps or provide such assurances as are reasonably necessary to satisfy the Vendor's financier that the Contract is binding upon the parties and enforceable.
- 56.7 Nothing in this special condition prevents or restricts the parties from executing and exchanging physical copies of the Contract.
- 56.8 If the Purchaser fails to comply with special conditions 56.5 and/or 56.6, the Purchaser appoints the Vendor's Solicitors as its attorney to execute two printed copies of the Contract on the Purchaser's behalf.
- 56.9 The Purchaser must not exercise any Purchaser Rights in respect of any matter contemplated in this special condition.
57. **Foreign resident capital gains withholding payments**
- If:
- 57.1 Subdivision 14 –D of Schedule 1 of the TA Act applies to this Contract; and
- 57.2 on or before settlement of this Contract, the Vendor gives to the Purchaser a clearance certificate issued by the Commissioner under subsection 14-220 of Schedule 1 of the TA Act,
- the Purchaser must not withhold any money payable by the Purchaser under this Contract for the purpose of Subdivision 14-D of Schedule 1 of the TA Act.
58. **Capacity of Vendor Signatories**
- The Purchaser acknowledges and agrees that if an attorney has executed this Contract or any document contemplated by or required to give effect to this Contract (**Relevant Document**) as an attorney of the Vendor (**Attorney**):
- 58.1 the Attorney executes the Relevant Document as attorney of the Vendor, and not in its personal capacity, and does not assume personal liability under any warranty or obligation of the Vendor in the Relevant Document;
- 58.2 it releases the Attorney from any personal liability whatsoever, and covenants with the Attorney not to seek to bring proceedings against the Attorney in its personal capacity;
- 58.3 it waives all Purchaser Rights in relation to the matters raised in this special condition; and
- 58.4 it will indemnify the Attorney against any Claim against the Attorney or that the Attorney may suffer as a result of a breach of this special condition by the Purchaser.



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59. **Community Infrastructure Levy**

59.1 For the purposes of this special condition 59, **Community Infrastructure Levy** means the levy imposed by a relevant Authority in respect to the building works constructed or to be constructed on the Land.

59.2 The Purchaser acknowledges that the Community Infrastructure Levy is payable in respect of any building works to be constructed on the Land.

59.3 The Purchaser agrees that any Community Infrastructure Levy is payable by the Purchaser and is not an adjustable outgoing.

59.4 The Purchaser must not make any requisitions or objection or exercise the Purchaser's Rights in relation to any other matter referred to in this Special Condition 59.

60. **GST Withholding Payments and Notifications**

60.1 In this Special Condition 60, terms have the following meanings:

60.1.1 **GST Withholding Amount** means the amount, specified in the Vendor Notice, that the Purchaser is required to pay (if any) to the Commissioner under section 14-250 of Schedule 1 of the TA Act;

60.1.2 **Purchaser Notice** means a notice that the Purchaser is required to give under section 16-150(2) of Schedule 1 of the TA Act; and

60.1.3 **Vendor Notice** means a notice that the Vendor is required to give under section 14-255(1) of Schedule 1 of the TA Act.

60.2 The Vendor must serve a Vendor Notice, in accordance with the requirements of section 14-255 of Schedule 1 of the TA Act, to the Purchaser no later than 5 Business Days before the Settlement Date.

60.3 If a Vendor Notice given to the Purchaser provides that the Purchaser must pay a GST Withholding Amount to the Commissioner, the Purchaser must lodge a Purchaser Notice with the Commissioner, in accordance with the requirements of section 16-150(2) of Schedule 1 of the TA Act, and provide the Vendor a copy of the Purchaser Notice as lodged (including the payment reference number and lodgement reference number) at least 2 Business Days before the Settlement Date. If the Purchaser fails to give a copy of the Purchaser Notice (including the payment reference number and lodgement reference number) in accordance with this special condition, the Vendor is not required to effect settlement until the Purchaser has provided the Vendor with a copy of the Purchaser Notice if the Purchaser fails to give a copy of the Purchaser Notice. The Purchaser will be deemed to default in payment of the Balance from the date settlement is due under this Contract to the date settlement takes place if, pursuant to this special condition 60.3, the Vendor effects settlement after the date settlement is due under this Contract.

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

60.4.1 the Purchaser must provide a bank cheque to the Vendor at settlement that is payable to the Commissioner for the GST Withholding Amount;

60.4.2 the Purchaser authorises the Vendor to submit the bank cheque to the Commissioner; and

60.4.3 for the avoidance of doubt, the Vendor will submit the bank cheque to the Commissioner.



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- 60.5 The Purchaser's obligation in special condition 60.4 will be discharged if the Purchaser pays the GST Withholding Amount to the Commissioner via an Electronic Lodgement Network as part of an Electronic Settlement if the Electronic Lodgement Network allows the payment of GST to the Commissioner.
- 60.6 If the Purchaser is registered (within the meaning of the GST Act) and acquires the Property for a creditable purpose, the Purchaser must give written notice to the Vendor stating this as soon as practicable but in any event, no later than 10 Business Days before the Settlement Date and the parties agree that, if the Property is "potential residential land" (within the meaning of the GST Act), special conditions 60.2 to 60.7 will not apply.
- 60.7 This special condition 60 does not merge on settlement.
61. **Advertising and Promotional Restriction**
- 61.1 The Purchaser acknowledges and agrees that it must not, either prior to or following settlement, publish or broadcast, or cause to be published or broadcasted, any sign, notice or advertisement on or at the Property in relation to any business activity or promotional activity, and appoints the Vendor as its attorney to do all things necessary to remove or withdraw any such notice, sign or advertisement at the Purchaser's cost.
- 61.2 The requirements of this special condition 61 do not merge on settlement.
62. **Capacity of Trustee**
- 62.1 **Capacity**
- The Trustee enters into this Contract only in its capacity as Trustee of the Trust Property, and in no other capacity.
- 62.2 **Limitation of Liability of Trustee**
- 62.2.1 The Trustee's liability to any person in connection with this Contract (or any transaction in connection with it) is limited, and can be enforced against the Trustee, only to the extent which both the following apply:
- (a) the liability can be satisfied out of the Trust Property by the Trustee exercising its right of indemnity out of the Trust Property;
  - (b) the Trustee is actually indemnified for the liability.
- 62.2.2 Payment by the Trustee of an amount equal to the amount (if any) it receives under its right of indemnity in respect of any such liability constitutes a complete discharge by the Trustee of that liability.
- 62.2.3 If any other party to this Contract does not recover all money owing to it arising from non-performance of the Trustee's obligations under this Contract by enforcing the rights referred to in special condition 62.2.1, it may not seek to recover the shortfall by either of the following:
- (a) bringing proceedings against the Trustee in its personal capacity;
  - (b) applying to have the Trustee wound up or proving in the winding up of the Trustee.
- 62.2.4 This special condition 62.2 applies despite anything else in this Contract but subject to special condition 62.3.



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62.3 **When the limitation does not apply**

The limitation under special condition 62.2 does not apply to a liability to the extent that it is not satisfied because there is a reduction in the extent of the Trustee's indemnification out of the Trust Property either as a result of the Trustee's fraud, negligence, wilful default, or by operation of law. To the extent that an act or omission is caused or contributed to by any other person, that act or omission is not fraud, negligence or wilful default by the Trustee for the purposes of this special condition 62.3.

62.4 **Liability must be limited**

The Trustee is not obliged to do nor not do anything in connection with this Contract (including enter into any other document or transaction or incur any liability) unless the Trustee's liability is limited in a manner which is consistent with this special condition 62.

62.5 **Definitions**

In this special condition the following definitions apply

62.5.1 **Trust** means the JD Wollert Bodycoats Family Trust ABN 41 449 511 216;

62.5.2 **Trust Property** means, all of the Trustee's present and future rights, property and undertaking which are the subject of the Trust of whatever kind and wherever situated;

62.5.3 **Trustee** means JD Wollert Bodycoats Pty Ltd ACN 619 249 697.

# 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 sale. The contract will be at an end and all money paid must be refunded if any necessary consent or licence is not obtained by settlement.

## 10. TRANSFER & DUTY

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

## 11. RELEASE OF SECURITY INTEREST

- 11.1 This general condition applies if any part of the property is subject to a security interest to which the *Personal Property Securities Act* 2009 (Cth) applies.
- 11.2 For the purposes of enabling the purchaser to search the Personal Property Securities Register for any security interests affecting any personal property for which the purchaser may be entitled to a release, statement, approval or correction in accordance with general condition 11.4, the purchaser may request the vendor to provide the vendor's date of birth to the purchaser. The vendor must comply with a request made by the purchaser under this condition if the purchaser makes the request at least 21 days before the due date for settlement.
- 11.3 If the purchaser is given the details of the vendor's date of birth under condition 11.2, the purchaser must-
- (a) only use the vendor's date of birth for the purposes specified in condition 7.2; 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 7.6, 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 received a release under general condition 11.4(a) the purchaser must provide the vendor with a copy of the release at or as soon as practicable after settlement.
- 11.10 In addition to ensuring that a release is received under general condition 11.4(a), the vendor must ensure that at or before settlement the purchaser receives a written undertaking from a secured party to register a financing change statement to reflect that release if the property being released includes goods of a kind that are described by serial number in the Personal Property Securities Register.
- 11.11 The purchaser must advise the vendor of any security interest that is registered on or before the day of sale on the Personal Property Securities Register, which the purchaser reasonably requires to be released, at least 21 days before the due date for settlement.
- 11.12 The vendor may delay settlement until 21 days after the purchaser advises the vendor of the security interests that the purchaser reasonably requires to be released if the purchaser does not provide an advice under general condition 11.11.
- 11.13 If settlement is delayed under general condition 11.12 the purchaser must pay the vendor-
- (a) interest from the due date for settlement until the date on which settlement occurs or 21 days after the vendor receives the advice, whichever is the earlier; and
  - (b) any reasonable costs incurred by the vendor as a result of the delay- as though the purchaser was in default.
- 11.14 The vendor is not required to ensure that the purchaser receives a release in respect of the land. This general condition 7.14 applies despite general condition 7.1.
- 11.15 Words and phrases which are defined in the *Personal Property Securities Act 2009* (Cth) have the same meaning in general condition 7 unless the context requires otherwise.

## 12. BUILDER WARRANTY INSURANCE

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

## 13. GENERAL LAW LAND

- 13.1 The vendor must complete a conversion of title in accordance with section 14 of the *Transfer of Land Act 1958* before settlement if the land is the subject of a provisional folio under section 23 of that Act.
- 13.2 The remaining provisions of this general condition 13 only apply if any part of the land is not under the operation of the *Transfer of Land Act 1958*.
- 13.3 The vendor is taken to be the holder of an unencumbered estate in fee simple in the land if there is an unbroken chain of title starting at least 30 years before the day of sale proving on the face of the documents the ownership of the entire legal and equitable estate without the aid of other evidence.
- 13.4 The purchaser is entitled to inspect the vendor's chain of title on request at such place in Victoria as the vendor nominates.
- 13.5 The purchaser is taken to have accepted the vendor's title if:
- (a) 21 days have elapsed since the day of sale; and
  - (b) the purchaser has not reasonably objected to the title or reasonably required the vendor to remedy a defect in the title.
- 13.6 The contract will be at an end if:
- (a) the vendor gives the purchaser a notice that the vendor is unable or unwilling to satisfy the purchaser's objection or requirement and that the contract will end if the objection or requirement is not withdrawn within 14 days of the giving of the notice; and
  - (b) the objection or requirement is not withdrawn in that time.
- 13.7 If the contract ends in accordance with general condition 13.6, the deposit must be returned to the purchaser and neither party has a claim against the other in damages.
- 13.8 General condition 17.1 [settlement] should be read as if the reference to 'registered proprietor' is a reference to 'owner' in respect of that part of the land which is not under the operation of the *Transfer of Land Act 1958*.

# Money

## 14. DEPOSIT

- 14.1 The purchaser must pay the deposit:
- to the vendor's licensed estate agent; or
  - if there is no estate agent, to the vendor's legal practitioner or conveyancer; or
  - 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:
- must not exceed 10% of the price; and
  - 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:
- the vendor provides particulars, to the satisfaction of the purchaser, that either:
    - there are no debts secured against the property; or
    - 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
  - at least 28 days have elapsed since the particulars were given to the purchaser under paragraph (a); and
  - 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:
- in cash up to \$1,000 or 0.2% of the price, whichever is greater; or
  - by cheque drawn on an authorised deposit-taking institution; or
  - by electronic funds transfer to a recipient having the appropriate facilities for receipt.
- However, unless otherwise agreed:
- 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
  - 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:
- settlement;
  - the date that is 45 days before the deposit bond or any replacement deposit bond expires;
  - the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
  - 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 14 days from the day of sale if the purchaser:
- (a) obtains a written report from a registered building practitioner or architect which discloses a current defect in a structure on the land and designates it as a major building defect;
  - (b) gives the vendor a copy of the report and a written notice ending this contract; and
  - (c) is not then in default.
- 21.3 All money paid must be immediately refunded to the purchaser if the contract ends in accordance with this general condition.
- 21.4 A notice under this general condition may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.
- 21.5 The registered building practitioner may inspect the property at any reasonable time for the purpose of preparing the report.

## 22. PEST REPORT

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

## 23. ADJUSTMENTS

- 23.1 All periodic outgoings payable by the vendor, and any rent and other income received in respect of the property must be apportioned between the parties on the settlement date and any adjustments paid and received as appropriate.
- 23.2 The periodic outgoings and rent and other income must be apportioned on the following basis:
- (a) the vendor is liable for the periodic outgoings and entitled to the rent and other income up to and including the day of settlement; and
  - (b) the land is treated as the only land of which the vendor is owner (as defined in the *Land Tax Act 2005*); and
  - (c) the vendor is taken to own the land as a resident Australian beneficial owner; and
  - (d) any personal statutory benefit available to each party is disregarded in calculating apportionment.
- 23.3 The purchaser must provide copies of all certificates and other information used to calculate the adjustments under general condition 23, if requested by the vendor.

## 24. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING

- 24.1 Words defined or used in Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953* (Cth) have the same meaning in this general condition unless the context requires otherwise.
- 24.2 Every vendor under this contract is a foreign resident for the purposes of this general condition unless the vendor gives the purchaser a clearance certificate issued by the Commissioner under section 14-220 (1) of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The specified period in the clearance certificate must include the actual date of settlement.
- 24.3 The remaining provisions of this general condition 24 only apply if the purchaser is required to pay the Commissioner an amount in accordance with section 14-200(3) or section 14-235 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) ("the amount") because one or more of the vendors is a foreign resident, the property has or will have a market value not less than the amount set out in section 14-215 of the legislation just after the transaction, and the transaction is not excluded under section 14-215(1) of the legislation.
- 24.4 The amount is to be deducted from the vendor's entitlement to the contract consideration. The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.

- 24.5 The purchaser must:
- (a) The 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.
- 28.1 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; and
  - (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.

# Due diligence checklist

## What you need to know before buying a residential property

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

### Urban living

#### ***Moving to the inner city?***

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

#### ***Is the property subject to an owners corporation?***

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

### Growth areas

#### ***Are you moving to a growth area?***

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

### Flood and fire risk

#### ***Does this property experience flooding or bushfire?***

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

## Rural properties

### ***Moving to the country?***

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

Is the surrounding land use compatible with your lifestyle expectations? Farming can create noise or odour that may be at odds with your expectations of a rural lifestyle.

Are you considering removing native vegetation? There are regulations which affect your ability to remove native vegetation on private property.

Do you understand your obligations to manage weeds and pest animals?

### ***Can you build new dwellings?***

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

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

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

## Soil and groundwater contamination

### ***Has previous land use affected the soil or groundwater?***

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

## Land boundaries

### ***Do you know the exact boundary of the property?***

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

## Planning controls

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

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

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

### ***Are there any proposed or granted planning permits?***

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

## Safety

### ***Is the building safe to live in?***

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

## Building permits

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

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

### ***Are any recent building or renovation works covered by insurance?***

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

## Utilities and essential services

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

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

## Buyers' rights

### ***Do you know your rights when buying a property?***

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

# 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.

<b>Land</b>	15 Lavender Street, Wollert 3750
-------------	----------------------------------

<b>Vendor's name</b>	RITTU THOMAS RAJAN	<b>Date</b> / /
----------------------	--------------------	--------------------

<b>Vendor's signature</b>		
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<b>Vendor's name</b>	LILU JACOB	<b>Date</b> / /
----------------------	------------	--------------------

<b>Vendor's signature</b>		
---------------------------	--	--

<b>Purchaser's name</b>		<b>Date</b> / /
-------------------------	--	--------------------

<b>Purchaser's signature</b>		
------------------------------	--	--

<b>Purchaser's name</b>		<b>Date</b> / /
-------------------------	--	--------------------

<b>Purchaser's signature</b>		
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# 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:

\$8,000.00

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

To

Other particulars (including dates and times of payments):

## 1.3 Terms Contract

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

Not Applicable

## 1.4 Sale Subject to Mortgage

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

Not Applicable

# 2 INSURANCE

## 2.1 Damage and Destruction

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

Not Applicable.

## 2.2 Owner Builder

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

Not Applicable.

# 3 LAND USE

## 3.1 Easements, Covenants or Other Similar Restrictions

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

Is in the attached copies of title documents.

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

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

## 3.2. Road Access

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

## 3.3. Designated Bushfire Prone Area

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

3.4. **Planning Scheme**

Attached is a certificate with the required specified information.

**4 NOTICES**

4.1. **Notice, Order, Declaration, Report or Recommendation**

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

If any are contained in the attached certificates and/or statements.

4.2. **Agricultural Chemicals**

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

Not Applicable.

4.3. **Compulsory Acquisition**

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

Not Applicable.

**5 BUILDING PERMITS**

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

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”)**

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

**9 TITLE**

Attached are copies of the following documents:

9.1 (a) **Registered Title**

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

**10 SUBDIVISION**

10.1. **Unregistered Subdivision**

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

Not Applicable.

#### 10.2. Staged Subdivision

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

Not Applicable.

#### 10.3. Further Plan of Subdivision

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

Not Applicable.

### 11 DISCLOSURE OF ENERGY INFORMATION

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

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

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

Not Applicable.

### 12 DUE DILIGENCE CHECKLIST

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

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

### 13 ATTACHMENTS

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

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

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

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

VOLUME 12521 FOLIO 586

Security no : 124112541205G  
Produced 09/02/2024 03:48 PM

**LAND DESCRIPTION**

Lot 309 on Plan of Subdivision 838327T.  
PARENT TITLE Volume 12521 Folio 238  
Created by instrument PS838327T 11/12/2023

**REGISTERED PROPRIETOR**

Estate Fee Simple  
Joint Proprietors  
RITTU THOMAS RAJAN  
LILU JACOB both of 59 LOCKHART STREET MERNDA VIC 3754  
AX662763D 22/01/2024

**ENCUMBRANCES, CAVEATS AND NOTICES**

MORTGAGE AX662764B 22/01/2024  
COMMONWEALTH BANK OF AUSTRALIA

COVENANT PS838327T 11/12/2023

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  
AX032848K 11/07/2023

**DIAGRAM LOCATION**

SEE PS838327T FOR FURTHER DETAILS AND BOUNDARIES

**ACTIVITY IN THE LAST 125 DAYS**

NUMBER		STATUS	DATE
PS838327T (B)	PLAN OF SUBDIVISION	Registered	11/12/2023
AX523588X (B)	REMOVAL OF ENCUMBRANCE	Registered	12/12/2023
AX545275W	REMOVAL OF ENCUMBRANCE	Registered	12/12/2023
AX662761H (E)	DISCHARGE OF MORTGAGE	Registered	22/01/2024
AX662762F (E)	DISCHARGE OF MORTGAGE	Registered	22/01/2024
AX662763D (E)	TRANSFER	Registered	22/01/2024
AX662764B (E)	MORTGAGE	Registered	22/01/2024

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

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

Street Address: 15 LAVENDER STREET WOLLERT VIC 3750

**ADMINISTRATIVE NOTICES**

NIL

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

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eCT Control 15940N COMMONWEALTH BANK OF AUSTRALIA  
Effective from 22/01/2024

DOCUMENT END

INFORMATION ONLY



# Imaged Document Cover Sheet

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Document Type	<b>Plan</b>
Document Identification	<b>PS838327T</b>
Number of Pages (excluding this cover sheet)	<b>7</b>
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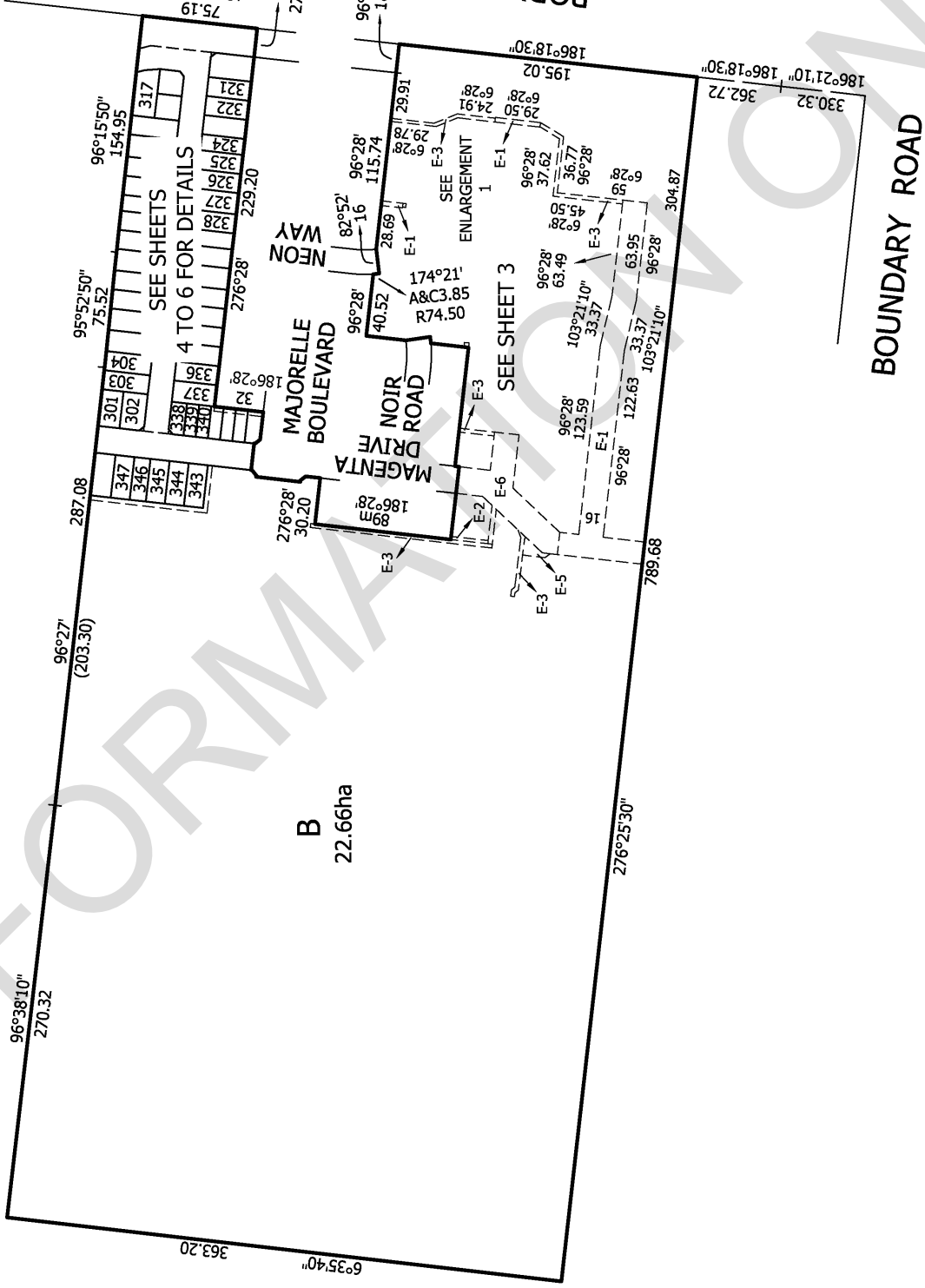
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<b>PLAN OF SUBDIVISION</b>			<b>LV USE ONLY EDITION 1</b>	<b>PLAN NUMBER PS 838327T</b>
<b>LOCATION OF LAND</b>			Council Name: Whittlesea City Council  Council Reference Number: 610539 Planning Permit Reference: 717154 SPEAR Reference Number: S171225V  <b>Certification</b>  This plan is certified under section 11 (7) of the Subdivision Act 1988 Date of original certification under section 6 of the Subdivision Act 1988: 21/10/2021  Public Open Space  A requirement for public open space under section 18 or 18A of the Subdivision Act 1988 has been made and the requirement has been satisfied  Digitally signed by: Carolyn Leatham for Whittlesea City Council on 22/11/2023  <b>Statement of Compliance</b> issued: 24/11/2023	
PARISH:	KALKALLO			
TOWNSHIP:	-			
SECTION:	-			
CROWN ALLOTMENT:	-			
CROWN PORTION:	4 (PART) & 5 (PART)			
TITLE REFERENCES:	Vol.	Fol.		
LAST PLAN REFERENCE/S:	LOT A ON PS 838325X			
POSTAL ADDRESS: (At time of subdivision)	75 BODYCOATS ROAD WOLLERT, VIC. 3750			
MGA2020 Co-ordinates (of approx centre of land in plan)	E	325 100		
	N	5 838 560		
	ZONE	55		
<b>VESTING OF ROADS AND/OR RESERVES</b>			<b>NOTATIONS</b>	
IDENTIFIER	COUNCIL/BODY/PERSON		LOTS 1 TO 300, 306, 313, 316, 320, 323, 331, 348, AND 351 TO 5000 (ALL INCLUSIVE) HAVE BEEN OMITTED FROM THIS PLAN.  FOR RESTRICTION A AFFECTING LOTS 301 TO 305, 307 TO 312, 314, 315, 317 TO 319, 321, 322, 324 TO 330, 332 TO 347, 349 AND 350 (ALL INCLUSIVE) SEE SHEET 7  FOR RESTRICTION B AFFECTING LOTS 318, 319, 324, 329, 338 TO 342, 346, 349 AND 350 (ALL INCLUSIVE) SEE SHEET 7  FOR RESTRICTION C AFFECTING LOTS 301 TO 305, 307 TO 312, 314, 315, 317 TO 319, 321, 322, 324 TO 330, 332 TO 347, 349 AND 350 (ALL INCLUSIVE) SEE SHEET 7  FOR RESTRICTION D AFFECTING LOTS 301 TO 305, 307 TO 312, 314, 315, 317 TO 319, 321, 322, 324 TO 330, 332 TO 347, 349 AND 350 (ALL INCLUSIVE) SEE SHEET 7  <b>OTHER PURPOSE OF PLAN:</b>  EXISTING EASEMENTS SHOWN ON PREVIOUS PLANS AS IT AFFECTS ROADS R1 ON THIS PLAN ARE REMOVED VIDE SCHEDULE 5, CLAUSE 14 OF THE ROAD MANAGEMENT ACT 2004.	
ROAD R1	WHITTLESEA CITY COUNCIL			
<b>NOTATIONS</b>				
DEPTH LIMITATION DOES NOT APPLY				
STAGING. THIS IS NOT A STAGED SUBDIVISION. PLANNING PERMIT No. 717154				
SURVEY. THIS PLAN IS BASED ON SURVEY.				
THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARKS No(s): 10, 11, 99, 107, 108 & WOLLERT PM 43				
IN PROCLAIMED SURVEY AREA No. 74				
<b>THE PATCH - 3</b> <b>2.183ha</b>			<b>43 LOTS</b>	
<b>EASEMENT INFORMATION</b>				
<b>LEGEND A-Appurtenant Easement E-Encumbering Easement R-Encumbering Easement (Road)</b>				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1	DRAINAGE	SEE DIAG.	PS 838325X	WHITTLESEA CITY COUNCIL
E-1	SEWERAGE	SEE DIAG.	PS 838325X	YARRA VALLEY WATER CORPORATION
E-2	DRAINAGE	2	PS 838325X	WHITTLESEA CITY COUNCIL
E-3	SEWERAGE	SEE DIAG.	PS 838325X	YARRA VALLEY WATER CORPORATION
E-4	DRAINAGE	3	THIS PLAN	WHITTLESEA CITY COUNCIL
E-4	SEWERAGE	3	THIS PLAN	YARRA VALLEY WATER CORPORATION
E-5	DRAINAGE	SEE DIAG.	PS 838325X	MELBOURNE WATER CORPORATION
E-6	DRAINAGE	SEE DIAG.	PS 838325X	WHITTLESEA CITY COUNCIL
E-6	DRAINAGE	SEE DIAG.	PS 838325X	MELBOURNE WATER CORPORATION
E-6	SEWERAGE	SEE DIAG.	PS 838325X	YARRA VALLEY WATER CORPORATION
80171PS-007Q.DWG		SURVEYOR REF: 80171ps-007p		ORIGINAL SHEET SIZE: A3
MC MULLEN NOLAN GROUP Level 1 / 5 Queens Road Melbourne VIC 3004 Tel: (03) 7002 2200 Fax: (08) 7002 2299 Email: info@mngsurvey.com.au		Digitally signed by: Matthew Barry Dunn, Licensed Surveyor, Surveyor's Plan Version (27), 11/12/2023, SPEAR Ref: S171225V		SHEET 1 OF 7
				PLAN REGISTERED TIME: 9:53pm DATE: 11/12/2023 H.T Assistant Registrar of Titles

PLAN OF SUBDIVISION

PLAN NUMBER  
PS 838327T



SCALE 1:3000	30 0 30 60 90 120 LENGTHS ARE IN METRES	ORIGINAL SHEET SIZE A3	SHEET 2
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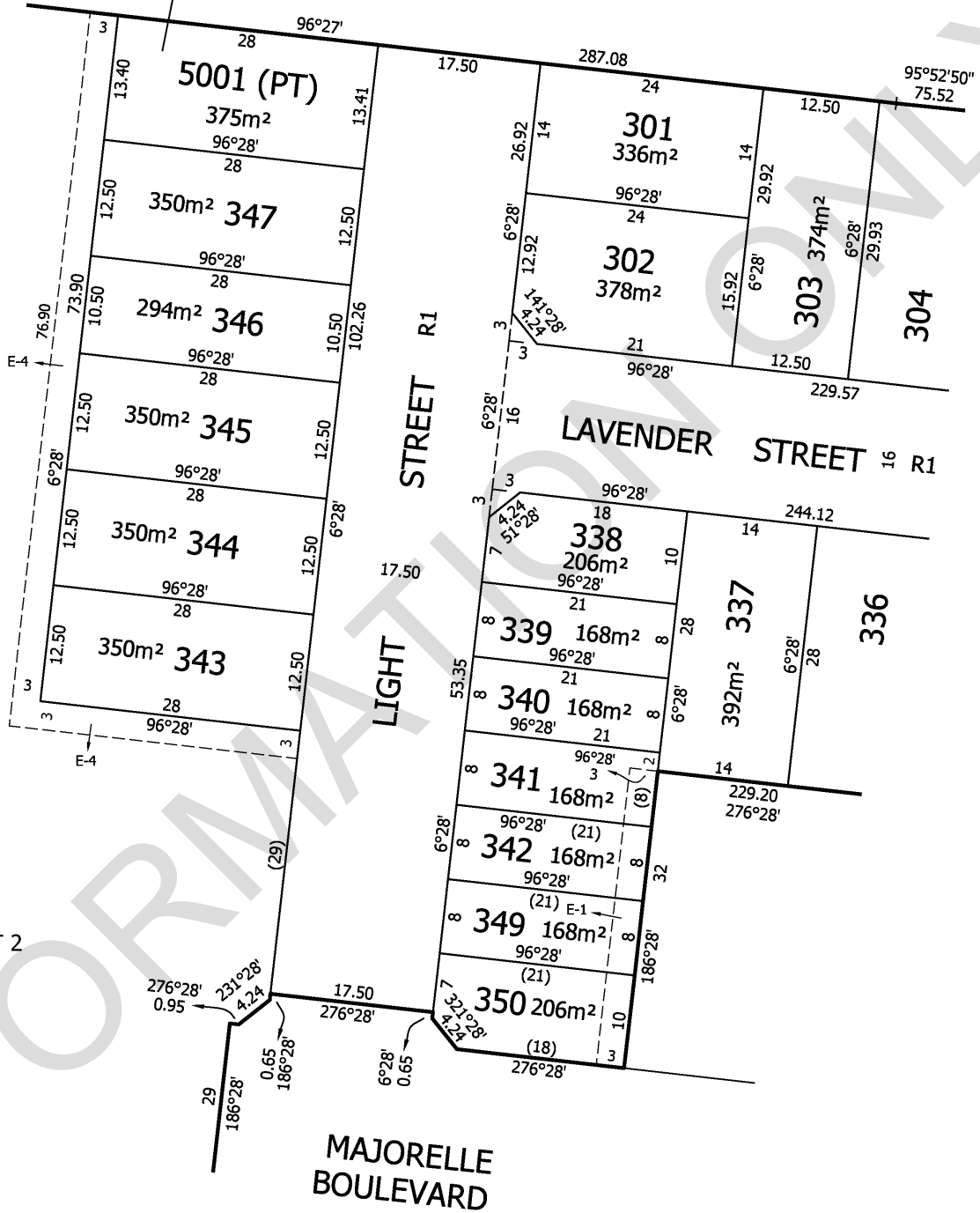


# PLAN OF SUBDIVISION

PLAN NUMBER  
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5001 (PT) Comprises of 7 parts  
Total Area = 2762m<sup>2</sup>



B  
SEE SHEET 2

SEE SHEET 3

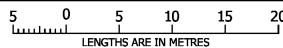
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SCALE  
1:500



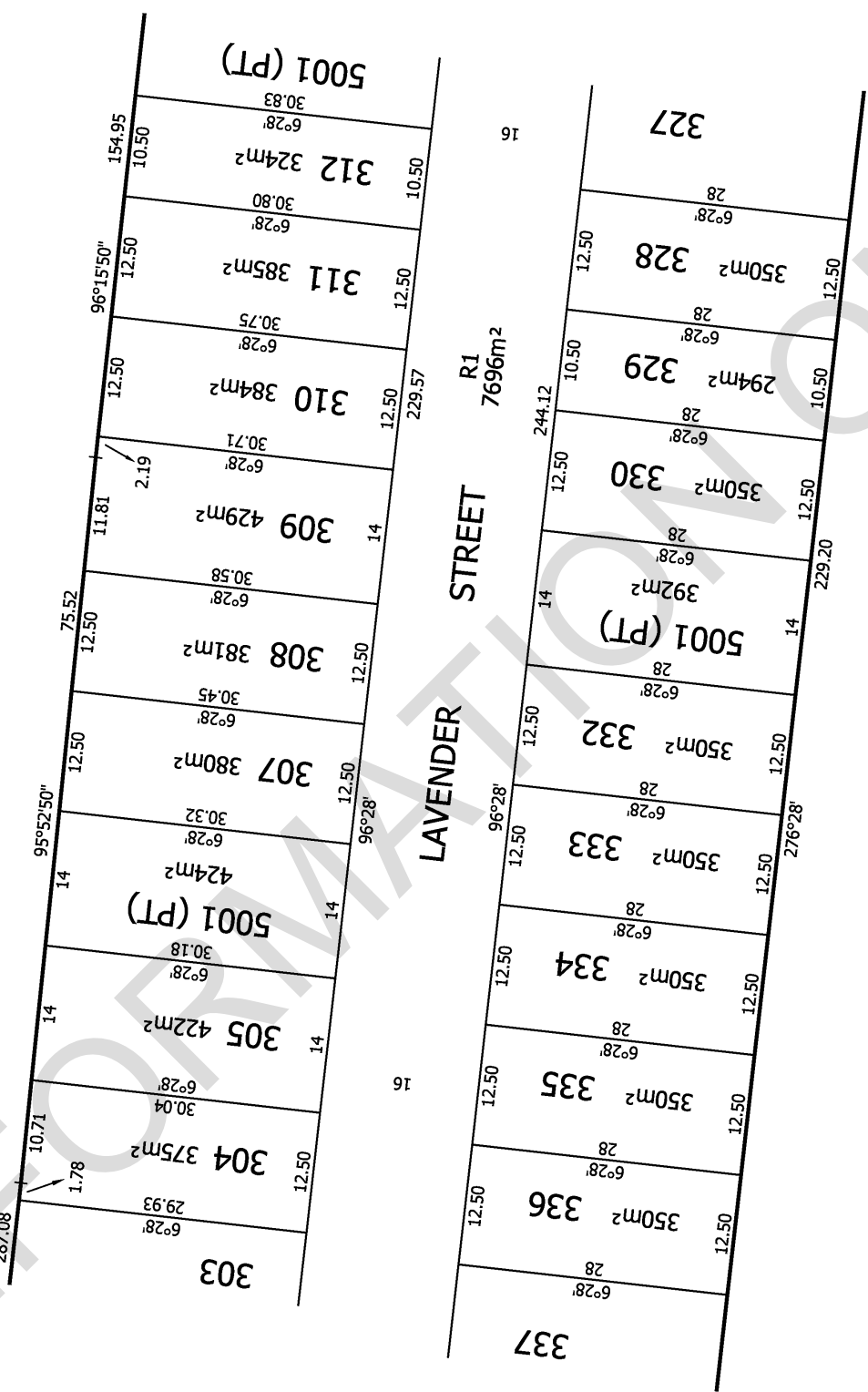
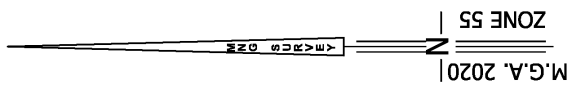
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PLAN OF SUBDIVISION  
 PLAN NUMBER  
 PS 838327T



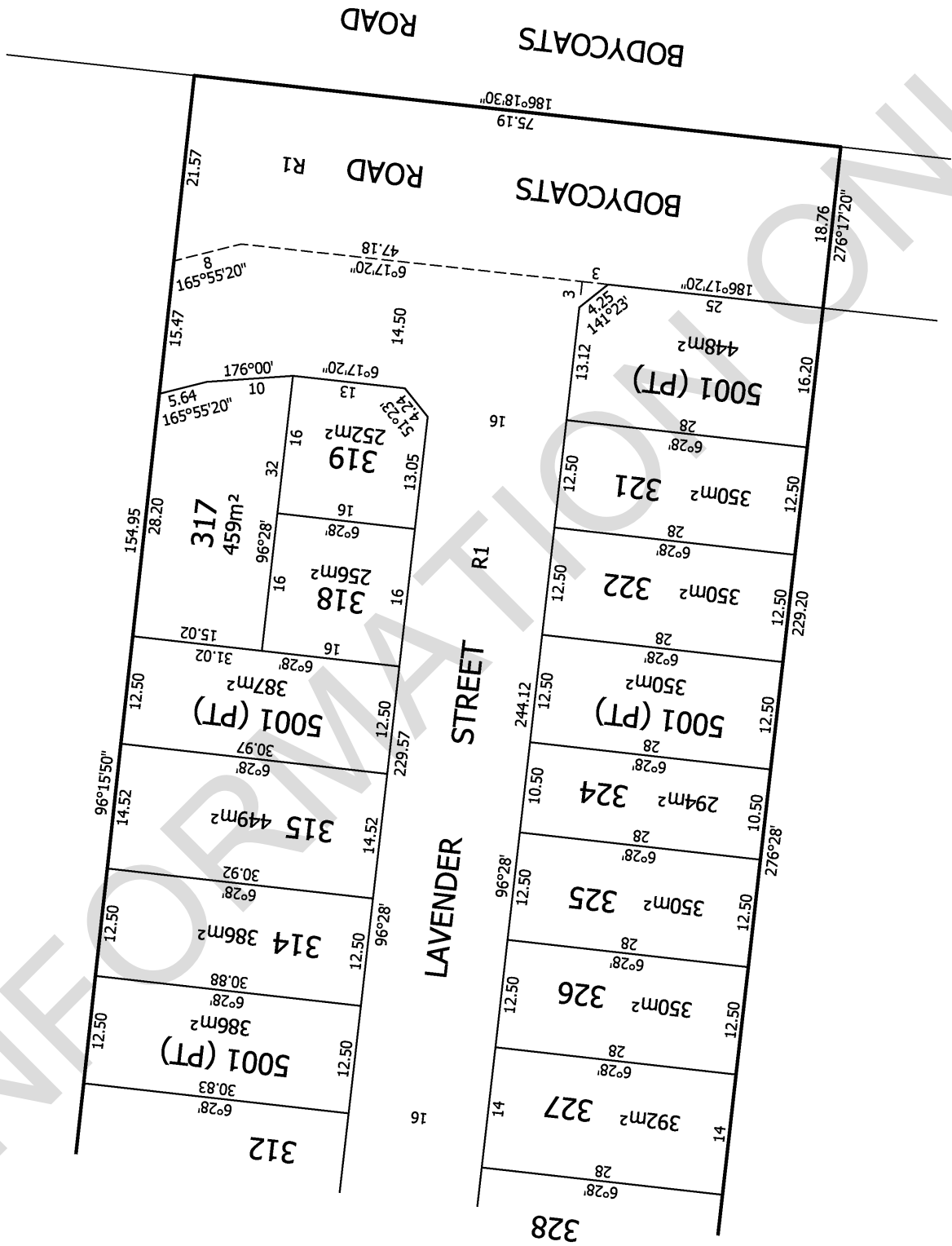
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SEE SHEET 6

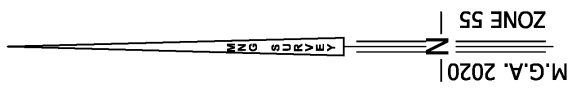
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SCALE 1:500	LENGTHS ARE IN METRES 5 0 5 10 15 20	ORIGINAL SHEET SIZE A3
		SHEET 5

PLAN OF SUBDIVISION

PLAN NUMBER  
PS 838327T



SEE SHEET 6



<p>80171PS-007Q.DWG</p> <p>MC MULLEN NOLAN GROUP Level 1 / 5 Queens Road Melbourne VIC 3004 Tel: (03) 7002 2200 Fax: (03) 7002 2209 Email: info@mngsurvey.com.au</p>	<p>SCALE 1:500</p>	<p>ORIGINAL SHEET SIZE A3</p>	<p>SHEET 6</p>
	<p>LENGTHS ARE IN METRES</p> <p>0 5 10 15 20</p>		
<p>Digitally signed by: Matthew Barry Dunn, Licensed Surveyor, Surveyor's Plan Version (27), 11/12/2023, SPEAR Ref: S171225V</p>		<p>Digitally signed by: Whittlesea City Council, 22/11/2023, SPEAR Ref: S171225V</p>	



## PLAN OF SUBDIVISION

PLAN NUMBER  
PS 838327T

## SUBDIVISION ACT 1988

## CREATION OF RESTRICTION A

Upon registration of this plan the following restriction is created.

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

Land to be burdened & Land to benefit - Lots 301 to 305, 307 to 312, 314, 315, 317 to 319, 321, 322, 324 to 330, 332 to 347, 349 and 350 (all inclusive)

Description of Restriction

Except with the written consent of the 'The Patch' assessment panel, the burdened lot shall not:

- (1) Construct or allow to be constructed any building or structure other than a building or structure that shall be constructed in accordance with the 'The Patch' Design Guidelines as amended from time to time. A copy of the Design Guidelines is available on the *Project Website* and within the Contract of Sale.
- (2) Construct or allow to be constructed any building or structure on the lot prior to 'The Patch' design assessment panel or such other entity as may be nominated by 'The Patch' design assessment panel from time to time have given its written approval to the plans and documentation prior to the commencement of works.

Expiry

This restriction ceases to have effect following after either:

- (i) The issue of an occupancy permit under the Building Act 1993 (or similar) in respect of a building on every residential lot on this plan.
- (ii) 30th June 2031.

## CREATION OF RESTRICTION B

Upon registration of this plan the following restriction is created.

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

Table of Land to be burdened &amp; Land to benefit

Burdened Land	Benefited Land
318	316, 317, 319
319	317, 318
324	323, 325
329	328, 330
338	337, 339
339	337, 338, 340

Table of Land to be burdened &amp; Land to benefit

Burdened Land	Benefited Land
340	337, 339, 341
341	337, 340, 342
342	341, 349
346	345, 347
349	342, 350
350	349

Description of Restriction

Upon registration of this plan the following restriction is created.

The registered proprietor or proprietors for the time being for any burdened lot on this plan in the table as a lot subject to the "Small Lot Housing Code (Type A)" must not build or permit to be built or remain on the lot any building or structure that has not been constructed in accordance with the "Small Lot Housing Code (Type A)" unless in accordance with a Planning Permit granted to construct a dwelling on the lot.

Expiry: This restriction ceases to have effect after the issue of an occupancy permit under the Building Act 1993 (or similar) in respect of a building on every residential lot on this plan.

## CREATION OF RESTRICTION C

Upon registration of this plan the following restriction is created.

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

Land to be burdened & Land to benefit - Lots 301 to 305, 307 to 312, 314, 315, 317 to 319, 321, 322, 324 to 330, 332 to 347, 349 and 350 (all inclusive)

Description of Restriction

The registered proprietor or proprietors of the burdened lot shall not:

Build or erect or permit to build on a burdened lot with sideage directly adjoining any form of open space:

- (a) (i) a dwelling that is not constructed as double storey;
- (ii) a dwelling that does not include passive surveillance features such as large windows and/or balconies at the first storey level overlooking the adjoining open space
- (iii) a dwelling that does not include fencing of the front yard adjoining the open space that is not feature style, with minimum 25% transparency and has a maximum height of 1.5 metres.

Build or erect or permit to build on a burdened lot:

- (b) a dwelling or commercial building that does not incorporate dual plumbing for the use of recycled water in toilet flushing and garden watering.

Expiry: This restriction ceases to have effect after the issue of an occupancy permit under the Building Act 1993 (or similar) in respect of a building on every residential lot on this plan.

## CREATION OF RESTRICTION D

Upon registration of this plan the following restriction is created.

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

Land to be burdened - Lots 301 to 305, 307 to 312, 314, 315, 317, 321, 322, 325 to 330, 332 to 337, 343 to 345 and 347 (all inclusive)

Land to benefit - Lots 301 to 305, 307 to 312, 314, 315, 317 to 319, 321, 322, 324 to 330, 332 to 347, 349 and 350 (all inclusive)

Description of Restriction

The registered proprietor or proprietors of the burdened lot shall not:

Build or erect or permit to build on a burdened lot unless:

- (a) on a corner lot, the side wall of the first level of any dwelling is constructed:
  - (i) no less than 900mm from the ground level wall that faces a side street
- (b) the garage is setback at least 5 metres from the road alignment at the front of the lot
- (c) lots with a width of 10 metres or less at the lot frontage:
  - (i) contain a garage other than a single car garage where access is proposed from the front of the lot.

Expiry: This restriction ceases to have effect after the issue of an occupancy permit under the Building Act 1993 (or similar) in respect of a building on every residential lot on this plan.

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MC MULLEN NOLAN GROUP  
Level 1 / 5 Queens Road  
Melbourne VIC 3004  
Tel: (03) 7002 2200  
Fax: (03) 7002 2299  
Email: info@mngsurvey.com.au

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# Department of Environment, Land, Water & Planning

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Status	Registered	Dealing Number	AX032848K
Date and Time Lodged	11/07/2023 11:34:32 AM		

### Lodger Details

Lodger Code	17223H
Name	MADDOCKS
Address	
Lodger Box	
Phone	
Email	
Reference	MYM:S173: 8343930

## APPLICATION TO RECORD AN INSTRUMENT

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

### Privacy Collection Statement

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### Estate and/or Interest

FEE SIMPLE

### Land Title Reference

10645/479  
10662/498  
10662/905

### Instrument and/or legislation

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

### Applicant(s)

Name	WHITTLESEA CITY COUNCIL
Address	
Street Number	25
Street Name	FERRES
Street Type	BOULEVARD
Locality	SOUTH MORANG
State	VIC



# Department of Environment, Land, Water & Planning

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## Electronic Instrument Statement

Postcode 3752

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### Additional Details

Refer Image Instrument

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

---

### Execution

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

Executed on behalf of	WHITTLESEA CITY COUNCIL
Signer Name	ZINA TEOH
Signer Organisation	PARTNERS OF MADDOCKS
Signer Role	AUSTRALIAN LEGAL PRACTITIONER
Execution Date	11 JULY 2023

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### File Notes:

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**Date**        /        /

29/6/2023

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

**Subject Land: 71, 71A, 75 and 85 Bodycoats Road, Wollert**

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

**City of Whittlesea**

and

**JD Wollert Bodycoats Pty Ltd ACN 619 249 697**



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---

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

Dated / / 29/6/2023

---

## Parties

Name	<b>City of Whittlesea</b>
Address	25 Ferres Boulevard, South Morang, Victoria
Short name	<b>Council</b>
Name	<b>JD Bodycoats Wollert Pty Ltd ACN 619 249 697</b>
Address	Level 53, 525 Collins Street, Melbourne, Victoria
Short name	<b>Owner</b>

---

## Background

- A. Council is the responsible authority for the Planning Scheme.
- B. Council is also the Collecting Agency and the Development Agency under the Development Contributions Plan.
- C. Council enters into this Agreement in its capacity as the responsible authority and in its capacity as both the Collecting Agency and the Development Agency.
- D. The Owner is or is entitled to be the registered proprietor of the Subject Land.
- E. The Development Contributions Plan applies to the Subject Land. It specifies the contributions required to fund infrastructure necessary as a result of development of the area for urban purposes.
- F. Condition 10 of the Planning Permit requires an agreement to give effect to a precinct infrastructure plan for public open space and internal works.<sup>1</sup>
- G. The Owner has asked Council for permission to carry out certain Infrastructure Projects.
- H. The Owner has asked Council for permission to transfer to or vest in Council the Land Projects.
- I. Council has agreed that the Owner will:
  - I.1 carry out the Infrastructure Projects; and
  - I.2 transfer the Land Projects to Council -

---

<sup>1</sup> Note this Agreement does not provide for the matters set out in condition 11 of the Planning Permit.

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

- J. As at the date of this Agreement, part of the Subject Land is encumbered by a mortgage in favour of the Mortgagee. The Mortgagee consents to the Owner entering into this Agreement.

## The Parties agree:

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### 1. Definitions

In this Agreement unless the context admits otherwise:

**Act** means the *Planning and Environment Act 1987*.

**Agreed Infrastructure Project Value** in relation to an Infrastructure Project means the amount specified for the Infrastructure Project in Schedule 3.

**Agreed Land Value** in relation to a Land Project means the amount specified for the Land Project in Schedule 4.

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

**Approved Plans** means the Designs of an Infrastructure Project approved by Council under clause 6 of this Agreement.

**Averaged Credit Reimbursement Rate** means the amount of the Credit divided by the Net Developable Area as all as specified in Schedule 5 .

**Averaged Equalisation Reimbursement Rate** means the amount of the Equalisation Reimbursement divided by the Net Developable Area all as specified in Schedule 6.

**Bank Guarantee** means a bank guarantee or other form of security to the satisfaction of Council.

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

**Business Days** means a day which is not a public holiday, a Saturday or Sunday in the State of Victoria.

**Certificate of Practical Completion** means a written certificate issued by Council in its capacity as the Development Agency or a person authorised by Council for the purpose of issuing the said certificate stating that an Infrastructure Project has been completed to the satisfaction of Council in its capacity as Development Agency.

**Consent Fee** means the fee specified on Council's internet web site which is payable by a person to Council for deciding whether to give consent for anything an agreement or a permit provides must not be done without Council's consent.

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

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

**Credit** means a credit in the amount of the Agreed Land Value or the Agreed Infrastructure Project Value as the case may be, which has accrued to the Owner under this Agreement and which may be offset against the Owner's liability to pay the Development Infrastructure Levy for the Subject Land.

**Credit Reimbursement** comprises a monetary amount being the difference between the liability of the Owner to pay the Development Infrastructure Levy in respect of the Subject Land and the Owner's entitlement to a Credit under this Agreement. That part of the Credit Reimbursement amount as remains unpaid to the Owner is subject to Indexation until it is paid.

**Current Address** means:

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

**Current Email** means:

- for Council, info@whittlesea.vic.gov.au, or any other email address listed on Council's website; and
- for the Owner, any email address provided by the Owner to Council for the express purpose of electronic communication regarding this Agreement.

**Defect** means any defect, fault, shrinkage or omission in the Infrastructure Project or any other aspect of the Infrastructure Project which is not in accordance with this Agreement, the Planning Permit or the Approved Plans. For avoidance of doubt, this excludes ordinary wear and tear and damage caused by any person other than the Owner, fire, flood, earthquake, storm, or act of God.

**Designs** means the detailed design and engineering plans and specifications of an Infrastructure Project prepared in accordance with clause 6 of this Agreement.

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

**Development Contributions Plan or DCP** means the Development Contributions Plan referred to in Schedule 1, being an incorporated document in the Planning Scheme.

**Equalisation Payment** means the amount specified in Schedule 6 as the amount required to be paid by the Owner to Council. This amount is calculated by reference to the percentage difference (expressed as a dollar amount) between:

- the area of Open Space Land that the Owner is required to provide to Council under this Agreement; and
- the Public Open Space Contribution that the Owner is required to make as shown in Schedule 6.

**Equalisation Reimbursement** means the amount specified in Schedule 6 as the amount required to be paid to the Owner by Council as an equalisation reimbursement paid as the Averaged Equalisation Reimbursement Rate. This amount is calculated by reference to the percentage difference between:

- the area of Open Space Land that the Owner is required to provide to Council under this Agreement; and
- the Public Open Space Contribution that the Owner is required to make as shown in Schedule 6.

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

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

**Indexation** means an annual adjustment to an amount carried out as follows unless a different form of adjustment is specified in this Agreement:

Infrastructure Projects

- For an Infrastructure Project which comprises roads, intersections or bridges, the indexation is to be in line with the Australian Bureau of Statistics Producer Price Indexes, Road and Bridge Construction Index, Victoria.
- For an Infrastructure Project which comprises community infrastructure including recreation infrastructure, the indexation is to be in line with the Australian Bureau of Statistics Producer Price Indexes, Non-Residential Building Construction Index, Victoria.

Land Projects

- For a Land Project using the CPI as the adjustment index.

Open Space Land

- For Open Space Land using the CPI as the adjustment index.

in all instances, to be adjusted annually, as of the 1<sup>st</sup> of July each year.

**Infrastructure Project** means a project identified in Schedule 3.

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

**Land Project** means land which is described in Schedule 4 and which under this Agreement is required to be provided to Council.

**Localised Infrastructure** means works, services or facilities necessitated by the subdivision or development of land including but not limited to provision of utility services such as water supply, stormwater drainage, sewerage, gas and electricity services, telecommunications infrastructure and local roads, bridges, culverts and other water crossings, any required associated traffic control measures and devices and which is not funded by the Development Contribution Plan.

**Maintenance Period** means the period specified in Schedule 7 commencing on the date of the Certificate of Practical Completion of an Infrastructure Project.

**Mortgagee** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as Mortgagee of the Subject Land or any part of it.

**Net Developable Hectare** means, in relation to specified land, each hectare of Net Developable Area comprising that specified land.

**Net Developable Area** means the total area of the Subject Land, less land requirements for high order transport networks, education and community facilities, utilities transmission easements, Melbourne Water waterway corridors, wetlands and retarding basins, State and local conservation reserves, open space (sports reserve and local parks), and land identified for future quarrying activities, in accordance with the Development Contributions Plan, Precinct Structure Plan and this Agreement.

**Open Space Equalisation** means the process of balancing the Public Open Space Contribution made by the Owner so that the overall contribution made by the Owner in respect of the Subject Land is not less than and not greater than the Public Open Space Contribution.

**Open Space Land** means unencumbered land for public open space which is identified in Schedule 6.

**Open Space Land Value** means the amount specified in Schedule 6 as the Open Space Land Value.

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

**Party or Parties** means the parties to this Agreement.

**Plan Checking Fee** means the fee payable to Council by the Owner for checking plans for an Infrastructure Project in the amount of 0.75% of the Specified Value of the Infrastructure Project.

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

**Planning Permit** means the planning permit referred to in Schedule 2, as amended from time to time.

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

**Precinct Structure Plan or PSP** means the Wollert Precinct Structure Plan (June 2017) as amended from time to time and being an incorporated document in the Planning Scheme.

**Project Control Group** means a group comprised of the Owner or a representative of the Owner and representative of Council established in accordance with clause 5.3.

**Provision Trigger** means the milestone or provision trigger set out in the relevant columns of Schedule 3 or Schedule 4 as the case may be.

**Public Infrastructure Plan** means the plan endorsed under the Planning Permit as the public infrastructure plan.

**Public Open Space Contribution** means the public open space contribution that the Owner is required to make under the schedule to clause 53.01 of the Planning Scheme in respect of the Subject Land.

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

**Satisfaction Fee** means a fee specified on Council's internet web site which is payable by a person to Council for deciding whether any obligation in a permit, agreement or any other requirement has been undertaken to Council's satisfaction.

**Schedule** means a schedule to this Agreement.

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

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

**Subject Land** means all of the land described in Schedule 8 and any reference to the Subject Land in this Agreement includes any lot created by the subdivision of the Subject Land or any part of it.

**Supervision Fee** means the fee payable to Council by the Owner for supervision of an Infrastructure Project in the amount of 2.5% of the Specified Value of the Infrastructure Project.

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## 2. Interpretation

In this Agreement unless the context admits otherwise:

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

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### **3. Purpose and reasons for Agreement**

The Parties acknowledge and agree that the purpose and reasons for this Agreement are to:

- 3.1 record the terms and conditions on which Council agrees to the Owner providing an Infrastructure Project;
- 3.2 record the terms and conditions on which Council agrees to the Owner providing any Land Project to Council;
- 3.3 enable the Owner to satisfy condition 10 of the Planning Permit and its obligations under clause 53.01 of the Planning Scheme;
- 3.4 to record the provision of Public Open Space Land and an agreed public open space equalisation process; and
- 3.5 to achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

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### **4. Payment of Development Infrastructure Levy**

The Parties agree that:

- 4.1 subject to clause 4.2 of this Agreement, the Owner is required to pay the Development Infrastructure Levy in cash on a Stage by Stage basis;
- 4.2 the Owner is not required to pay the Development Infrastructure Levy in cash on a Stage by Stage basis if the Owner has a Credit available in accordance with this Agreement; and
- 4.3 any component of the Development Infrastructure Levy which is not offset by a Credit must be paid to Council prior to the issue of the Statement of Compliance for subdivision of the Subject Land as a result of which the obligation to pay the Development Infrastructure Levy arises or at such other time as is specified in this Agreement.
- 4.1 Prior to the issue of a Statement of Compliance for the final Stage of the subdivision or development of the Subject Land, Council will undertake a reconciliation of the Owner's obligations and entitlements under this Agreement to ensure that the Development Infrastructure Levy paid in respect of the Subject Land reflects the Net Developable Area and upon that reconciliation being undertaken –
  - 4.1.1 Council must pay to the Owner any amount that is identified as owing to the Owner; and
  - 4.1.2 the Owner must pay to Council any amount that is identified as owing to Council.

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### **5. Infrastructure Projects as Works in kind**

#### **5.1 Provision of Infrastructure Projects**

The Owner must provide each Infrastructure Project:

- 5.1.1 in accordance with the Approved Plans;

- 5.1.2 prior to the relevant Provision Trigger, unless a later date is approved by Council in writing under clause 5.2.1;
- 5.1.3 in accordance with the Public Infrastructure Plan;
- 5.1.4 in accordance with any Construction Program approved by Council; and
- 5.1.5 otherwise to the satisfaction of Council in its capacity as the Development Agency.

## **5.2 Time for completion of Infrastructure Projects**

The Owner agrees that the provision of an Infrastructure Project under this Agreement is deemed to be public works for the purposes of section 21(1) of the *Subdivision Act 1988* and that if the Owner does not construct and complete an Infrastructure Project by the relevant Provision Trigger for that Infrastructure Project or such other time as Council has agreed in writing, Council may:

- 5.2.1 in its capacity as the Collecting Agency, in writing, extend the timeframe; or
- 5.2.2 in its capacity as Council, refuse to issue any Statement of Compliance in respect of the development of the Subject Land until the Infrastructure Project is completed to the satisfaction of Council in its capacity as Development Agency.

## **5.3 Project Control Group**

The Parties agree that if requested by Council in writing at a time after the commencement of this Agreement, then, prior to the commencement of any works associated with the provision of any Infrastructure Project, a Project Control Group must:

- 5.3.1 be established jointly by the Parties to discuss the Construction Program associated with any Infrastructure Project and the general progress of each Infrastructure Project;
- 5.3.2 include equal representation from Council and the Owner or the Owner's representatives;
- 5.3.3 be chaired by a representative of Council; and
- 5.3.4 hold meetings at intervals to the satisfaction of Council.

## **5.4 Obligation to complete Infrastructure Projects once commenced**

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

## **5.5 Agreed Infrastructure Project Value**

The Parties agree that the Agreed Infrastructure Project Value is a fixed amount subject only to Indexation up to the date of issue of the Certificate of Practical Completion, as specified in this Agreement.

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## **6. Design of Infrastructure Projects**

### **6.1 General**

The Owner agrees that:

- 6.1.1 the Owner must, at the full cost of the Owner, prepare the Designs of each Infrastructure Project and submit the Designs to Council for approval;
- 6.1.2 Council's approval of the Designs will be reflected in a set of plans and specifications endorsed by Council as the Approved Plans;
- 6.1.3 the Owner must obtain all necessary permits and approvals for the Infrastructure Projects including all permits and approvals required for works surrounding the site of the Infrastructure Project such as for service relocations, driveway alterations and the like; and
- 6.1.4 if required by Council, prior to awarding any contract for the Infrastructure Projects, the Owner must submit to Council for approval:
  - (a) a copy of the terms and conditions of the proposed contract; and
  - (b) a copy of the proposed Construction Program.

### **6.2 Variation of Approved Plans**

There must be no variations to the Approved Plans without the prior written consent of Council in its capacity as Development Agency.

### **6.3 Approval of tender documentation for an Infrastructure Project**

- 6.3.1 If requested in writing by Council after the execution of this Agreement, the Owner must obtain the approval of Council, acting reasonably, of any tender documentation to be issued to the market in respect of each Infrastructure Project before such tender documentation is issued.
- 6.3.2 The Owner must give Council at least 10 Business Days to consider and review any tender documentation before such time as it is released to the market.
- 6.3.3 The Owner:
  - (a) must ensure that the construction drawings and specifications to be included in the tender documentation are in accordance with the Approved Plans; and
  - (b) may, but is not obligated to, take into account any other comments Council may have on any tender documentation provided these do not conflict with the Approved Plans.

### **6.4 Warranties**

- 6.4.1 Prior to the Owner entering into design or construction contracts in connection with Infrastructure Projects, Council may, in its absolute discretion and no later than 10 Business Days after confirmation by Council of the Approved Plans in 6.1.2, notify the Owner in writing:
  - (a) that it requires any third party design consultants, contractors, suppliers or specialist subcontractors engaged by or on behalf of the Owner (or by any of

the Owner's agents or contractors) to provide written warranties in respect of their work, goods or services; and

- (b) of the nature and duration of such warranties; and
- (c) whether it requires the warranties to be issued in favour of Council.

6.4.2 The Owner must use all reasonable endeavours to obtain any such warranties strictly as required by Council and, where a warranty is to be issued in favour of Council, must provide the warranty prior to the completion of work.

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## **7. Construction of Infrastructure Projects**

The Owner agrees that in providing each Infrastructure Project:

- 7.1.1 the Owner is responsible for all design and construction risks in relation to the Infrastructure Project; and
- 7.1.2 Council has no responsibility for any costs incurred by the Owner beyond the Agreed Infrastructure Project Value.

### **7.2 Standard of work**

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

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

### **7.3 Completion of an Infrastructure Project**

The Owner must complete each Infrastructure Project by the Provision Trigger, unless such Provision Trigger is extended by Council in its sole and absolute discretion.

### **7.4 Access to land**

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

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

7.4.2 The Owner is responsible for putting in place all proper occupational health and safety plans as may be required under any law of the State of Victoria for that

purpose and otherwise complying with all laws of the State of Victoria relating to health and safety.

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

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## **8. Certificate of Practical Completion**

### **8.1 Certificate of Practical Completion**

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

### **8.2 Procedure for Certificate of Practical Completion**

The Parties agree that:

- 8.2.1 upon the completion of an Infrastructure Project, the Owner must notify Council and any other relevant authority and provide to Council all as-built plans and drawings, licences, warranties and insurance policies in connection with the Infrastructure Project;
- 8.2.2 within 10 days of receiving notice of the completion of an Infrastructure Project from the Owner, Council will arrange for it and any other relevant authority to promptly inspect the Infrastructure Project and determine whether Council will issue a Certificate of Practical Completion;
- 8.2.3 prior to Council being required to issue a Certificate of Practical Completion, the Owner must provide to Council:
- (a) a copy of any maintenance information, operational manual or other material which is reasonably required for the ongoing operation and maintenance of the Infrastructure Project;
  - (b) a copy of any certificate, consent or approval required by any authority for the carrying out, use or occupation of the Infrastructure Project;
- 8.2.4 if Council is not satisfied with the Infrastructure Project, Council may, acting reasonably, refuse to issue a Certificate of Practical Completion provided Council:
- (a) identifies in what manner the Infrastructure Project is not satisfactorily completed; and
  - (b) what must be done to satisfactorily complete the Infrastructure Project;
- 8.2.5 Council may, notwithstanding a minor non-compliance or minor non-completion, determine to issue a Certificate of Practical Completion if Council in its capacity as Development Agency is satisfied that the proper construction of the Infrastructure Project can be secured or otherwise guaranteed to its satisfaction.

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## **9. Risk**

### **9.1 Care of the Infrastructure Project**

Until a Certificate of Practical Completion is issued in respect of an Infrastructure Project, responsibility for care of the Infrastructure Project remains with Owner.

### **9.2 Insurance**

9.2.1 The Owner will procure any necessary insurances to cover the risks of undertaking each Infrastructure Project, including professional indemnity insurance where an Infrastructure Project involves design and otherwise public liability and contract works insurance and must provide evidence of those insurances and that they are for a satisfactory level to Council promptly upon request.

9.2.2 The Owner must ensure that unless Council states in writing that it does not require this to be the case Council's interest is noted under any public liability insurance held or obtained by the Owner or any of its agents or consultants with respect to an Infrastructure Project.

### **9.3 Maintenance Period of Infrastructure Projects**

9.3.1 Upon the issue of a Certificate of Practical Completion, an Infrastructure Project is subject to a Maintenance Period.

9.3.2 The Owner must, during the Maintenance Period, rectify all Defects in each Infrastructure Project within a reasonable time of being notified by Council and the Owner must carry out those rectification works causing as little inconvenience to the occupants or users of each Infrastructure Project as is reasonably possible. For the avoidance of doubt, the Owner is responsible for all costs associated with the rectification of a Defect in an Infrastructure Project. A further Maintenance Period applies to all rectified Defects.

9.3.3 If the Owner fails to rectify defects in accordance with clause 9.3.2, or the Infrastructure Project has not otherwise been completed in accordance with Approved Plans, Council may have the rectification work carried out itself and the reasonable costs incurred by Council in so doing will be a debt due and payable by the Owner.

9.3.4 Council will be responsible for all ongoing repairs and maintenance of the Infrastructure Project following the expiration of the Maintenance Period including any further maintenance period under clause 9.3.2,

### **9.4 Bank Guarantee**

The Owner agrees that:

9.4.1 prior to the issue of a Certificate of Practical Completion for an Infrastructure Project, the Owner must provide Council with a Bank Guarantee in respect of that Infrastructure Project;

9.4.2 if the Owner fails to comply with a written direction from Council to rectify any notified Defects in an Infrastructure Project, Council may, acting reasonably, have recourse to the Bank Guarantee for the purposes of rectification of any Defects; and

9.4.3 the Bank Guarantee will be returned to the Owner after the Maintenance Period, less any amount applied to correcting any Defects in the Infrastructure Project.

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## 10. Land Project

### 10.1 Provision of Land Project

The Owner must provide each Land Project to Council:

- 10.1.1 by vesting the Land Project in Council;
- 10.1.2 prior to the relevant Provision Trigger, unless a later date is approved by Council in writing under clause 10.2;
- 10.1.3 with all services to be available as specified in the relevant column of Schedule 4;
- 10.1.4 free of all encumbrances, including any structure, debris, waste, refuse and contamination (subject to clause 10.4), except as agreed by Council;
- 10.1.5 free of any fees and charges associated with the delivery of the site; and
- 10.1.6 otherwise in a condition that is to the satisfaction of Council in its capacity as Development Agency.

### 10.2 Time for vesting of Land Project

If the Owner does not meet the Provision Trigger for a Land Project, Council may:

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

### 10.3 Agreed Land Value

10.3.1 The Owner agrees that the Agreed Land Value:

- (a) includes all transfer costs, costs of plans of subdivision, registration fees and the like and any other amount specifically agreed to in writing by Council;
- (b) is a fixed amount subject to Indexation up to the time of vesting in Council; and
- (c) replaces the market value and any other method of calculating compensation payable to a person under the *Land Acquisition and Compensation Act 1986* and the Act in respect of the Land Project.

10.3.2 The Owner agrees that upon payment being made in accordance with this Agreement whether as a monetary amount or by a Credit in respect of the Agreed Land Value, no other compensation is payable for the effect of severance or for solatium as those terms or concepts are understood in the context of the *Land Acquisition and Compensation Act 1986* or for any other category of or form of loss or compensation in respect of the Land Project.

### 10.4 Environmental Assessment

The Owner covenants and agrees that prior to providing the Land Project to Council, if the Owner has not already done so in response to a condition in or as a requirement of a Planning Permit, the Owner must provide Council with an environmental assessment prepared to an appropriate level of assessment and by a properly qualified environmental consultant that clearly and unequivocally states that the Land Project is suitable to be used

and developed for the purpose for which it is intended to be used as set out in the Precinct Structure Plan.

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## **11. Public Open Space**

### **11.1 Provision of Open Space Land**

The Owner must provide the Open Space Land to Council for municipal purposes:

- 11.1.1 by vesting the Open Space Land in Council; and
- 11.1.2 with all utility services available to the boundary of the Open Space Land as specified in Schedule 6 unless otherwise agreed with Council,

and must do so:

- 11.1.3 on or before the relevant Provision Trigger if any is specified in Schedule 6, unless a later date is approved by Council;
- 11.1.4 as part of and upon the registration of any Plan of Subdivision for the Subject Land containing the Open Space Land; or
- 11.1.5 within 60 days of the issue of a Building Permit for a building on the Subject Land,

whichever occurs earlier.

### **11.2 Environmental Assessment**

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

### **11.3 Value of Open Space Land**

The Open Space Land Value is an amount which is fixed and non-variable subject only to Indexation up to the time of vesting in Council.

### **11.4 Open Space Equalisation**

- 11.4.1 The Owner agrees that its public open space liability under the Planning Scheme is the percentage amount set out in Schedule 6 being the amount derived from the schedule to clause 53.01 of the Planning Scheme.
- 11.4.2 The Parties agree that where an Equalisation Payment or an Equalisation Reimbursement is to be paid, it must be paid in cash and in relation to each Stage, in accordance with the averaged equalisation rate set out in Schedule 6 in respect of each Net Developable Hectare in that Stage no more than 30 days after the date of the issue of the Statement of Compliance for that Stage.
- 11.4.3 Prior to the issue of a Statement of Compliance for the final Stage of the subdivision or development of the Subject Land, Council will undertake a reconciliation of the Owner's obligations and entitlements under this Agreement to ensure that any final Equalisation Payment or Equalisation Reimbursement reflects the Net Developable Area set out in this Agreement and reconciles any differences

within the final Equalisation Payment or Equalisation Reimbursement and upon that reconciliation being undertaken –

- (a) Council must pay to the Owner any amount that is identified as owing to the Owner; and
- (b) the Owner must pay to Council any amount that is identified as owing to Council.

## 11.5 Council acknowledgement

The parties acknowledge and agree that upon the Owner satisfying its obligations under clause 11, the Owner will have fulfilled its obligations under the Planning Permit, the Planning Scheme and the *Subdivision Act 1988* in relation to making the Public Open Space Contribution in respect of the Subject Land.

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## 12. Credit

### 12.1 Process for Credit

The Parties agree that:

- 12.1.1 the Owner will be entitled to a Credit for the Agreed Infrastructure Project Value from the commencement of this Agreement;
- 12.1.2 the Owner will be entitled to a Credit for the Agreed Land Value from the commencement of this Agreement;
- 12.1.3 the value of the Credit will be adjusted annually on the basis of Indexation of the Agreed Land Value and the Agreed Infrastructure Project Value in accordance with this Agreement;
- 12.1.4 where only part of an Infrastructure Project or a Land Project is provided the Owner will only be entitled to a Credit calculated as determined by Council based on a pro rata basis taking into account the extent of the Infrastructure Project or Land Project which is provided;
- 12.1.5 prior to the issue of a Statement of Compliance for one or more Stages, Council must:
  - (a) calculate the Development Infrastructure Levy payable for such Stage(s) as at that date; and
  - (b) deduct the amount calculated under paragraph (a) from the Credit until the Credit has been exhausted;
- 12.1.6 as the amount of the Credit under this Agreement exceeds the Development Infrastructure Levy payable by the Owner in respect of the whole of the Subject Land, the Owner will be entitled to a Credit Reimbursement; and
- 12.1.7 in relation to a Stage, Council must pay the Owner, in cash, the Averaged Credit Reimbursement Rate in respect of each Net Developable Hectare in that Stage within 30 days of the date of the issue of the Statement of Compliance for that Stage.

## **12.2 Localised Infrastructure**

The Parties acknowledge that:

- 12.2.1 this Agreement is intended to relate only to the infrastructure that is funded by the Development Contributions Plan and not Localised Infrastructure; and
- 12.2.2 compliance with the obligations of this Agreement does not relieve the Owner of any obligation imposed by Council or a Tribunal to provide Localised Infrastructure which obligation may be imposed as a requirement in a planning permit for the subdivision or development of the Subject Land.

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## **13. Further obligations of the Parties**

### **13.1 Transaction costs**

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

### **13.2 Notice and registration**

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

### **13.3 Further actions**

The Parties agree that:

- 13.3.1 they must do all things necessary to give effect to this Agreement;
- 13.3.2 the Owner consents to Council applying to the Registrar of Titles to record this Agreement on the Certificate of Title of the Subject Land in accordance with section 181 of the Act; and
- 13.3.3 the Owner agrees to do all things necessary to enable Council to do so, including:
  - (a) sign any further agreement, acknowledgment or document; and
  - (b) obtain all necessary consents to enable the recording to be made.

### **13.4 Fees**

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

- 13.4.1 Plan Checking Fee;
- 13.4.2 Supervision Fee;
- 13.4.3 Satisfaction Fee; or
- 13.4.4 Consent Fee

as required.

### **13.5 Council's costs to be paid**

The Owner must pay to Council within 30 days after a written request for payment, Council's reasonable costs and expenses (including legal expenses) relating to this Agreement, including:

- 13.5.1 drafting, finalising, signing and recording and enforcing this Agreement;
- 13.5.2 drafting, finalising and recording any amendment to this Agreement; and
- 13.5.3 drafting, finalising and recording any document to give effect to the ending of this Agreement.

### **13.6 Time for determining satisfaction**

If Council makes a request for payment of:

- 13.6.1 a fee under clause 13.4; or
- 13.6.2 any costs or expenses under clause 13.5

the Parties agree that Council will not decide whether the Owner's obligation has been undertaken to Council's satisfaction, or whether to grant the consent sought, until payment has been made to Council in accordance with the request.

### **13.7 Interest for overdue money**

The Owner agrees that:

- 13.7.1 the Owner must pay to Council interest at the same rate used under section 120 of the *Local Government Act 2020* on any amount due under this Agreement that is not paid by the due date.
- 13.7.2 if interest is owing, Council will apply any payment made to interest and any balance of the payment to the principal amount.

---

## **14. Agreement under section 173 of the Act**

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

---

## **15. Owner's warranties**

- 15.1 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.
- 15.2 The Owner warrants that at the time that each Land Project is provided to Council each Land Project :
  - 15.2.1 will be free of contamination of any kind which would make the Land Project unsuitable for its intended purpose as set out in the Precinct Structure Plan; and

15.2.2 will be in an environmental condition such as to be suitable to be used and developed for the purpose for which it is intended to be used as set out in the Precinct Structure Plan.

---

## **16. Successors in title**

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

16.1.1 give effect to this Agreement; and

16.1.2 enter into a deed agreeing to be bound by the terms of this Agreement.

---

## **17. General matters**

### **17.1 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:

17.1.1 personally on the other Party;

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

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

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

### **17.2 No waiver**

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

### **17.3 Severability**

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

### **17.4 No fettering of Council's powers**

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

### **17.5 Inspection of documents**

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

## 17.6 Governing law

This Agreement is governed by and is to be construed in accordance with the laws of Victoria and the parties submit to the non-exclusive jurisdiction of the courts of the State of Victoria.

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## 18. GAIC

- 18.1 The Owner acknowledges and agrees that all land transferred to or vested in Council must have any Inherent GAIC Liability discharged prior to it being provided to Council and to the extent it is not so discharged, the Owner shall remain liable to Council for any GAIC liability subsequently incurred by Council as a result of its development after the termination or ending of this Agreement.
- 18.2 The Parties agree that clause 18.1 survives the termination or ending of this Agreement.
- 18.3 The Owner agrees that the Owner must provide a certificate of release under section 201SY of the Act confirming the release of the land referred to in clause 18.1 from its Inherent GAIC Liability.

---

## 19. Foreign resident capital gains withholding

### 19.1 Definitions

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

**12.5%** means 12.5% or any other amount set out in the Tax Act from time to time as the withholding amount.

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

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

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

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

**Tax Act** means the *Taxation Administration Act 1953* (Cth).

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

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

### 19.2 Foreign resident status of Owner

The Owner is taken to be a foreign resident under Subdivision 14-D of Schedule 1 to the Tax Act unless the Owner gives to Council a Clearance Certificate no later than 10 Business

Days before the Land Project and the Open Space Land is transferred to or vested in Council.

### 19.3 Excluded transaction

19.3.1 Clause 19.5 does not apply if:

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

19.3.2 Without limiting clause 19.3.1, the transfer or vesting of a Land Project or Open Space Land is an Excluded Transaction if the market value of the Land Project or Open Space Land as at the date of this Agreement is less than \$750,000.

### 19.4 Variation notice

If the Owner provides Council with a Variation Notice prior to the transfer or vesting of the Land Project or Open Space Land, then Council will adjust the withholding amount (as specified in clause 19.5 below) in accordance with the Variation Notice.

### 19.5 Withholding

19.5.1 This clause 19.5 applies if the Owner is taken to be a foreign resident under clause 19.2 and the Owner has not satisfied Council that the transfer or vesting of a Land Project or Open Space Land is an Excluded Transaction under clause 19.3.

19.5.2 Subject to clauses 19.5.3 and 19.5.4, Council will deduct from any monetary consideration payable to the Owner an amount equal to:

- (a) 12.5% of the Consideration (excluding GST) in accordance with section 14-200(3) of Schedule 1 to the Tax Act; or
- (b) the Variation Amount, if the Owner has provided Council with a Variation Notice in accordance with clause 19.4,

(the **withholding amount**).

19.5.3 Subject to clause 19.5.4, if any monetary consideration payable to the Owner is less than 12.5% of the Consideration, the Owner must deliver to Council:

- (a) a cash payment equal to 12.5% of the Consideration (or such other amount as required by Council); or
- (b) the Variation Amount, if the Owner has provided Council with a Variation Notice in accordance with clause 19.4 -

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

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

- (a) a cash payment equal to 12.5% of the market value of the Land Project and Open Space Land valued as at the date of this Agreement; or
- (b) the Variation Amount, if the Owner has provided Council with a Variation Notice in accordance with clause 19.4,

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

## **19.6 Council to remit withholding amount**

19.6.1 Council agrees to:

- (a) pay the withholding amount or amounts determined under clause 19.5 to the Reserve Bank of Australia (on behalf of the Australian Taxation Office) by electronic funds transfer immediately after the earlier of:
  - (i) Council receiving a transfer of land in respect of the Land Project or Open Space Land, in registrable form; or
  - (ii) the registration of a plan of subdivision which vests the Land Project or Open Space Land in Council's ownership;
- (b) provide the Owner with a copy of the purchaser payment notification form submitted by Council to the Australian Taxation Office; and
- (c) provide the Owner with a copy of any receipt of payment or proof of payment of the withholding amount issued by the Australian Taxation Office to Council.

## **19.7 Consideration adjusted after withholding**

For the avoidance of doubt and notwithstanding anything else in this Agreement, the Consideration payable to the Owner is reduced to the extent that a withholding amount is deducted from the Consideration under clause 19.5.

## **19.8 Owner to co-operate**

19.8.1 The Owner must:

- (a) not procure the registration of a plan of subdivision which vests a Land Project or Open Space Land in Council's ownership unless:
  - (i) a Clearance Certificate has been provided to Council; or
  - (ii) the Owner and Council have agreed upon the amount to be withheld by and/or remitted by Council to the Australian Taxation Office in accordance with clause 19.5;
- (b) provide Council with 20 Business Days prior written notice of the lodgement of a plan of subdivision at Land Use Victoria which will have the effect of vesting any land in Council's ownership; and
- (c) notify Council immediately on the date on which a plan of subdivision registers which vests land in Council's ownership.

19.8.2 The Owner must provide Council with all information, documentation and assistance necessary to enable Council to comply with its obligation to pay the

withholding amount within the time set out in section 14-200(2) of Schedule 1 to the Tax Act.

### **19.9 Owner's warranty**

The Owner warrants that the information provided to Council under this clause 19 is true and correct.

### **19.10 Indemnity**

The Owner agrees to indemnify Council against any interest, penalty, fine or other charge or expense incurred by Council as a result of the Owner's failure to comply with this clause 19.

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## **20. GST**

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

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

20.3 If GST is payable in respect of any supply made by a supplier under this Agreement, subject to clause 20.4 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.

20.4 The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST payable under clause 20.3.

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## **21. Commencement of Agreement**

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

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## **22. Amendment of Agreement**

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

22.2 This Agreement may also be amended by a further agreement between Council and any person who is burdened by any of the covenants in this Agreement.

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

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## **23. Ending of Agreement**

23.1 This Agreement ends:

- 23.1.1 in relation to the balance of the Subject Land apart from Residential Lots, when the Owner and Council have complied with all of their respective obligations under this Agreement; or
- 23.1.2 otherwise by agreement between the Parties in accordance with section 177 of the Act.
- 23.2 If notice of a proposal to end this Agreement is required pursuant to section 178C of the Act, the parties agree that only Council and the Owner of the Subject Land or that part of the Subject Land that is the subject of the proposal to end this Agreement are required to be notified of the proposal.
- 23.3 Where it is proposed to end this Agreement in relation to part of the Subject Land by agreement, the parties agree that only Council and the Owner of the part of the Subject Land that is the subject of the proposal to end this Agreement are required to agree to the ending, and the agreement of other Owners of the Subject Land is not required.
- 23.4 Once this Agreement ends as to part of the Subject Land, Council will, within a reasonable time following a request from the Owner and at the cost of the Owner, execute all documents necessary to make application to the Registrar of Titles under section 183(2) of the Act to cancel the recording of this Agreement on the register as to that part of the Subject Land.
- 23.5 Council will not unreasonably withhold its consent to a written request made pursuant to clause 23.4 if it is satisfied that the obligations in this Agreement are secured to its satisfaction.
- 23.6 On completion of all the Owner's obligations under this Agreement, Council must as soon as practicable following the ending of this Agreement and at the Owner's request and at the Owner's cost, execute all documents necessary to make application to the Registrar of Titles under section 183(2) of the Act to cancel the recording of this Agreement on the register.

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## **24. Electronic execution and counterparts**

### **24.1 Consent to electronic execution**

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

### **24.2 Counterparts**

This Agreement may be executed in counterparts, all of which taken together constitute one document.

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## Schedule 1

Wollert Development Contributions Plan as incorporated in the Planning Scheme

INFORMATION ONLY

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## Schedule 2

Whittlesea planning permit no. 717154 issued on 11 June 2019

INFORMATION 210488K ONLY

## Schedule 3

### Infrastructure Projects

DCP Project No.	Description of the Infrastructure Project	% of project costs – Rounded to 2 decimal places	Extent of Infrastructure Project to be delivered.	Provision Trigger	Agreed Infrastructure Project Value (\$2022/23)
IN-18c (part)	Koukoura Drive/ Connector (north of LTC).	86.75 %	Construction of signalised T-intersection to interim standard.	Prior to the issue of Statement of Compliance for Stage 15 or at such other time as agreed by Council	\$3,730,764.35
RD-03c (part)	Koukoura Drive - connection with historic road reserve near northern boundary of 220 Boundary Road to Summerhill Road.	14.62 %	Design and construction of first carriageway (interim), excluding intersections 120m	Prior to the issue of Statement of Compliance for Stage 15 or at such other time as agreed by Council	\$769,463.60
RD-07c	Road - North Education Hub - between Sporting Reserve (SR-01) and Government Primary School.	100.00 %	Design and construction of local road customised cross section, including indented parking bays (ultimate), excluding intersection treatment 356m	Prior to the issue of Statement of Compliance for Stage 7 or at such other time as agreed by Council	\$2,739,956.72

## Schedule 4

### Land Projects

DCP Project No.	Description of the Land Project	% of project costs – Rounded to 2 decimal places	Area of Land Project	Services to be available to the boundary of the Land Project.	Provision Trigger	Agreed Land Value (\$2022/23)
IN-18	Koukoura Drive/ Connector (north of LTC).	97.65 %	1.0851ha		Issue of Statement of Compliance for Stage 15 or at such other time as agreed by Council	\$1,546,267.50
RD-03	Koukoura Drive - connection with historic road reserve near northern boundary of 220 Boundary Road to Summerhill Road. Land for 34m road reserve.	26.00 %	0.4900ha		Issue of Statement of Compliance for Stage 15 or at such other time as agreed by Council	\$698,250.00
CI-01	North Wollert Level 2 Multi-purpose community centre	100%	0.8005ha	Electricity Potable water Recycled (non-potable) water Drainage Sewerage Communications No Gas	Issue of Statement of Compliance for Stage 7 or at such other time as agreed by Council	\$1,893,870.13

SR-01	North Wollert Sports Reserve	100%	6.6008ha	Electricity Potable water Recycled (non-potable) water Drainage Sewerage Communications No Gas	Issue of Statement of Compliance for Stage 7 or at such other time as agreed by Council	\$15,616,562.09
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INFORMATION ONLY

## Schedule 5

### Credit Reimbursement & Averaged Credit Reimbursement Rate

PSP/DCP Property Number	Net Developable Area (ha)	Development Infrastructure Levy Charges (\$2022/23)
88A	24.1561	\$11,282,589.63
88B	19.4066	\$9,064,240.66
89	0.4054	\$189,350.18
<b>Totals</b>	<b>43.9681</b>	<b>\$20,536,180.47</b>

<u>DCP Project Type</u>	<u>Total Credit Amounts (per schedules 3 and 4) (\$2022/23)</u>
Infrastructure Projects	\$7,240,184.67
Land Projects	\$19,754,949.72
<b>Total</b>	<b>\$26,995,134.38</b>

<b>Total of Credit Reimbursement due</b>	\$6,458,953.92
<b>Averaged Credit Reimbursement Rate (per Net Developable Hectare - \$2022/23)</b> (Total Credit Reimbursement Due / Total Net Developable Area of 43.9681 Ha)	<b>\$146,900.91</b>
<b>Timing for payment of the Averaged Credit Reimbursement Rate for each Stage</b>	Not more than 30 days after the date of issue of the Statement of Compliance for that Stage.

## Schedule 6

### Open Space Land

PSP/DCP Property Number	Subject Land Net Developable Area (ha)	Open Space Land (ha)	Provision Trigger for the provision of the Public Open Space	Agreed Rate per hectare (\$2022/23 /Ha)	Open Space Land Value \$2022/23 (ha)	Public Open Space Contribution liability (ha) @ 4.47% of NDA	Equalisation Payment /Reimbursement Amount (\$2022/23)
88A	24.1561	2.9485	Issue of Statement of Compliance for Stage 10,12	\$1,425,000	\$4,201,612.50	1.0802	Reimbursement Amount by Council to Owner <b>\$2,662,259.85</b>
88B	19.4066	0.8506	Issue of Statement of Compliance for Stage 8	\$1,450,000	\$1,233,370.00	0.8679	Equalisation Payment by Owner to Council <b>\$25,016.06</b>
89	0.4054	0	Issue of Statement of Compliance for the relevant Stage	\$3,075,000	\$0	0.0181	Equalisation Payment by Owner to Council <b>\$55,747.49</b>
	<b>Total Net Developable Area = 43.9681</b>						
<p><b>All Open Space Land vested to Council must have the following services available at the boundary of the Open Space Land:</b></p> <ul style="list-style-type: none"> <li>Electricity</li> <li>Potable water</li> <li>Recycled (non-potable) water</li> <li>Drainage</li> <li>Sewerage</li> <li>Communications</li> <li>No Gas</li> </ul>							
<b>Total of the Equalisation Reimbursement Due (\$2022/23)</b>							\$2,581,496.30
<b>Averaged Equalisation Reimbursement Rate (per Net Developable Hectare - \$2022/23)</b> (Total Equalisation Reimbursement Due / Total Net Developable Area of 43.9681 Ha)							\$58,712.94
<b>Timing of payment of Averaged Equalisation Reimbursement for each Stage</b>							Not more than 30 days after the date of issue of the Statement of Compliance for that Stage.

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## Schedule 7

### Maintenance Period

Infrastructure Type	Maintenance Period
Road Projects	3 months
Signalised intersections	6 months

INFORMATION ONLY

## Schedule 8

### Subject Land

Address	Land	Owner	Address of Owner	Property Number	Mortgage Y/N
71 and 71A Bodycoats Road, Wollert, VIC 3750	Lot 1 on TP810678F	JD Wollert Bodycoats Pty Ltd	Level 53, 525 Collins Street, Melbourne VIC 3000	988410, 988436 and 988444	Yes – AV292150S - Jinding Financial Services Pty Ltd  AV366649U - MCH Agency Services Pty Ltd
75 and 75A Bodycoats Road, Wollert VIC 3750	Lot 1 on TP810679D	JD Wollert Bodycoats Pty Ltd	Level 53, 525 Collins Street, Melbourne VIC 3000	988451 and 988469	Yes – AV292150S - Jinding Financial Services Pty Ltd  AV366649U - MCH Agency Services Pty Ltd
85 Bodycoats Road, Wollert VIC 3750	Lot 1 on TP804279F	JD Wollert Bodycoats Pty Ltd	Level 53, 525 Collins Street, Melbourne VIC 3000	6353	Yes – AV292150S - Jinding Financial Services Pty Ltd  AV366649U - MCH Agency Services Pty Ltd

## Signing Page

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

Signed, Sealed and Delivered for and on behalf, and with the authority, of the **Whittlesea City Council** by the members of Council staff occupying the positions or titles of or acting in the positions of Director Infrastructure and Environment and Manager Strategic Futures in the presence of:

)  
)

DocuSigned by:  
*Debbie Wood*  
BCFA241357FE463...  
Delegate  
DocuSigned by:  
*Siobhan Short*  
310A4FC5A88F423...  
Witness

DocuSigned by:  
*George Saisanas*  
B93A8C4C3FE140E...  
Delegate  
DocuSigned by:  
*Amir Mahdavian*  
CC10405B3CC34F6...  
Witness

*This document was witnessed by audio visual link in accordance with the requirements of s12 of the Electronic Transactions (Victoria) Act 2000*

Executed by **JD Wollert Bodycoats Pty Ltd ACN 619 249 697** in accordance with s 127(1) of the **Corporations Act 2001** )  
)

DocuSigned by:  
*Jie Song*  
76C204450737428...  
Jie Song

Signature of Sole Director and Sole Company Secretary

Print full name

DocuSign Envelope ID: 84590AB7-31FD-404F-B257-B0B98F88B6A8

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## Mortgagee's consent

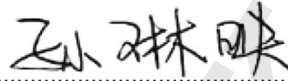
**Jinding Financial Services Pty Ltd** as Mortgagee under instruments of mortgage number AV292150S consents to the Owner entering into this Agreement and in the event that the Mortgagee becomes mortgagee-in-possession, agrees to be bound by the covenants and conditions of this Agreement.



Signature of Director

JIE SONG

Print full name



Signature of Director

Linying SUN

Print full name

---

## Mortgagee's consent

**MCH Agency Services Pty Ltd** as Mortgagee under instruments of mortgage number AV366649U 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.

Executed by **MCH Agency Services Pty Ltd**  
**ACN 636 392 928** in accordance with s 127(1)  
of the *Corporations Act 2001*:



.....  
Signature of Director

**Justin Hynes**

.....  
Print full name



.....  
Signature of Director/Company Secretary

**Andrew Tremain**

.....  
Print full name

**Date of issue**  
21/02/2024

**Assessment No.**  
988469

**Certificate No.**  
158315

**Your reference**  
71890815-020-7

Landata  
GPO Box 527  
MELBOURNE VIC 3001

## Land information certificate for the rating year ending 30 June 2024

**Property location:** 75A Bodycoats Road WOLLERT 3750

**Description:** LOT: 1 PS: 810679D PTA: 75A

Level of values date	Valuation operative date	Capital Improved Value	Site Value	Net Annual Value
1 January 2023	1 July 2023	\$26,950,000	\$26,950,000	\$1,347,500

The Net Annual Value is used for rating purposes. The Capital Improved Value is used for fire levy purposes.

### 1. Rates, charges and other monies:

Rates and charges were declared with effect from 1 July 2023 and are payable by quarterly instalments due 30 Sep. (1<sup>st</sup>), 30 Nov. (2<sup>nd</sup>), 28 Feb. (3<sup>rd</sup>) and 31 May (4<sup>th</sup>) or in a lump sum by 15 Feb.

#### Rates & charges

General rate levied on 01/07/2023	\$63,662.10
Fire services charge (Res) levied on 01/07/2023	\$125.00
Fire services levy (Res) levied on 01/07/2023	\$1,239.70
Waste Landfill Levy General levied on 01/07/2023	\$13.90
Arrears to 30/06/2023	\$0.00
Interest to 15/02/2024	\$0.00
Other adjustments	\$0.00
Less Concessions	\$0.00
Sustainable land management rebate	\$0.00
Payments	-\$16,260.70

**Balance of rates & charges due:** \$48,780.00

#### Property debts

Other debtor amounts

#### Special rates & charges

nil

**Total rates, charges and other monies due** \$48,780.00

Verbal updates may be obtained within 3 months of the date of issue by calling (03) 9217 2170.

#### Council Offices

25 Ferres Boulevard, South Morang VIC 3752  
Mail to: Locked Bag 1, Bundoora MDC VIC 3083

Phone: 9217 2170

National Relay Service: 133 677 (ask for 9217 2170)

Email: [info@whittlesea.vic.gov.au](mailto:info@whittlesea.vic.gov.au)

Free telephone interpreter service

   **131 450**

ABN 72 431 091 058

[whittlesea.vic.gov.au](http://whittlesea.vic.gov.au)

## 2. Outstanding or potential liability / sub-divisional requirement:

There is no potential liability for rates under the Cultural and Recreational Lands Act 1963.

There is no outstanding amount required to be paid for recreational purposes or any transfer of land required to Council for recreational purposes under section 18 of the Subdivision Act 1988.

## 3. Notices and orders:

The following notices and orders on the land have continuing application under the *Local Government Act 2020*, *Local Government Act 1989* or under a local law of the Council:

No Orders applicable.

## 4. Specified flood level:

There is no specified flood level within the meaning of Regulation 802(2) of the Building Regulations 2006.

## 5. Special notes:

The purchaser must pay all rates and charges outstanding, immediately upon settlement. Payments shown on this certificate are subject to clearance by the bank.

### **Interest penalty on late payments**

Overdue amounts will be charged penalty interest as fixed under the *Penalty Interest Rates Act 1983*. It will be applied after the due date of an instalment. For lump sum payers intending to pay by 15 February, interest penalty will be applied after the due date of the lump sum, but calculated on each of the instalment amounts that are overdue from the day after their due dates. In all cases interest penalty will continue to accrue until all amounts are paid in full.

## 6. Other information:



Authorising Officer

This property may be subject to a supplementary valuation.

**Lot 309 Plan PS838327T**

Your application for the property described above is not rated separately. The rates shown on this certificate relate to the parent property.

A fire hazard removal notice could be issued against this property. Please check with the Council on the date of settlement.

This certificate provides information regarding valuation, rates, charges, other moneys owing and any orders and notices made under the *Local Government Act 2020*, the *Local Government Act 1989*, the *Local Government Act 1958* or under a local law of the Council.

This certificate is not required to include information regarding planning, building, health, land fill, land slip, flooding information or service easements. Information regarding these matters may be available from Council or the relevant authority. A fee may be charged for such information.

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Payment can be made using these options.

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www.whittlesea.vic.gov.au  
Ref 988469



Phone 1300 301 185  
Ref 988469



Billers Code 5157  
Ref 988469

**Date of issue**  
21/02/2024

**Assessment No.**  
6353

**Certificate No.**  
158313

**Your reference**  
71890815-020-7

Landata  
GPO Box 527  
MELBOURNE VIC 3001

## Land information certificate for the rating year ending 30 June 2024

**Property location:** 85 Bodycoats Road WOLLERT 3750

**Description:** LOT: 1 TP: 804279F

Level of values date	Valuation operative date	Capital Improved Value	Site Value	Net Annual Value
1 January 2023	1 July 2023	\$1,050,000	\$1,050,000	\$52,500

The Net Annual Value is used for rating purposes. The Capital Improved Value is used for fire levy purposes.

### 1. Rates, charges and other monies:

Rates and charges were declared with effect from 1 July 2023 and are payable by quarterly instalments due 30 Sep. (1<sup>st</sup>), 30 Nov. (2<sup>nd</sup>), 28 Feb. (3<sup>rd</sup>) and 31 May (4<sup>th</sup>) or in a lump sum by 15 Feb.

#### Rates & charges

General rate levied on 01/07/2023	\$2,480.34
Fire services charge (Res) levied on 01/07/2023	\$125.00
Fire services levy (Res) levied on 01/07/2023	\$48.30
Waste Service Charge (Res/Rural) levied on 01/07/2023	\$171.45
Waste Landfill Levy Res/Rural levied on 01/07/2023	\$11.85
Arrears to 30/06/2023	\$0.00
Interest to 21/02/2024	\$0.00
Other adjustments	-\$0.04
Less Concessions	\$0.00
Sustainable land management rebate	\$0.00
Payments	-\$2,836.90

*Balance of rates & charges due:* \$0.00

#### Property debts

Other debtor amounts

#### Special rates & charges

nil

**Total rates, charges and other monies due** **\$0.00**

Verbal updates may be obtained within 3 months of the date of issue by calling (03) 9217 2170.

#### Council Offices

25 Ferres Boulevard, South Morang VIC 3752  
Mail to: Locked Bag 1, Bundoora MDC VIC 3083

Phone: 9217 2170

National Relay Service: 133 677 (ask for 9217 2170)

Email: [info@whittlesea.vic.gov.au](mailto:info@whittlesea.vic.gov.au)

Free telephone interpreter service

   **131 450**

ABN 72 431 091 058

[whittlesea.vic.gov.au](http://whittlesea.vic.gov.au)

## 2. Outstanding or potential liability / sub-divisional requirement:

There is no potential liability for rates under the Cultural and Recreational Lands Act 1963.

There is no outstanding amount required to be paid for recreational purposes or any transfer of land required to Council for recreational purposes under section 18 of the Subdivision Act 1988.

## 3. Notices and orders:

The following notices and orders on the land have continuing application under the *Local Government Act 2020*, *Local Government Act 1989* or under a local law of the Council:

No Orders applicable.

## 4. Specified flood level:

There is no specified flood level within the meaning of Regulation 802(2) of the Building Regulations 2006.

## 5. Special notes:

The purchaser must pay all rates and charges outstanding, immediately upon settlement. Payments shown on this certificate are subject to clearance by the bank.

### **Interest penalty on late payments**

Overdue amounts will be charged penalty interest as fixed under the *Penalty Interest Rates Act 1983*. It will be applied after the due date of an instalment. For lump sum payers intending to pay by 15 February, interest penalty will be applied after the due date of the lump sum, but calculated on each of the instalment amounts that are overdue from the day after their due dates. In all cases interest penalty will continue to accrue until all amounts are paid in full.

## 6. Other information:



Authorising Officer

This property may be subject to a supplementary valuation.

**Lot 309 Plan PS838327T**

Your application for the property described above is not rated separately. The rates shown on this certificate relate to the parent property.

A fire hazard removal notice could be issued against this property. Please check with the Council on the date of settlement.

This certificate provides information regarding valuation, rates, charges, other moneys owing and any orders and notices made under the *Local Government Act 2020*, the *Local Government Act 1989*, the *Local Government Act 1958* or under a local law of the Council.

This certificate is not required to include information regarding planning, building, health, land fill, land slip, flooding information or service easements. Information regarding these matters may be available from Council or the relevant authority. A fee may be charged for such information.

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Payment can be made using these options.

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www.whittlesea.vic.gov.au  
Ref 6353



Phone 1300 301 185  
Ref 6353



Billers Code 5157  
Ref 6353

**Date of issue**  
21/02/2024

**Assessment No.**  
988451

**Certificate No.**  
158314

**Your reference**  
71890815-020-7

Landata  
GPO Box 527  
MELBOURNE VIC 3001

## Land information certificate for the rating year ending 30 June 2024

**Property location:** 75 Bodycoats Road WOLLERT 3750

**Description:** LOT: 1 PS: 810679D PTA: 75

Level of values date	Valuation operative date	Capital Improved Value	Site Value	Net Annual Value
1 January 2023	1 July 2023	\$200,000	\$50,000	\$10,000

The Net Annual Value is used for rating purposes. The Capital Improved Value is used for fire levy purposes.

### 1. Rates, charges and other monies:

Rates and charges were declared with effect from 1 July 2023 and are payable by quarterly instalments due 30 Sep. (1<sup>st</sup>), 30 Nov. (2<sup>nd</sup>), 28 Feb. (3<sup>rd</sup>) and 31 May (4<sup>th</sup>) or in a lump sum by 15 Feb.

#### Rates & charges

General rate levied on 01/07/2023	\$472.45
Fire services charge (Res) levied on 01/07/2023	\$125.00
Fire services levy (Res) levied on 01/07/2023	\$9.20
Waste Service Charge (Res/Rural) levied on 01/07/2023	\$171.45
Waste Landfill Levy Res/Rural levied on 01/07/2023	\$11.85
Arrears to 30/06/2023	\$0.00
Interest to 21/02/2024	\$0.00
Other adjustments	\$0.00
Less Concessions	\$0.00
Sustainable land management rebate	\$0.00
Payments	-\$789.95

*Balance of rates & charges due:* \$0.00

#### Property debts

Other debtor amounts

#### Special rates & charges

nil

**Total rates, charges and other monies due** **\$0.00**

Verbal updates may be obtained within 3 months of the date of issue by calling (03) 9217 2170.

#### Council Offices

25 Ferres Boulevard, South Morang VIC 3752  
Mail to: Locked Bag 1, Bundoora MDC VIC 3083

Phone: 9217 2170

National Relay Service: 133 677 (ask for 9217 2170)

Email: [info@whittlesea.vic.gov.au](mailto:info@whittlesea.vic.gov.au)

Free telephone interpreter service

   **131 450**

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No Orders applicable.

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There is no specified flood level within the meaning of Regulation 802(2) of the Building Regulations 2006.

## 5. Special notes:

The purchaser must pay all rates and charges outstanding, immediately upon settlement. Payments shown on this certificate are subject to clearance by the bank.

### **Interest penalty on late payments**

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## 6. Other information:



Authorising Officer

This property may be subject to a supplementary valuation.

**Lot 309 Plan PS838327T**  
Your application for the property described above is not rated separately. The rates shown on this certificate relate to the parent property.

A fire hazard removal notice could be issued against this property. Please check with the Council on the date of settlement.

This certificate provides information regarding valuation, rates, charges, other moneys owing and any orders and notices made under the *Local Government Act 2020*, the *Local Government Act 1989*, the *Local Government Act 1958* or under a local law of the Council.

This certificate is not required to include information regarding planning, building, health, land fill, land slip, flooding information or service easements. Information regarding these matters may be available from Council or the relevant authority. A fee may be charged for such information.

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Payment can be made using these options.

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www.whittlesea.vic.gov.au  
Ref 988451



Phone 1300 301 185  
Ref 988451



Billers Code 5157  
Ref 988451

# Property Clearance Certificate

## Land Tax



MELBOURNE REAL ESTATE CONVEYANCING

Your Reference: 2614  
Certificate No: 71286825  
Issue Date: 20 FEB 2024  
Enquiries: ESYSPROD

Land Address: LAVENDER STREET WOLLERT VIC 3750

Land Id	Lot	Plan	Volume	Folio	Tax Payable
50442652			12521	586	\$0.00

Vendor: LILU JACOB & RITTU RAJAN  
Purchaser: FOR INFORMATION PURPOSES

Current Land Tax	Year	Taxable Value	Proportional Tax	Penalty/Interest	Total
JD WOLLERT BODYCOATS FAMILY TRL	2024	\$45,527	\$1,167.17	\$0.00	\$0.00

Comments: Land Tax of \$1,167.17 has been assessed for 2024, an amount of \$1,167.17 has been paid.

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

Arrears of Land Tax	Year	Proportional Tax	Penalty/Interest	Total
---------------------	------	------------------	------------------	-------

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

Paul Broderick  
Commissioner of State Revenue

CAPITAL IMPROVED VALUE: \$0

SITE VALUE: \$45,527

CURRENT LAND TAX CHARGE: \$0.00

# Notes to Certificate - Land Tax

Certificate No: 71286825

## Power to issue Certificate

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

## Amount shown on Certificate

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

## Land tax is a first charge on land

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

## Information for the purchaser

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

## Information for the vendor

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

## Apportioning or passing on land tax to a purchaser

6. A vendor is prohibited from apportioning or passing on land tax to a purchaser under a contract of sale of land entered into on or after 1 January 2024, where the purchase price is less than \$10 million (to be indexed annually from 1 January 2025, as set out on the website for Consumer Affairs Victoria).

## General information

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

## For Information Only

LAND TAX CALCULATION BASED ON SINGLE OWNERSHIP

Land Tax = \$0.00

Taxable Value = \$45,527

Calculated as \$0 plus ( \$45,527 - \$0) multiplied by 0.000 cents.

## Land Tax - Payment Options

### BPAY



Billers Code: 5249  
Ref: 71286825

### Telephone & Internet Banking - BPAY®

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

[www.bpay.com.au](http://www.bpay.com.au)

### CARD



Ref: 71286825

### Visa or Mastercard

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

[sro.vic.gov.au/paylandtax](http://sro.vic.gov.au/paylandtax)

# Property Clearance Certificate

## Windfall Gains Tax



MELBOURNE REAL ESTATE CONVEYANCING

Your Reference:	2614
Certificate No:	71286825
Issue Date:	20 FEB 2024

**Land Address:** LAVENDER STREET WOLLERT VIC 3750

Lot	Plan	Volume	Folio
		12521	586

**Vendor:** LILU JACOB & RITTU RAJAN  
**Purchaser:** FOR INFORMATION PURPOSES

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

**Comments:** No windfall gains tax liability identified.

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

**CURRENT WINDFALL GAINS TAX CHARGE:**  
**\$0.00**

**Paul Broderick**  
Commissioner of State Revenue

INFORMATION ONLY

# Notes to Certificate - Windfall Gains Tax

Certificate No: 71286825

## Power to issue Certificate

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

## Amount shown on Certificate

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

## Windfall gains tax is a first charge on land

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

## Information for the purchaser

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

## Information for the vendor

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

## Passing on windfall gains tax to a purchaser

8. A vendor is prohibited from passing on a windfall gains tax liability to a purchaser where the liability has been assessed under a notice of assessment as at the date of the contract of sale of land or option agreement. This prohibition does not apply to a contract of sale entered into before 1 January 2024, or a contract of sale of land entered into on or after 1 January 2024 pursuant to the exercise of an option granted before 1 January 2024.

## General information

9. A Certificate showing no liability for the land does not mean that the land is exempt from windfall gains tax. It means that there is nothing to pay at the date of the Certificate.
10. An updated Certificate may be requested free of charge via our website, if:
  - The request is within 90 days of the original Certificate's issue date, and
  - There is no change to the parties involved in the transaction for which the Certificate was originally requested.
11. Where a windfall gains tax liability has been deferred, interest accrues daily on the deferred liability. The deferred interest shown overleaf is the amount of interest accrued to the date of issue of the certificate.

## Windfall Gains Tax - Payment Options

### BPAY



Billers Code: 416073  
Ref: 71286827

### Telephone & Internet Banking - BPAY®

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

[www.bpay.com.au](http://www.bpay.com.au)

### CARD



Ref: 71286827

### Visa or Mastercard

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

[sro.vic.gov.au/payment-options](http://sro.vic.gov.au/payment-options)

### Important payment information

Windfall gains tax payments must be made using only these specific payment references.

Using the incorrect references for the different tax components listed on this property clearance certificate will result in misallocated payments.

20th February 2024

MELBOURNE REAL ESTATE CONVEYANCING.

Dear MELBOURNE REAL ESTATE CONVEYANCING.,

**RE: Application for Water Information Statement**

<b>Property Address:</b>	15 LAVENDER STREET WOLLERT 3750
<b>Applicant</b>	MELBOURNE REAL ESTATE CONVEYANCING.
<b>Information Statement</b>	30829537
<b>Conveyancing Account Number</b>	9759316125
<b>Your Reference</b>	2614

Thank you for your recent application for a Water Information Statement (WIS). We are pleased to provide you the WIS for the above property address. This statement includes:

- Yarra Valley Water Property Information Statement
- Melbourne Water Property Information Statement
- Asset Plan
- Rates Certificate

If you have any questions about Yarra Valley Water information provided, please phone us on **1300 304 688** or email us at the address [enquiry@yvw.com.au](mailto:enquiry@yvw.com.au). For further information you can also refer to the Yarra Valley Water website at [www.yvw.com.au](http://www.yvw.com.au).

Yours sincerely,



Chris Brace  
GENERAL MANAGER  
RETAIL SERVICES

## Yarra Valley Water Property Information Statement

Property Address	15 LAVENDER STREET WOLLERT 3750
------------------	---------------------------------

STATEMENT UNDER SECTION 158 WATER ACT 1989

### **THE FOLLOWING INFORMATION RELATES TO SECTION 158(3)**

Existing sewer mains will be shown on the Asset Plan.

### **THE FOLLOWING INFORMATION RELATES TO SECTION 158(4)**

This property is in a mandated recycled water area and we supply both potable and recycled water to this property. For more information, visit [yvw.com.au/recycled](http://yvw.com.au/recycled).

Please note: Unless prior consent has been obtained, the Water Act prohibits:

1. The erection and/or placement of any building, wall, bridge, fence, embankment, filling, material, machinery or other structure over or under any sewer or drain.
2. The connection of any drain or sewer to, or interference with, any sewer, drain or watercourse.

## **Melbourne Water Property Information Statement**

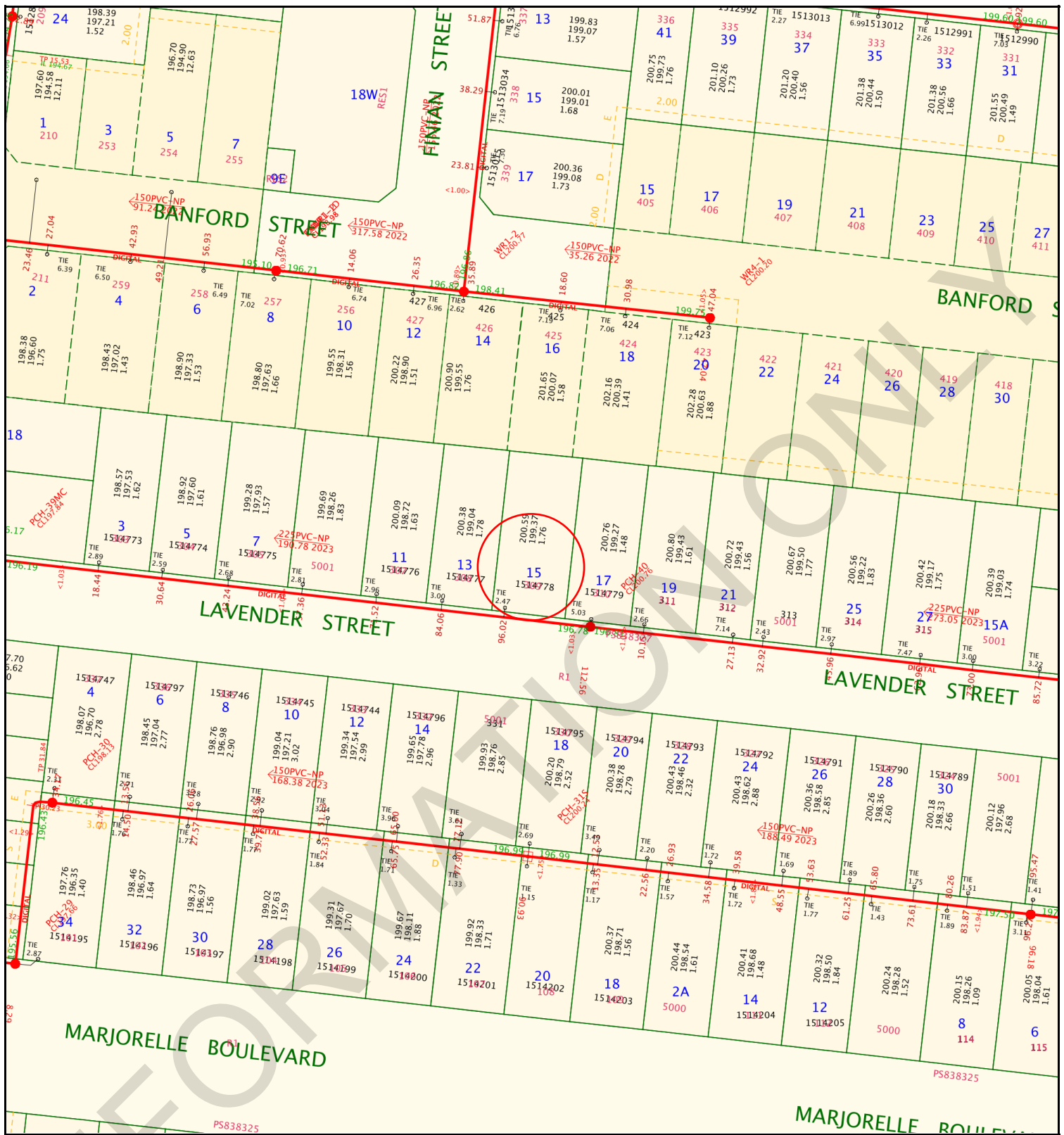
Property Address	15 LAVENDER STREET WOLLERT 3750
------------------	---------------------------------

### STATEMENT UNDER SECTION 158 WATER ACT 1989

Please note: Unless prior consent has been obtained, the Water Act prohibits:

1. The erection and/or placement of any building, wall, bridge, fence, embankment, filling, material, machinery or other structure over or under any sewer or drain.
2. The connection of any drain or sewer to, or interference with, any sewer, drain or watercourse.

If you have any questions regarding Melbourne Water encumbrances or advisory information, please contact Melbourne Water on 9679 7517.

















**Yarra Valley Water  
Information Statement  
Number: 30829537**

<b>Address</b>	15 LAVENDER STREET WOLLERT 3750
<b>Date</b>	20/02/2024
<b>Scale</b>	1:1000



**Yarra Valley Water**  
ABN 93 066 902 501

Existing Title		Access Point Number		GLV2-42 MW Drainage Channel Centreline	
Proposed Title		Sewer Manhole		MW Drainage Underground Centreline	
Easement		Sewer Pipe Flow		MW Drainage Manhole	
Existing Sewer		Sewer Offset		MW Drainage Natural Waterway	
Abandoned Sewer		Sewer Branch			

**Disclaimer:** This information is supplied on the basis Yarra Valley Water Ltd:  
 - Does not warrant the accuracy or completeness of the information supplied, including, without limitation, the location of Water and Sewer Assets;  
 - Does not accept any liability for loss or damage of any nature, suffered or incurred by the recipient or any other persons relying on this information;  
 - Recommends recipients and other persons using this information make their own site investigations and accommodate their works accordingly;

MELBOURNE REAL ESTATE CONVEYANCING.  
anna@melbournerec.com.au

## RATES CERTIFICATE

**Account No:** 1084563277  
**Rate Certificate No:** 30829537

**Date of Issue:** 20/02/2024  
**Your Ref:** 2614

With reference to your request for details regarding:

Property Address	Lot & Plan	Property Number	Property Type
15 LAVENDER ST, WOLLERT VIC 3750	309\PS838327	5302557	Residential

Agreement Type	Period	Charges	Outstanding
<b>Other Charges:</b>			
Interest	No interest applicable at this time		
No further charges applicable to this property			
<b>Balance Brought Forward</b>			\$0.00
<b>Total for This Property</b>			\$0.00

The property above forms part of the property for which the charges below are applicable

Property Address	Lot & Plan	Property Number	Property Type
75 BODYCOATS RD, WOLLERT VIC 3750	A\PS826166	5211373	Superseded

Agreement Type	Period	Charges	Outstanding
<b>Other Charges:</b>			
Interest	No interest applicable at this time		
No further charges applicable to this property			
<b>Balance Brought Forward</b>			-\$255.19 cr
<b>Total for This Property</b>			-\$255.19 cr



GENERAL MANAGER  
RETAIL SERVICES

**Note:**

- From 1 July 2023, the Parks Fee will be charged quarterly instead of annually.
- From 1 July 2023, for properties that have water and sewer services, the Residential Water and Sewer Usage charge replaces the Residential Water Usage and Residential Sewer Usage charges.

3. This statement details all tariffs, charges, and penalties due and payable to Yarra Valley Water as of the date of this statement and includes tariffs and charges (other than for usage charges yet to be billed) which are due and payable to the end of the current financial quarter.
4. All outstanding debts are due to be paid to Yarra Valley Water at settlement. Any debts that are unpaid at settlement will carry over onto the purchaser's first quarterly account and follow normal credit and collection activities - pursuant to section 275 of the Water Act 1989.
5. If the total due displays a (-\$ cr), this means the account is in credit. Credit amounts will be transferred to the purchaser's account at settlement.
6. Yarra Valley Water provides information in this Rates Certificate relating to waterways and drainage as an agent for Melbourne Water and relating to parks as an agent for Parks Victoria - pursuant to section 158 of the Water Act 1989.
7. The charges on this rates certificate are calculated and valid at the date of issue. To obtain up-to-date financial information, please order a Rates Settlement Statement prior to settlement.
8. From 01/07/2023, Residential Water Usage is billed using the following step pricing system: 249.56 cents per kilolitre for the first 44 kilolitres; 318.98 cents per kilolitre for 44-88 kilolitres and 472.56 cents per kilolitre for anything more than 88 kilolitres. From 1 July 2023, this charge is applicable for properties with water service only.
9. From 01/07/2023, Residential Water and Sewer Usage is billed using the following step pricing system: 334.38 cents per kilolitre for the first 44 kilolitres; 438.73 cents per kilolitre for 44-88 kilolitres and 509.73 cents per kilolitre for anything more than 88 kilolitres. From 1 July 2023, this charge is applicable for residential properties with both water and sewer services.
10. From 01/07/2023, Residential Recycled Water Usage is billed 188.71 cents per kilolitre.
11. From 01/07/2022 up to 30/06/2023, Residential Sewer Usage was calculated using the following equation: Water Usage (kl) x Seasonal Factor x Discharge Factor x Price (/kl) 1.1540 per kilolitre. From 1 July 2023, this charge will no longer be applicable for residential customers with both water and sewer services.
12. The property is a serviced property with respect to all the services, for which charges are listed in the Statement of Fees above.

To ensure you accurately adjust the settlement amount, we strongly recommend you book a **Special Meter Reading**:

- Special Meter Readings ensure that actual water use is adjusted for at settlement.
- Without a Special Meter Reading, there is a risk your client's settlement adjustment may not be correct.

---

**Property No:** 5302557

**Address:** 15 LAVENDER ST, WOLLERT VIC 3750

**Water Information Statement Number:** 30829537

## HOW TO PAY



**Bill**er Code: 314567  
Ref: 10845632770

**Amount  
Paid**

**Date  
Paid**

**Receipt  
Number**

# PLANNING CERTIFICATE

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

## CERTIFICATE REFERENCE NUMBER

1005586

## APPLICANT'S NAME & ADDRESS

ANNA GERANIS C/- LANDATA  
DOCKLANDS

## VENDOR

XX, XX

## PURCHASER

XX, XX

## REFERENCE

2614

This certificate is issued for:

LOT 309 PLAN PS838327 ALSO KNOWN AS 15 LAVENDER STREET WOLLERT  
WHITTLESEA CITY

The land is covered by the:

WHITTLESEA PLANNING SCHEME

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

The land:

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

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

Historic buildings and land protected under the Heritage Act 1995 are recorded in the Victorian  
Heritage Register at:

<http://vhd.heritage.vic.gov.au/>

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

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

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

LANDATA@

T: (03) 9102 0402

E: [landata.enquiries@servictoria.com.au](mailto:landata.enquiries@servictoria.com.au)

20 February 2024

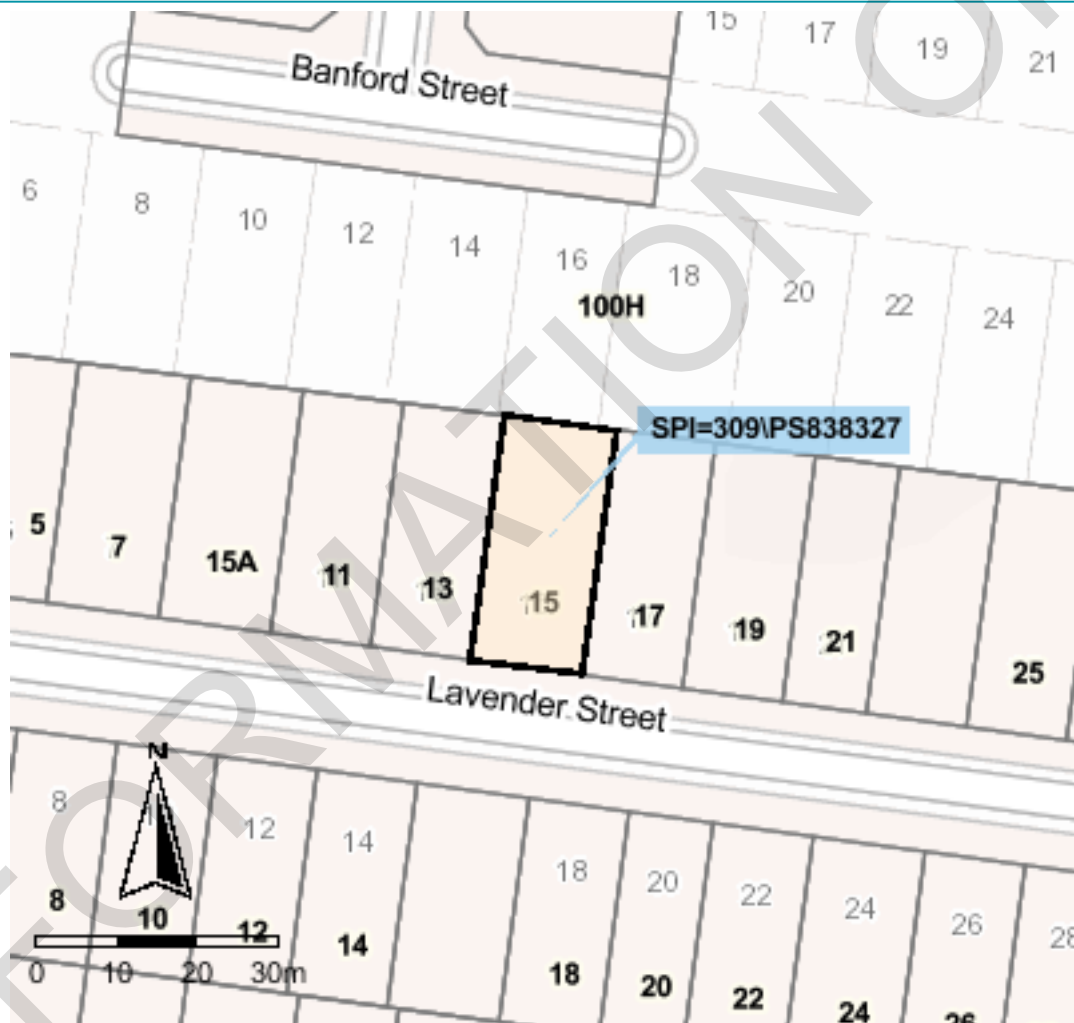
**Sonya Kilkenny**  
Minister for Planning

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

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

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

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



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### Choose the authoritative Planning Certificate

#### *Why rely on anything less?*

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

### Privacy Statement

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

## ROADS PROPERTY CERTIFICATE

The search results are as follows:

Anna Geranis  
954 High Street  
RESERVOIR 3073

Client Reference: 2614

NO PROPOSALS. As at the 20th February 2024, VicRoads has no approved proposals requiring any part of the property described in your application. You are advised to check your local Council planning scheme regarding land use zoning of the property and surrounding area.

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

15 LAVENDER STREET, WOLLERT 3750  
CITY OF WHITTLESEA

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

Date of issue: 20th February 2024

Telephone enquiries regarding content of certificate: 13 11 71

# PROPERTY REPORT

From [www.land.vic.gov.au](http://www.land.vic.gov.au) at 05 March 2024 11:51 AM

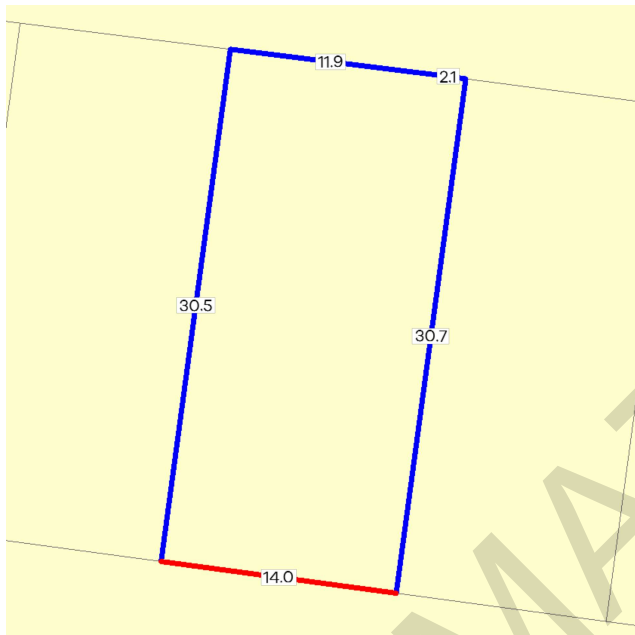
## PROPERTY DETAILS

Address: **15 LAVENDER STREET WOLLERT 3750**  
Lot and Plan Number: **Lot 309 PS838327**  
Standard Parcel Identifier (SPI): **309\PS838327**  
Local Government Area (Council): **WHITTLESEA**  
Council Property Number: **1234038**  
Directory Reference: **Melway 388 K5**

[www.whittlesea.vic.gov.au](http://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:** 428 sq. m

**Perimeter:** 89 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](#)

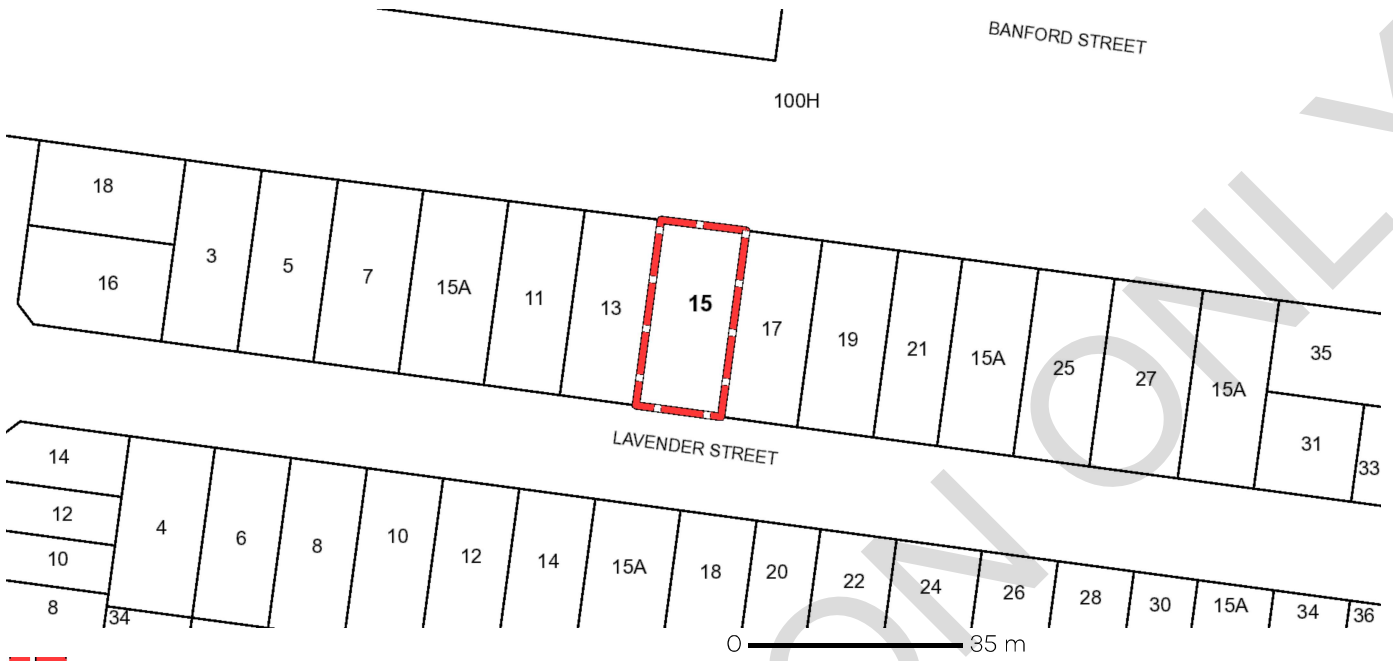
Planning Property Reports can be found via these two links

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

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

# PROPERTY REPORT

## Area Map



 Selected Property

# PLANNING PROPERTY REPORT

From [www.planning.vic.gov.au](http://www.planning.vic.gov.au) at 05 March 2024 11:51 AM

## PROPERTY DETAILS

Address: **15 LAVENDER STREET WOLLERT 3750**  
Lot and Plan Number: **Lot 309 PS838327**  
Standard Parcel Identifier (SPI): **309\PS838327**  
Local Government Area (Council): **WHITTLESEA**  
Council Property Number: **1234038**  
Planning Scheme: **Whittlesea**  
Directory Reference: **Melway 388 K5**

[www.whittlesea.vic.gov.au](http://www.whittlesea.vic.gov.au)

[Planning Scheme - Whittlesea](#)

## UTILITIES

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

## STATE ELECTORATES

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

## OTHER

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

[View location in VicPlan](#)

## Note

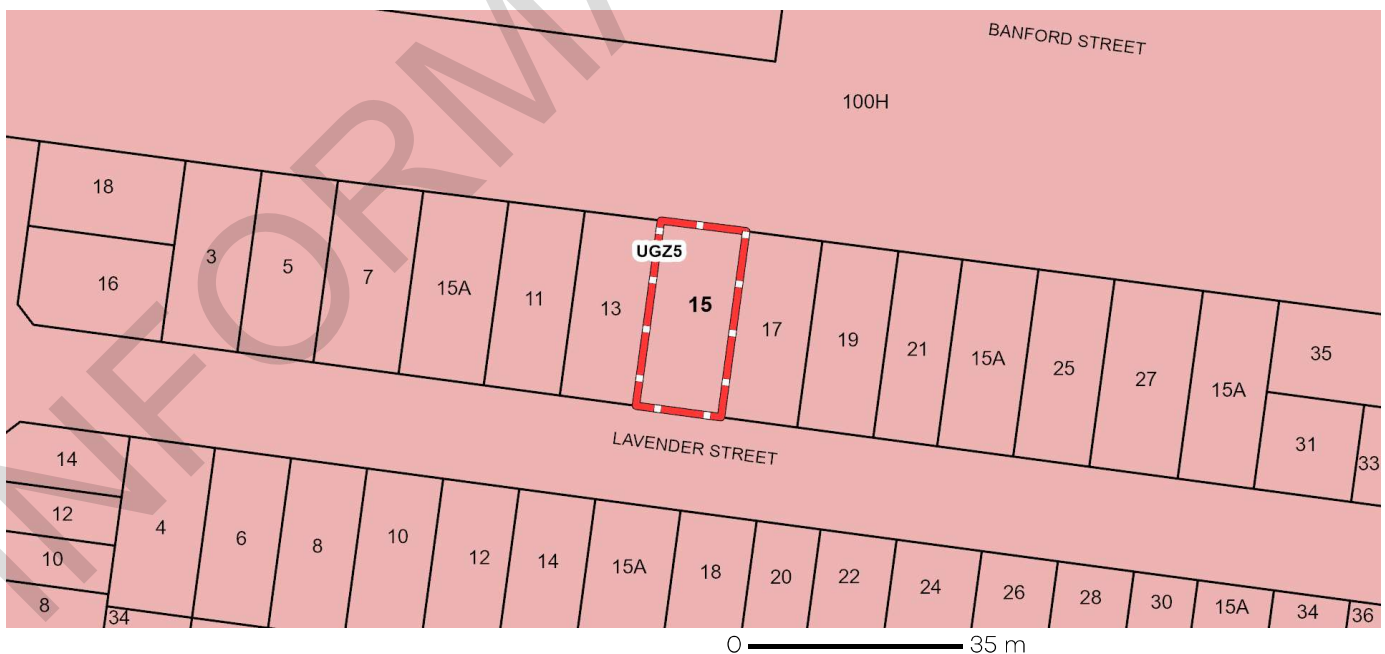
**This land is in an area added to the Urban Growth Boundary after 2005.  
It may be subject to the Growth Area Infrastructure Contribution.**

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

## Planning Zones

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

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

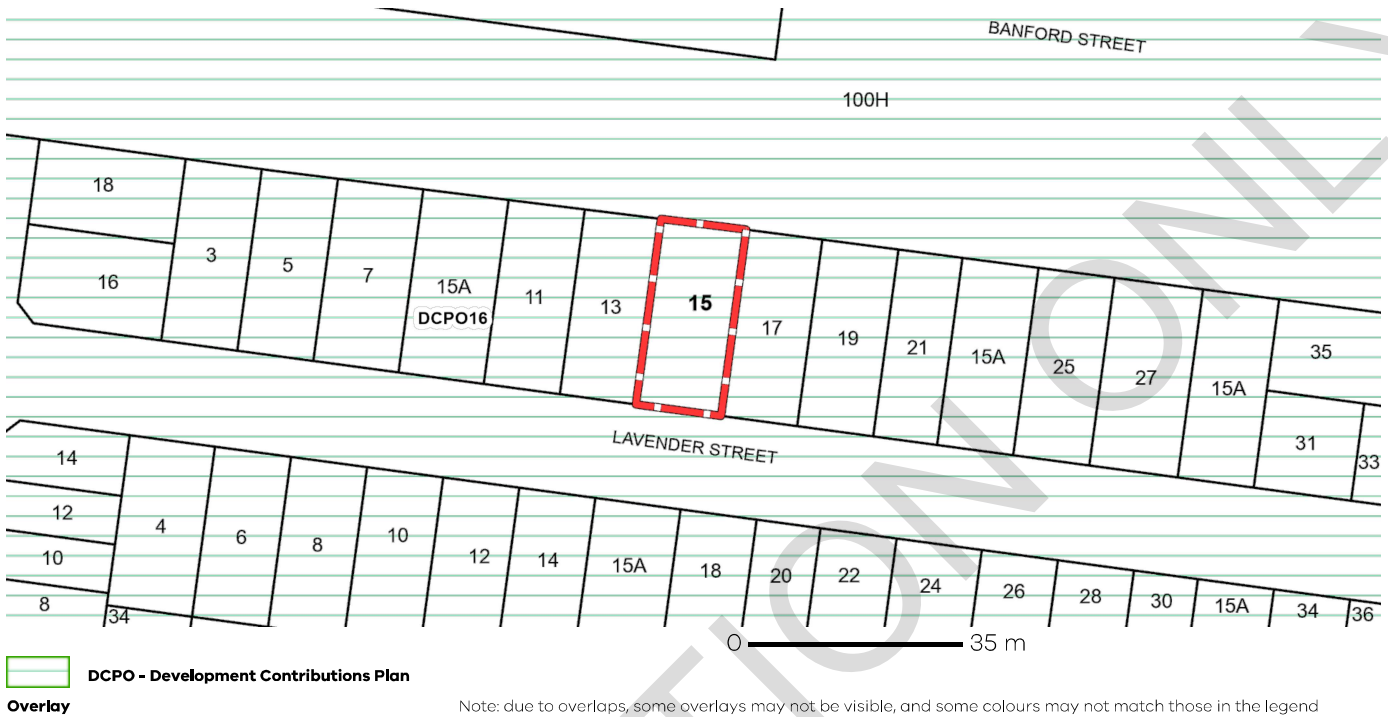


**UGZ - Urban Growth**

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

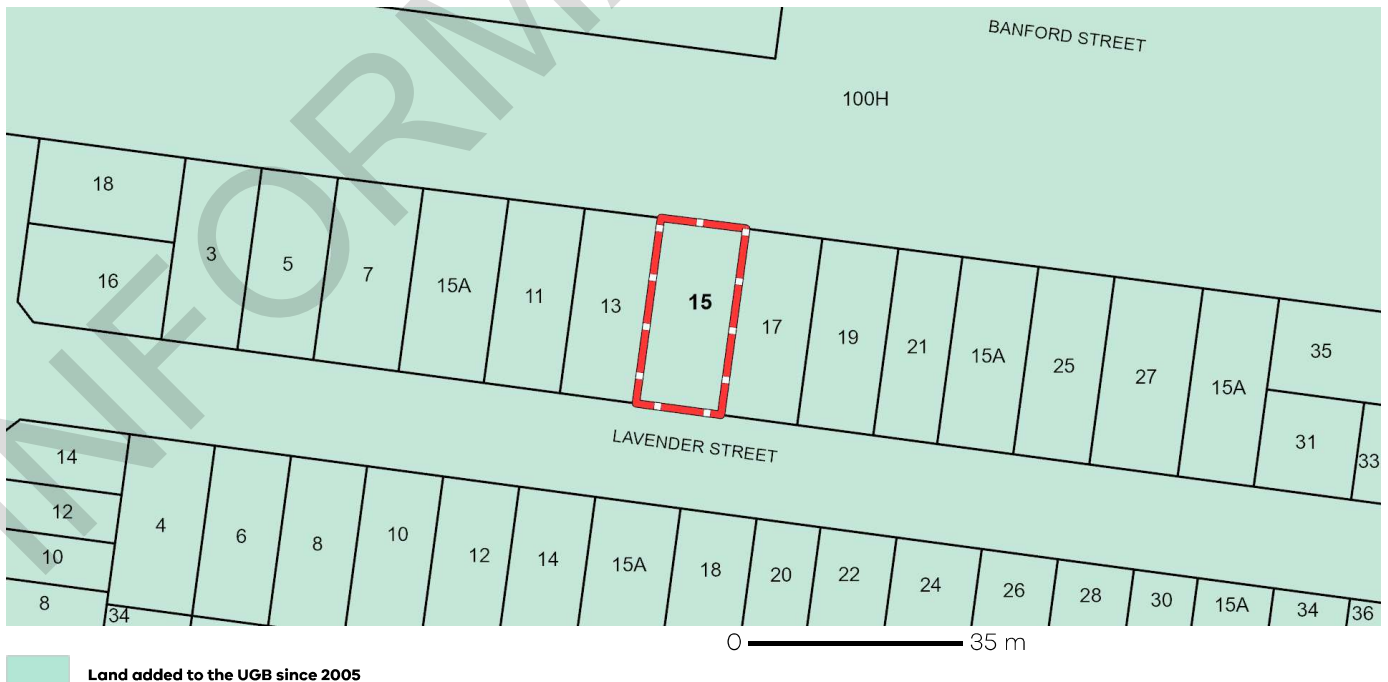
## Planning Overlay

DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY (DCPO)  
DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY - SCHEDULE 16 (DCPO16)



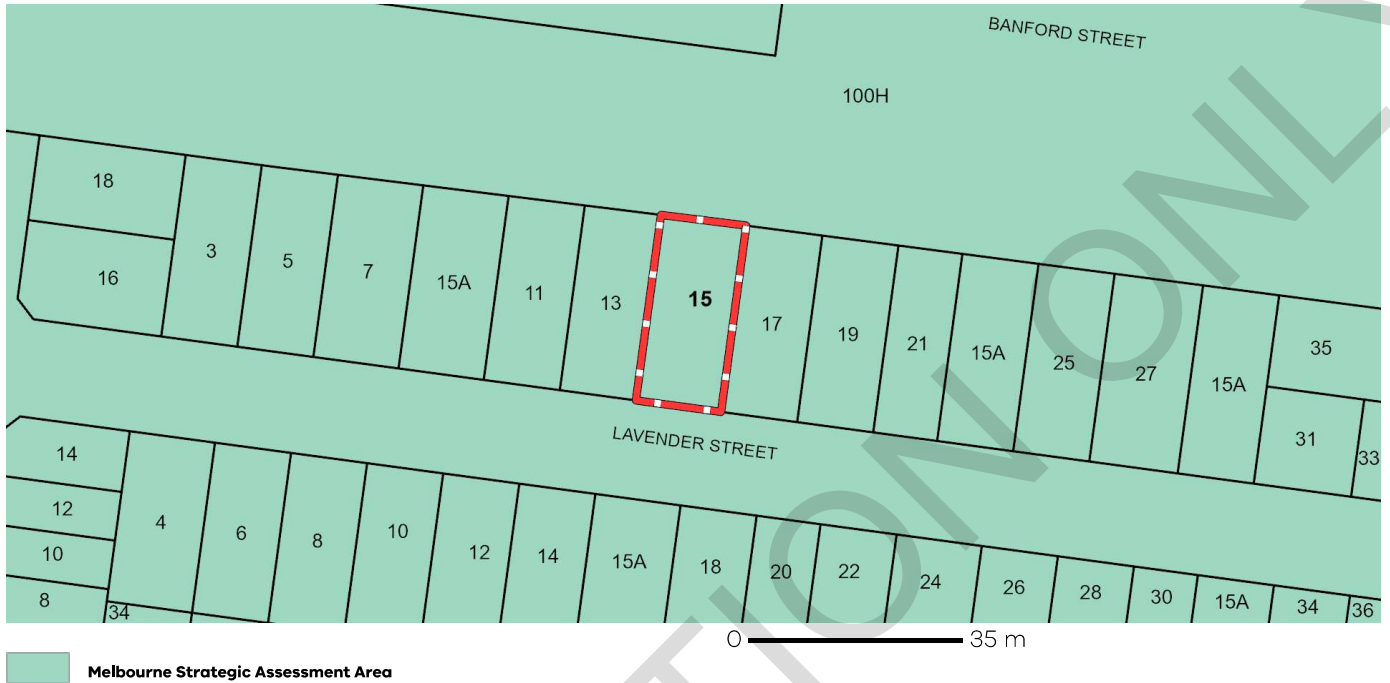
## Growth Area Infrastructure Contribution

This property is in an area added to the Urban Growth Boundary after 2005. It may be subject to the Growth Area Infrastructure Contribution. For more information about this contribution go to [Victorian Planning Authority](http://www.vic.gov.au/victorian-planning-authority)



## Melbourne Strategic Assessment

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



 Melbourne Strategic Assessment Area

## Areas of Aboriginal Cultural Heritage Sensitivity

All or part of this property is an 'area of cultural heritage sensitivity'.

'Areas of cultural heritage sensitivity' are defined under the Aboriginal Heritage Regulations 2018, and include registered Aboriginal cultural heritage places and land form types that are generally regarded as more likely to contain Aboriginal cultural heritage.

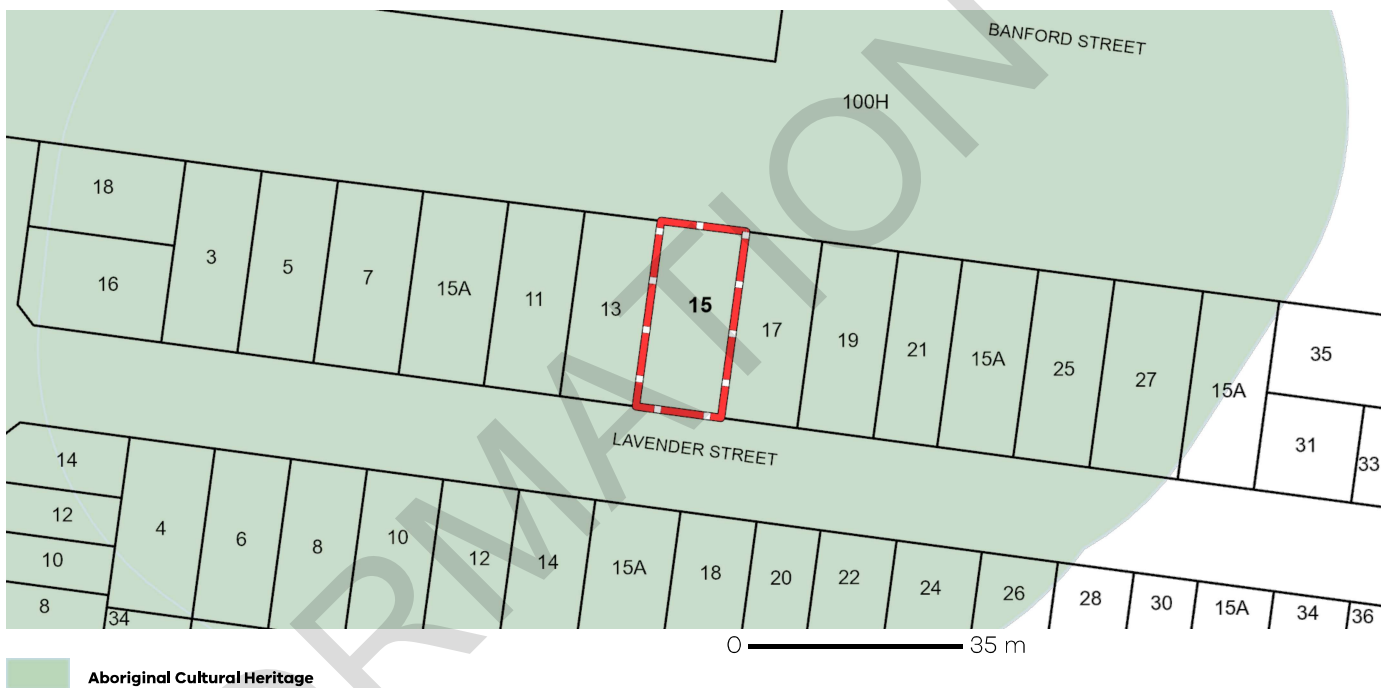
Under the Aboriginal Heritage Regulations 2018, 'areas of cultural heritage sensitivity' are one part of a two part trigger which require a 'cultural heritage management plan' be prepared where a listed 'high impact activity' is proposed.

If a significant land use change is proposed (for example, a subdivision into 3 or more lots), a cultural heritage management plan may be triggered. One or two dwellings, works ancillary to a dwelling, services to a dwelling, alteration of buildings and minor works are examples of works exempt from this requirement.

Under the Aboriginal Heritage Act 2006, where a cultural heritage management plan is required, planning permits, licences and work authorities cannot be issued unless the cultural heritage management plan has been approved for the activity.

For further information about whether a Cultural Heritage Management Plan is required go to <http://www.aqv.nrms.net.au/aqvQuestion1.aspx>

More information, including links to both the Aboriginal Heritage Act 2006 and the Aboriginal Heritage Regulations 2018, can also be found here - <https://www.aboriginalvictoria.vic.gov.au/aboriginal-heritage-legislation>



## Further Planning Information

Planning scheme data last updated on 7 December 2023.

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

This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the **Planning and Environment Act 1987**. It does not include information about exhibited planning scheme amendments, or zonings that may abut 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>

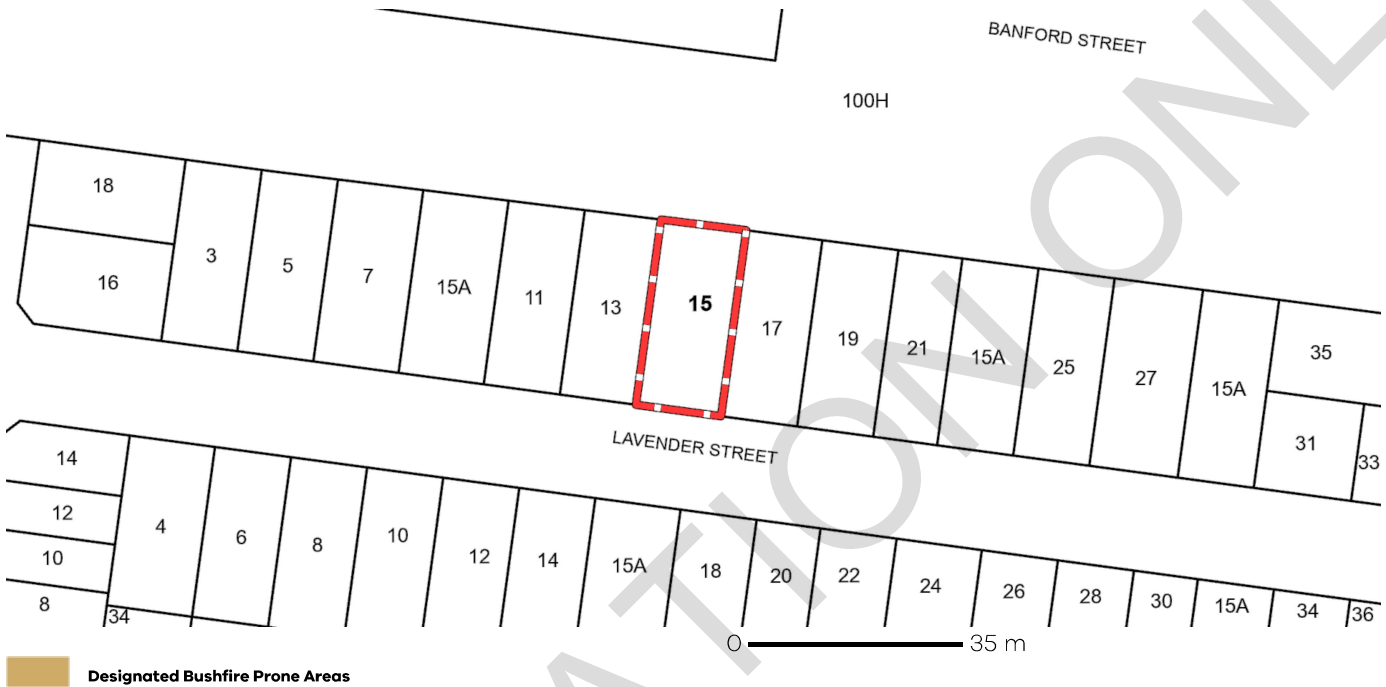
## Designated Bushfire Prone Areas

**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>.



# Maddocks

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Collins Square, Tower Two  
Level 25, 727 Collins Street  
Melbourne VIC 3008  
Australia

Telephone 61 3 9258 3555  
Facsimile 61 3 9258 3666

[info@maddocks.com.au](mailto:info@maddocks.com.au)  
[www.maddocks.com.au](http://www.maddocks.com.au)

DX 259 Melbourne

## On-Sale Deed

Property: 15 Lavender Street, Wollert, VIC 3750

### Vendor

JD Wollert Bodycoats Pty Ltd as trustee for JD Wollert Bodycoats Family Trust  
ACN 619 249 697

and

### Purchaser

Rittu Thomas Rajan

Lilu Jacob

and

\_\_\_\_\_  
(New Owner)

\_\_\_\_\_  
(New Guarantor)



---

## Schedule

1. **Date of this On-Sale Deed** The \_\_\_\_\_ day of \_\_\_\_\_ 20
2. **Vendor:** JD Wollert Bodycoats Pty Ltd ATF JD Wollert Bodycoats Family Trust ACN 619 249 697 of Level 53 525 Collins Street, Melbourne, VIC 3000
3. **Purchaser:** Rittu Thomas Rajan and Lilu Jacob of 60 Macquarie Drive, Wyndham Vale, VIC 3024
4. **Guarantor:** Not Applicable
5. **First Purchaser:** Not Applicable
6. **New Owner:**  
of  
Phone:  
Email Address:
7. **New Guarantor:**  
of
8. **Property:** Lot 309 on the Plan, being the whole of the land contained in Certificate of Title Volume 12521 Folio 586 now known as 15 Lavender Street, Wollert, VIC 3750
9. **Contract of Sale:** The Contract of Sale for the Property between the Vendor and the Purchaser dated 15 March 2021
- 10 **Plan:** PS838327T



**Guarantee** means the guarantee (if any) attached to the Contract.

**Guarantor** means the person or person(s) (if any) specified in Item 4.

**New Guarantor** means the person or person(s) specified in Item 7.

**New Owner** means the person or person(s) specified in Item 6.

**Plan** means the Plan of Subdivision specified in Item 10.

**Property** means the property specified in Item 8.

**Purchaser** means the person or person(s) specified in Item 3.

**Schedule** means the schedule at the front of this Deed.

**Special Conditions** means the special condition(s) of the Contract of Sale that survive settlement of the Property, including, without limitation, any special conditions with the following names (or similar names): Works, Construction of Dwelling, Execution of Documents, Additional Construction, Options, On-Sale of Property, National Broadband Network, Personal Information, Bonds, Memoranda of Common Provisions, Restrictions on Resale, Development Completion, Design Guidelines, Staged Development, Use of Development Land, Fencing, Landscaping, Recycled Water, Hazardous Materials, Public Works, Pegging and Indemnity.

**Settlement Date** means 22 January 2024.

**Vendor** means the company specified in Item 2.

---

## 2. Sale of Property

2.1 Subject to the terms of this Deed, the Vendor consents to the Purchaser's sale of the Property to the New Owner.

2.2 The New Owner covenants to the Vendor that:

2.2.1 it has been provided with a copy of the Special Conditions by the Purchaser, has reviewed the Special Conditions and has agreed to purchase the Property on the basis that those Special Conditions will apply to the New Owner;

2.2.2 it will comply with the Special Condition(s) as if those terms and conditions were set out in full in this Deed (including, without limitation, any consequential amendments required as a result of this Deed);

2.2.3 it is aware of and agrees that where the Vendor owns any land adjoining the Property, that the Vendor's contribution towards the cost of constructing any dividing fence is \$1.00;

2.2.4 without limitation to the Special Conditions, it must commence and complete construction of the dwelling on the Property in accordance with the approvals and timeframes specified in the Contract of Sale; and

2.2.5 if the New Owner sells, transfers or otherwise deals with its interest in the Property at any time prior to construction of the Dwelling (as defined in the Contract of Sale), the New Owner will require any purchaser or transferee from the New Owner to execute a further acknowledgement in favour of the Vendor on the same terms as are set out in this Deed.

- 2.3 The Purchaser warrants that it has included in its contract of sale with the New Owner, the Special Conditions, and has attached to its contract of sale with the New Owner any Design Guidelines referred to in the Contract of Sale.
- 2.4 The Purchaser, the First Purchaser and the Guarantor agree to keep the Vendor indemnified against all Claims incurred by the Vendor and arising in respect of the matters set out in this Deed (including a failure by the Purchaser or the New Owner to comply with the provisions of this Deed).

---

### **3. New Guarantor**

#### **3.1 Liability of New Guarantor**

In consideration of the Vendor entering into this Deed at the request of the New Owner, the New Guarantor:

- 3.1.1 guarantees that the New Owner will strictly observe and perform its obligations under this Deed;
- 3.1.2 must pay on demand any amount which the Vendor is entitled to recover from the New Owner and for any money for any loss suffered by the Vendor due to a breach of this Deed by the New Owner; and
- 3.1.3 indemnifies the Vendor against all loss suffered by the Vendor as a result of the Vendor having entered into this Deed including as a result of a breach of this Deed by the New Owner.

#### **3.2 Extension of Liability**

The New Guarantor is liable even if:

- 3.2.1 the Vendor grants to the New Owner any indulgence or extension of time;
- 3.2.2 any New Guarantor does not sign this Deed; and
- 3.2.3 the Vendor decides not to sue the New Owner or any other New Guarantor.

### **3.3 Not Enforce Claim Against New Owner**

The New Guarantor must:

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

---

### **4. Deed supplementary**

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

---

### **5. Continued operation**

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

---

### **6. Severance**

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

---

### **7. Counterparts**

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

---

### **8. Legal Costs**

The Purchaser must pay the Vendor's legal costs and expenses in relation to the negotiation, preparation and execution of this document in the amount of \$550.00 inclusive of GST.

---

### **9. Interpretation**

#### **9.1 Governing Law and Jurisdiction**

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

## 9.2 Persons

In this Deed, a reference to:

- 9.2.1 a person includes a firm, partnership, joint venture, association, corporation or other corporate body;
- 9.2.2 a person includes the legal personal representatives, successors and permitted assigns of that person; and
- 9.2.3 any body which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference to the body which most closely serves the purposes or objects of the first-mentioned body.

## 9.3 Joint and Several

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

## 9.4 This Document, Clauses and Headings

In this Deed:

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

## 9.5 Number and Gender

In this Deed, a reference to:

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

---

**10. Electronic Execution and Exchange****10.1 Electronic Delivery**

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

**10.2 Consent to Electronic Execution**

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

**10.3 Electronic Means**

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



# Signing page

EXECUTED by the parties as a deed

## VENDOR

**EXECUTED** by **JD Wollert Bodycoats Pty Ltd**  
as trustee for **JD Wollert Bodycoats Family**  
**Trust ACN 619 249 697** by its Attorney

)  
)  
)  
)  
)  
)

\_\_\_\_\_ )  
pursuant to Power of Attorney dated

) .....

\_\_\_\_\_ )  
who states that no notice of revocation of the  
Power of Attorney has been received, in the  
presence of:

.....  
Witness

## PURCHASER

**Signed sealed and delivered** by **Rittu Thomas**  
**Rajan** in the presence of:

)  
)  
)

) .....

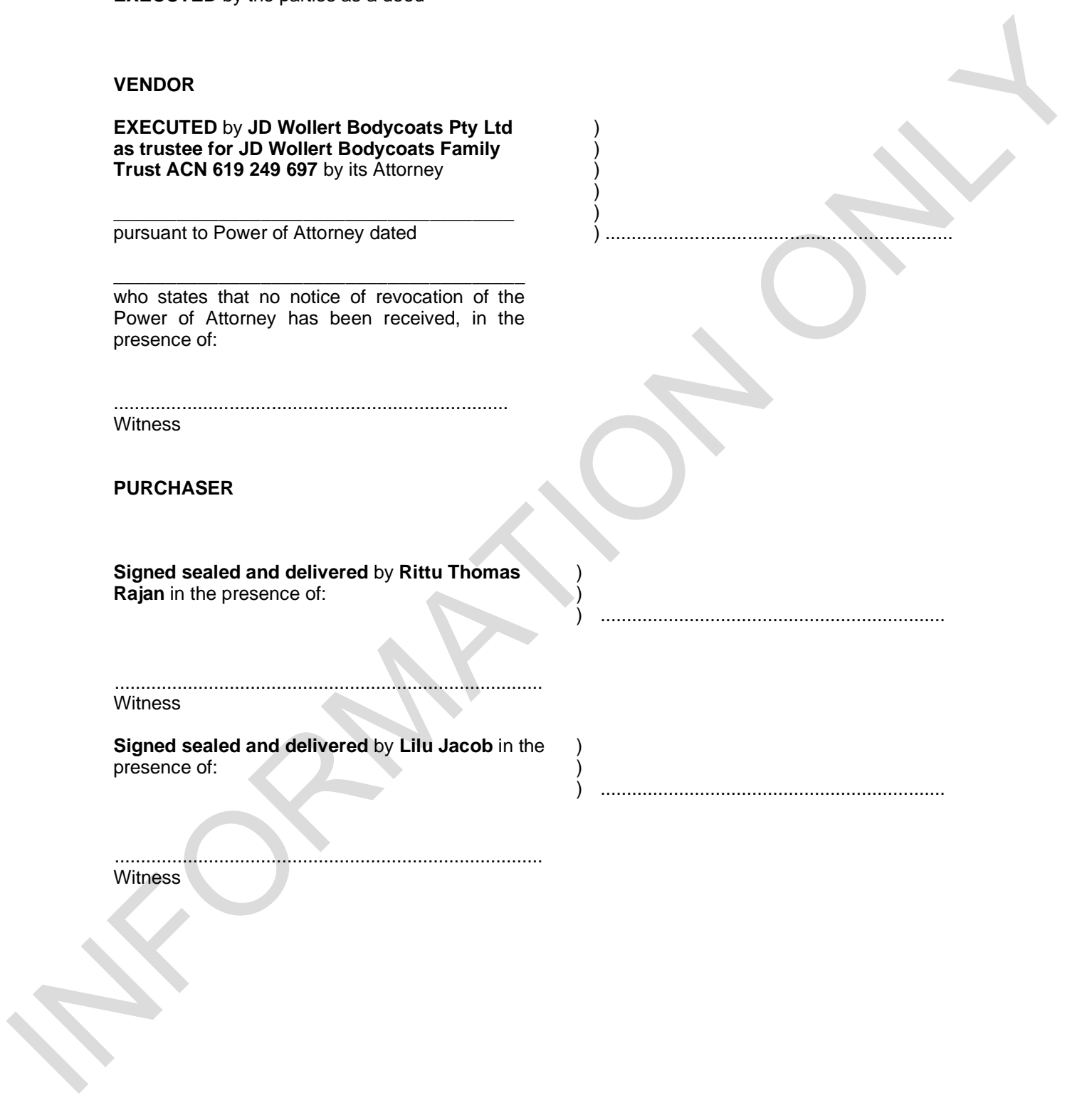
.....  
Witness

**Signed sealed and delivered** by **Lilu Jacob** in the  
presence of:

)  
)  
)

) .....

.....  
Witness





**NEW OWNER**

**SIGNED SEALED AND DELIVERED** by

)  
)  
)

\_\_\_\_\_ )  
in the presence of:

.....  
Witness

**SIGNED SEALED AND DELIVERED** by

)  
)  
)

\_\_\_\_\_ )  
in the presence of:

.....  
Witness

**Executed** by \_\_\_\_\_ )

ACN \_\_\_\_\_ in accordance with )

s 127(1) of the *Corporations Act 2001*:

.....  
Signature of Director

.....  
Print full name

INFORMATION ONLY



**NEW GUARANTOR**

**SIGNED SEALED AND DELIVERED** by

)  
)  
)

in the presence of:

.....

.....  
Witness

**SIGNED SEALED AND DELIVERED** by

)  
)  
)

in the presence of:

.....

.....  
Witness

INFORMATION ONLY

# DESIGN GUIDELINES



INFORMATION ONLY



Artist impression

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**DIVERSE DESIGN IS ENCOURAGED AT THE PATCH. THE PRINCIPAL AIM OF THE PATCH DESIGN GUIDELINES IS TO CREATE A COHERENT VISION FOR THIS NEW COMMUNITY AND TO GUIDE YOU THROUGH THE PROCESS.**

**THE GUIDELINES HAVE BEEN DESIGNED TO ENSURE ALL HOMES AT THE PATCH ARE BUILT TO A HIGH STANDARD AND ENCOURAGE A VARIETY OF HOUSING STYLES THAT ARE SYMPATHETIC TO THE LOCAL STREETScape, WHILST PLAYING A PART IN THE ESTABLISHMENT OF SAFE NEIGHBOURHOODS.**

## 1. OVERVIEW

### 1.1 DEVELOPER APPROVAL

All homes built at The Patch must be approved by the Design Assessment Panel (DAP) prior to lodging for any Building Permit or commencing any construction of works. The DAP is appointed by Jinding Australia (Developer) to oversee and implement the objectives of the Design Guidelines.

The Design Guidelines may be changed from time to time at the DAP's discretion.

Applications for the Developer's Approval will be assessed against the current version of the Design Guidelines.

Interpretation and application of these Design Guidelines is at the sole discretion of the DAP. The DAP's decisions are final. No claims shall be made to the Developer, the DAP or their representatives with respect to the decisions made.

The DAP reserves the right to vary or waive the requirements of the Design Guidelines if it believes that a proposal (or an element of a proposal) that is not strictly in accordance with the wording of the Design Guidelines nonetheless makes a positive contribution to the overall objectives of the built form and/or streetscape at The Patch.

Allowance has been made for two submissions for each Design Approval application. Each additional submission may incur an administration fee, at the sole discretion of the DAP. New submissions for a lot that has already had an application approved may also incur an administration fee.

### 1.2 SUBMISSION REQUIREMENTS

All submissions for Developer Approval must be in PDF format and include the following information:

Site plan at minimum 1:200, with dimensions and showing:

- Lot boundaries and any easement(s) on title
- Proposed building footprint and all proposed setbacks
- Contours (at 0.5m interval or less) or spot levels
- On-site car parking and driveways
- Other external structures (including pools and spas)
- All ancillary items, including, but not limited to:
  - water tanks and storage units
  - solar panels
  - television antennae
  - air-conditioning units
  - evaporative cooling units
  - heating units
  - bin storage area
  - sheds and any out-buildings

All floor plans, roof plans and elevations at 1:100, with dimensions and showing:

- Internal layout, and any pergolas, decks, terraces, balconies, verandahs, windows, doors and other openings
- Proposed floor levels
- Finishes and colour samples
- Provide samples or images (swatches, colour photos, paint chips etc.) of all proposed external materials and colour selections

Landscape plan at 1:100, with dimensions and showing:

- Indicative extent of all hardscape and softscape
- Planting schedule that lists all proposed species referenced on landscape plan

For lots with greater than 1.5m land fall, please include the following, at 1:100:

- At least one sectional drawing that explains the extent of proposed cut and fill locatiotn and heights of proposed retaining walls

### 1.3 SUBMISSIONS

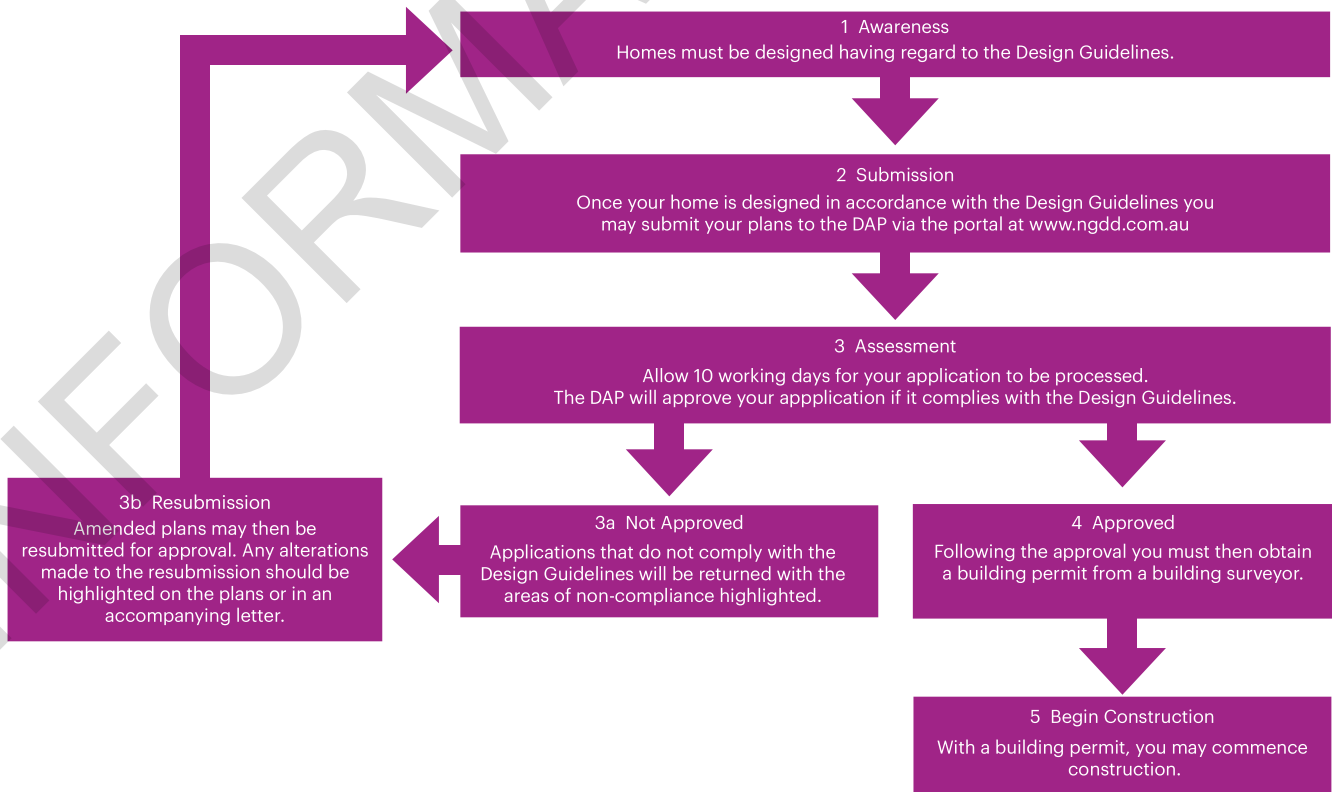
When you are ready to make your submission, you can lodge it on the Design Approval Portal at [www.ngdd.com.au](http://www.ngdd.com.au)

Users must first register to use the portal. Once this has been done, log in and simply enter the relevant details when prompted.

Generally, we will review and respond to you within 10 working days of your submission, but this time may vary depending on the nature and completeness of your submission.

Please note that incomplete submissions are the single greatest cause of delays in obtaining a Developer Approval. Check that your submission includes all the required information before lodging it. Complete and thorough submissions take the least time to process, review and approve.

### DEVELOPER APPROVAL PROCESS



## 1.4 RE-SUBMISSIONS

Should a re-submission be required, please ensure that any alterations or changes are suitably highlighted on the plans or in any accompanying communication. This will help to speed up the processing and assessment.

## 1.5 TIMING

- Construction of your home must start within 6 months of the settlement date. Completion of your home, including garage, driveway, fencing and retaining walls should occur within 18 months of settlement.
- All front gardens must be landscaped in accordance with these Guidelines (including all turf, soft landscape, driveways and pathways) within 6 months of issue of the Certificate of Occupancy.
- Fencing must be constructed within 30 days of the issue of the Certificate of Occupancy.

## 1.6 OTHER APPROVALS

The requirements detailed in this document are in addition to, and not in lieu of, any other legal or statutory requirements. It is the responsibility of the owner to ensure any other approvals, authorisation permits or other requirements are obtained and satisfied.

## 1.7 DEFINITIONS

For the purposes of these guidelines:

- Public Realm is any land that is within the ownership of a public body, including Council and servicing authorities
- Building Envelope Plan means the Building Envelope detailed on the Plan of Subdivision for a particular lot
- A Corner Lot is any lot that has more than one boundary that abuts the Public Realm
- A Return Fence is the fence that is situated between the dwelling and the interior fence, or the dwelling and the fencing to Public Realm boundary, as per the detailed requirements of Section 3.3

## 1.8 SMALL LOT HOUSING CODE (SLHC)

These guidelines apply to all single dwelling lots at The Patch. Lots that provide a single dwelling and have an area less than 300m<sup>2</sup> are also subject to the requirements of the Small Lot Housing Code (SLHC). In the event of any clash between the SLHC requirements and these Design Guidelines, the SLHC shall take preference. The DAP will not assess proposals against the requirements of the SLHC.

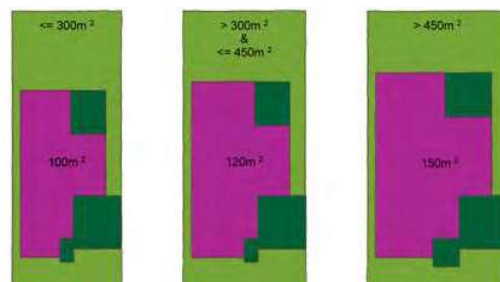
# 2. LOT PLANNING

## 2.1 LOT LAYOUT

- Only one dwelling is permitted per lot, unless otherwise provided on the relevant Plan of Subdivision.
- The dwelling must have at least one habitable room window that addresses the primary street frontage. A habitable room is a living room or a bedroom. On Corner Lots, the dwelling must have at least one habitable room window that addresses the secondary street frontage.
- The habitable room window must have appropriate head and sill heights to provide passive surveillance to the Public Realm.
- On Corner Lots, the primary street frontage is the shorter frontage adjacent to the street, unless otherwise noted on the Plan of Subdivision or Building Envelopes.



- Dwellings must comply with the following minimum dwelling size, excluding garage and all unenclosed areas, unless otherwise approved by the DAP:



LOT SIZE	MIN. DWELLING SIZE
Less than (or equal to) 300m <sup>2</sup>	80m <sup>2</sup>
More than 300m <sup>2</sup> & less than 450m <sup>2</sup>	120m <sup>2</sup>
& greater than or equal to 450m <sup>2</sup>	150m <sup>2</sup>

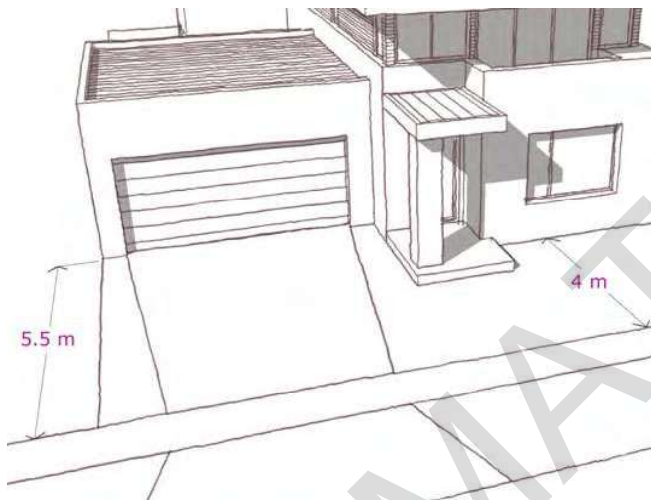
## 2.2 BUILDING SETBACKS

All dwellings must be contained within the Building Envelope Plan applied to the lot.

Generally, dwellings must be set back as follows:

### FRONT SETBACKS

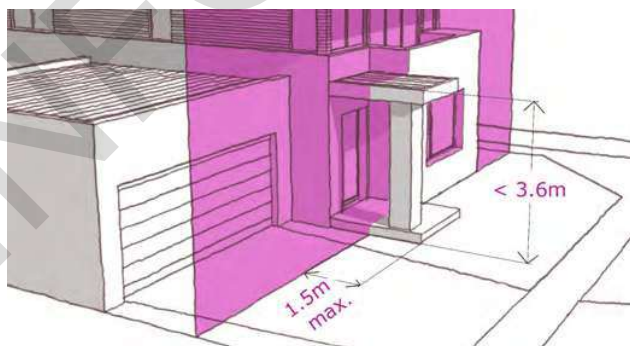
Dwellings must be set back a minimum of 4.0m and a maximum of 5m from the front boundary. The front setback can be reduced to a minimum of 3.0m if the lot is less than 300m<sup>2</sup>. The reduced front setback will be identified on the Building Envelope Plan.



- a. Garages must generally be set back a minimum of 5m from the front boundary and 0.5m minimum from the main building line:

### FRONT ENCROACHMENTS

- b. The following may encroach into the front setback by no more than 1.5 metres:



- Balconies, verandahs, open porches, covered walkways and porticos that have a maximum height

less than 3.6 metres above the ground level

- Facade treatments and / or covered balconies or verandahs on the second storey of a building that have a maximum height of less than 6.6 metres above ground level

### SIDE SETBACKS

- c. Generally, each dwelling must have at least one side setback of a minimum of 1m.

### CORNER LOTS

- d. Generally, dwellings must be setback a minimum of 2m from the secondary street frontage. Refer to the Building Envelope Plan for more detail.

### SIDE AND REAR ENCROACHMENTS

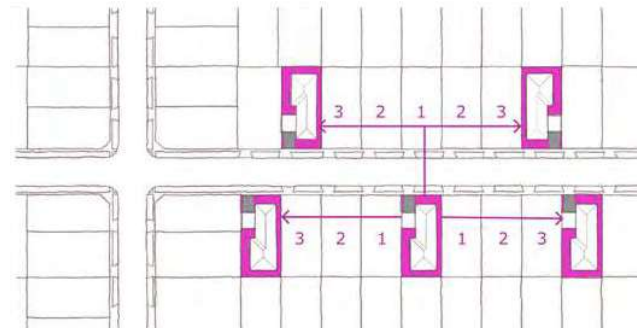
- e. The following may encroach into the side and rear setback distances by not more than 500mm: (not within the Public Realm).
  - porches and verandahs
  - eaves, fascia and gutters
  - screens, but only to the extent needed to protect a neighbouring property from a direct view
  - domestic fuel tanks and water tanks
  - heating and cooling equipment and other services.

### LANDSCAPING CONSIDERATIONS

In addition to the minimum prescribed setbacks described above, consideration should be given to the mature size of any proposed planting, particularly in the front setback, to allow plenty of space for roots and branches to spread.

## 2.3 BUILT FORM VARIETY

- a. Similar façades are not permitted within 4 lots of each other along both sides of the street.



- b. The determination of this issue will be at the sole discretion of the DAP.

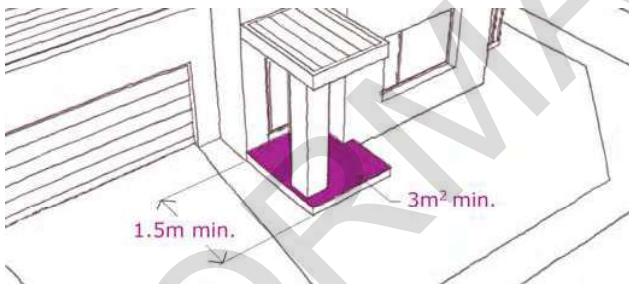
## 2.4 CHARACTER AND VISUAL STYLE

- a. As a general rule, facades must be contemporary in style:
- Period styles, such as Edwardian and Georgian etc, are not generally permitted
  - Period detailing, such as quoins, fretwork, lace work etc, are not generally permitted

There is however, scope for the use of these or similar elements as part of a contemporary design. The determination of this issue will be at the sole discretion of the DAP.

## 2.5 MASSING AND ARTICULATION

- a. Each dwelling must incorporate a prominent front entry point that is readily visible from the primary street frontage and complementary to the overall dwelling design.
- b. The front entry point may take the form of a portico, porch, verandah or other feature, to the satisfaction of the DAP, that has:
- A minimum covered area of 3m<sup>2</sup>
  - A minimum depth of 1.5m



- c. Rooms fronting the Public Realm must have a minimum ground floor ceiling height of 2700mm, or 2550mm for lots 300m<sup>2</sup> or smaller.
- d. Two storey dwellings must incorporate elements such as balconies and / or protrusions to articulate the front façade.

## 2.6 RECYCLED WATER

- a. Each dwelling must incorporate plumbing that allows for connection to any future recycled water supply.
- b. As a minimum, you must allow for all toilets and two garden taps (front and rear) to be connected to any future recycled water system.

## 2.7 CORNER LOTS

- a. Dwellings on Corner Lots must address the secondary frontage by incorporating the same or similar design features to those used on the primary frontage. Acceptable features may include:
- Windows with matching head heights
  - Highlight materials and finishes that wrap around from the primary facade
  - Pergolas, porticos, porches, verandahs and balconies
  - Roof elements, such as feature gables
  - Other treatments, to the satisfaction of the DAP
- b. The side wall of the first level of any dwelling must not be constructed less than 900mm from the ground level wall that faces a side street.



- c. Materials used on the front façade must extend to the secondary frontage for a minimum of 3m.
- d. Corner features must be forward of the Return Fence and/or readily visible from the Public Realm.
- e. Please note that blank walls forward of the Return Fence are not permitted.
- f. In addition to the above requirements, dwellings on Corner Lots must include eaves to all sides facing the Public Realm, unless otherwise approved by the DAP.



- g. Lots with a side boundary that abuts any open space are a particular type of corner lot and must incorporate the following additional features:
- i. double storey dwellings (single storey dwellings will not be approved); and
  - ii. passive surveillance features such as large windows and/or balconies at the first storey level overlooking the adjoining open space; and
  - iii. fencing with a minimum 25% transparency and a maximum height of 1.5 metres if the fence is located forward of the return fence and on the boundary abutting the open space. The return fence and any fence on the rest of the abutting boundary must be a corner fence, as described elsewhere in this document.

## 2.8 ROOF DESIGN

A variety of roofing forms and styles is encouraged.

Articulated roof shapes with elements such as hips, gables, Dutch gables and/or dormer windows are preferred.

Eaves provide shade in the summer months and allow the winter sun to penetrate the home during winter. A greater energy efficiency can generally be achieved by constructing eaves making the house more sustainable and providing the opportunity for energy savings.

Curved, or other innovative roof designs that incorporate some flat elements will be assessed on their design merit.

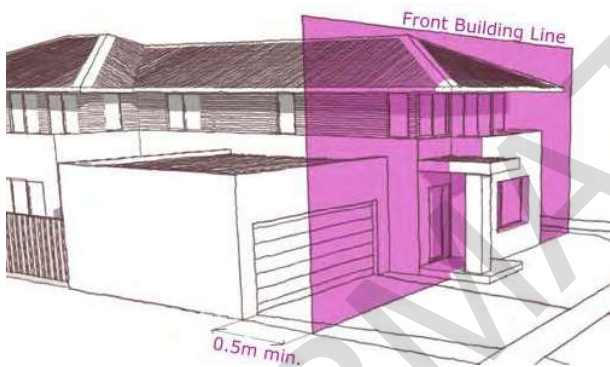
- a. Hip or gable end roofs must have:
  - A roof pitch of at least 22°, where steeper pitches are encouraged on homes with a narrow frontage
  - A minimum eaves width of 450mm to the front façade
  - A minimum eaves width of 450mm to the façade facing the secondary street frontage
  - The front eaves returning along the side wall for at least 3m on single storey dwellings
  - A minimum eaves width of 450mm to the entire upper level on two storey dwellings
- b. Roof cladding must complement the style of your home. Acceptable materials include:
  - Pre-finished metal roof sheeting
  - Low profile roof tiles
- c. Galvanized, zincalume or unfinished roof materials and rainwater fixtures are not permitted.
- d. Roof materials must be matte finish and non-reflective.
- e. Walls constructed on side boundaries (zero lot line) will be exempt from the eaves requirements.
- f. Corner Lot dwellings have additional roof requirements. Refer to Section 2.7 Corner Lots.

## 2.9 MATERIALS AND FINISHES

- a. A colour and materials schedule must be included with your application for approval by the DAP.
- b. The front façade must be finished with a mixture of external materials and finishes. Homes on lots 12.0m or wider must provide a contrast of 3 material or colour types. Homes on lots narrower than 12.0m must provide a contrast of 2 material or colour types.
- c. Acceptable primary colours must be no greater than 70% of the front façade (not including the garage door or windows).
- d. Other front façade materials may include:
  - Stone
  - Masonry blocks
  - Weatherboard (painted)
  - Lightweight cladding
  - Timber cladding
  - Render
  - Other materials approved by the DAP
- e. Aluminium sliding windows and doors are unlikely to be approved if visible from the Public Realm, unless they are manufactured from commercial or semi commercial sections.
- f. No dwelling is to be built with any exposed stumps.
- g. Colour schemes should adopt a palette of muted neutral tones.
- h. External finishes, materials and colours must be approved by the DAP. Each application must include samples or images of the proposed colours, finishes and materials, including:
  - Roofing
  - Rain water fixtures (gutters, downpipes, fascias etc.)
  - External walls
  - Window frames
  - Garage door
  - Driveway
- i. External glazing that is visible from the Public Realm must not contain leadlight, stained glass, reflective glass or patterned film.
- j. The front facade (and secondary frontages) must not include recessed lightweight infill panels above doors, windows or garage doors.
- k. Materials used on the front façade must extend to the side elevation for a minimum of 1.5m except for a Corner Lot where additional requirements apply. Refer to Section 2.7 Corner Lots
- l. Roll down security shutters must not be visible from the Public Realm.

## 2.10 CAR ACCOMMODATION

- Garages must be integrated into the overall form of the dwelling.
- Garages must be enclosed. Carports and open sided garages are not allowed.
- Lots with a frontage of 12.5m or more must provide a double garage.
- Lots with a frontage of 10m or less must provide a single garage if the crossover is located on the front boundary. Double garages will not be approved.
- The width of the garage door must not exceed 40% of the width of the lot frontage.
- Garages must be stepped back a minimum of 0.5m from the front wall of the dwelling. This distance is measured from the front building line, not from verandas or porches etc.



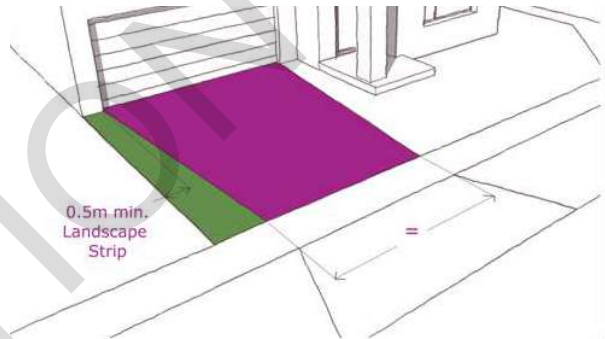
- The garage doors visible from the Public Realm must be either a panel lift, sectional overhead or other similar type.
- Roller doors are not permitted if they are visible from the Public Realm.

## 3. OTHER EXTERNAL ELEMENTS

### 3.1 DRIVEWAYS

- Each lot must have a maximum of one cross-over per frontage.
- Driveways must be constructed from:
  - Exposed aggregate concrete;
  - Coloured-through concrete;
  - Slate;
  - Natural Stone;
  - Asphalt; or
  - Brick

- Driveway colours should be muted.
- Plain (uncoloured) and painted concrete driveways are not permitted.
- The driveway must be set back a minimum of 0.5m from the side boundary to provide a strip for landscaping.



- Driveways must not be wider than the garage door where they meet the garage and must taper to the width of the crossover at the boundary.
- The driveway must be constructed prior to the occupancy of the dwelling.

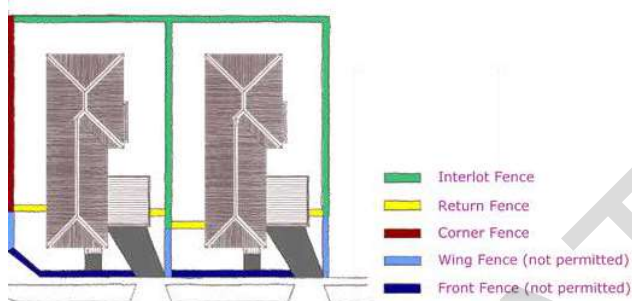
### 3.2 LAND FORM (RETAINING WALLS)

- The maximum height of any retaining wall is generally 1.0m. If a higher wall is required, more than one wall must be used in conjunction with graded slopes, battering and other landscape treatment to soften the appearance of the change in levels. Council approval may be required for retaining walls. Owners should make their own enquiry.
- Thought should also be given to providing a landscaping strip of approximately 0.2m in front of the retaining wall to soften the height
- Retaining walls visible from the Public Realm must be constructed from a material and finish to complement the house, to the satisfaction of the DAP.

Acceptable finishes may include:

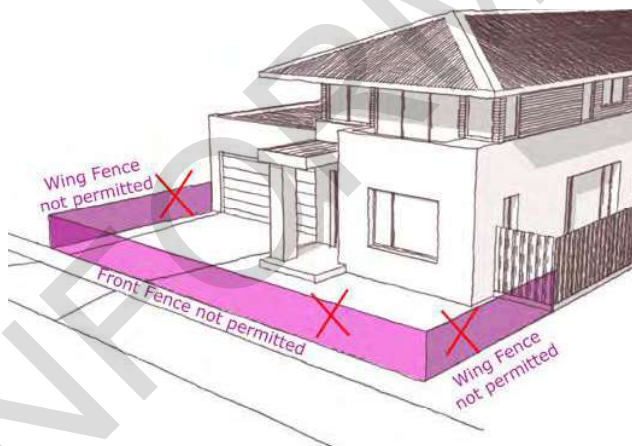
- Stone
  - Face or rendered masonry
  - Concrete sleepers with an appropriate applied finish and galvanised support columns
- d. Timber sleepers are not permitted.
- e. The extent, height and finish of all proposed retaining walls must be included in any application for Design Approval.
- f. Refer to Council for additional retaining wall requirements.

### 3.3 FENCING



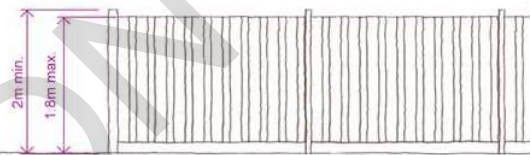
#### FRONT FENCING

- a. Front fences are not permitted. Front fences may be considered for integrated housing sites only.

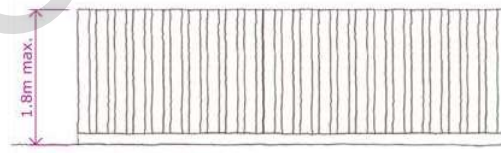


#### INTERLOT FENCING (FENCING BETWEEN LOTS)

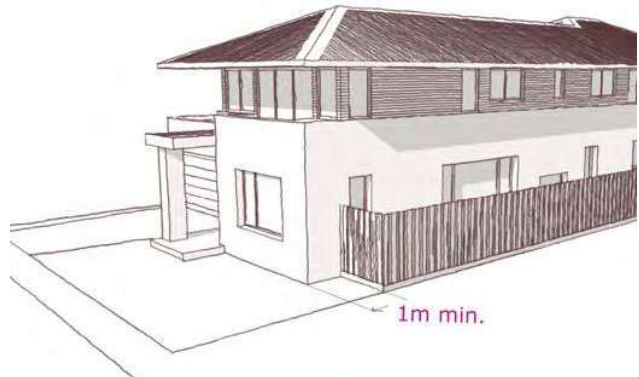
- b. Interlot fencing must be in pinelap constructed with:
- Maximum 2m high
  - Minimum height of 1.8m
  - 150mm timber bottom plinth
  - Constructed with exposed posts and railings
  - Terminated a minimum of 1m behind the closest front wall of the dwelling, unless it is on the rear boundary of an adjoining lot
  - Terminated by returning to meet the closest wall of the dwelling (Return Fence)



Corner Fence Elevation



Interlot Fence Elevation



- c. Timber paling fencing is only permitted.

#### FENCING TO PUBLIC REALM BOUNDARY OTHER THAN THE FRONTAGE CORNER

- d. Corner Fencing must be a pinelap fencing detail.

- Pinelap fencing must be constructed with:
  - maximum 2m high, exposed timber posts
  - a minimum height of 1.8m; and
  - 150mm timber bottom plinth
- All Corner Fencing must be:
  - terminated a minimum of 3m behind the closest front wall of the dwelling or 1m behind any corner treatment, whichever is greater; and
  - terminated by returning to meet the closest wall of the dwelling (Return Fence)



#### RETURN FENCING

- e. Return Fences must be:
- Constructed with materials and finishes to match or complement the adjacent fence
  - The same height as the adjacent fence

#### GATES

- f. Any gate in a fence must match or complement the fence in terms of materials and finishes.

**WING FENCING** (fencing between the return fence and the front boundary)

- g. Wing fences are not permitted.

### 3.4 OUTBUILDINGS AND ANCILLARY ITEMS

#### SHEDS AND OUTBUILDINGS

- a. If less than 10m<sup>2</sup> in area, sheds and outbuildings must not be readily visible from the Public Realm.
- b. If more than 10m<sup>2</sup> in area, sheds and outbuildings must:
- match or complement the appearance of the dwelling in form, colour and materials

- have a maximum height of 3.6m at the ridgeline, measured from natural ground level
- have a maximum height of any perimeter wall, excluding the gable infill, of 2.4m, measured from the natural ground level

#### LETTERBOX

- c. Letterboxes must complement the dwelling in terms of materials, colour and style.
- d. Single post supported letterboxes are not permitted.

#### SERVICE EQUIPMENT

- e. Satellite dishes, antennae or external receivers must be:
- located to the rear of the dwelling
  - not readily visible from the Public Realm
- f. Heating and cooling units must be:
- located towards the rear of the dwelling
  - if located on the roof, satellite dishes, antennae, external receivers and heating and cooling units must be:
    - positioned below the ridge line
    - positioned to the rear of the roof
    - coloured to match the roof as far as practical
- g. Photovoltaic cells, solar panels and the like may be located to maximise their efficiency as long as they integrate with the roof form.

#### SCREENING

- h. Ancillary structures and elements must be located so that they are not readily visible from the Public Realm.

This includes items such as:

- Rubbish bin storage areas
  - Washing lines
  - Hot water systems
  - Any water storage tanks
  - Swimming pools
  - Spa pumps
  - External plumbing other than that for rain water
- i. Trucks, commercial vehicles exceeding 1.5 tonnes, recreational vehicles, trailers, caravans, boats, horse floats or other like vehicles must be located so that

they are not readily visible from the Public Realm when parked or stored on the lot.

#### **SIGNAGE**

- j. Signs to advertise the sale of a vacant lot are not permitted unless approved by the Developer.
- k. One sign only may be erected to advertise the sale of a completed dwelling.
- l. Signs for dwelling names and home businesses are not permitted.

#### **MAINTENANCE OF LOTS**

- m. The Purchaser shall not allow any rubbish including site excavations and building materials to accumulate on a lot (unless the rubbish is neatly stored in a suitably sized industrial bin or skip) or allow excessive growth of grass or weeds upon the lots.
- n. The Purchaser shall not place any rubbish including site excavations and building materials on adjoining land, reserves or in any waterways.

#### **CROSSOVER & FOOTPATH PROTECTION**

- o. It is the responsibility of the Landowner to ensure that any required asset protection permits are obtained prior to the commencement of building works.

#### **STREET TREE PROTECTION**

- p. It is the responsibility of the Landowner to ensure that any street trees and/or nature strips are protected during all building works.

### **3.5 LANDSCAPING**

- a. Landscape works are part of the design approval process. A Landscape Plan must be included with the submission for design approval and approved prior to the commencement of construction.
- b. No more than 50% of the front garden is to comprise hard paved surfaces.
- c. The front garden must contain free draining surfaces such as:
  - Grass
  - Garden beds containing trees, shrubs, tufting plants
  - Groundcovers
  - River pebbles or Lilydale toppings or similar

This reduces rain runoff and can keep the garden cooler in

summer. Scoria or Quartz should be avoided.

- d. On lots that are 12.5m or wider, at least one advanced evergreen tree and one deciduous tree, both with a minimum installation height of 2.0 metres, must be planted between the front building line and street boundary.
- e. On lots that are less than 12.5m wide, at least one tree with a minimum installation height of 2.0 metres, must be planted between the front building line and street boundary.

This will provide shade and help reduce the local temperature on hot days or protect from frost.

Consideration should be given to the mature size of the tree to allow plenty of space for roots and branches to spread.

- f. All garden bed areas within the front yard must be edged using brick, timber, steel or spaded edges and be planted with:
  - A minimum of 10 medium to large shrubs (from 0.2m pot size at installation)
  - A minimum of 20 smaller shrubs (from 0.15m pot size at installation)
  - A minimum of 20 ground cover plants (from 0.15m pot size at installation)
- g. Consideration should be given to locating garden beds at the edge of the lot, rather than lawn or paving.
- h. All garden beds should be at least 0.5m wide. This is enough for some low shrubs. Beds of 1.0m and over offer opportunities for larger shrubs to provide screening and smaller plants adding layers in front.
- i. All garden beds should be densely planted to ensure good coverage of growth. Empty spaces between species should be avoided.
- j. All garden beds should be mulched to help keep the soil moist. Use pine bark or other organic matter, or decorative pebbles.

### **3.6 ENVIRONMENTAL SUSTAINABILITY**

#### **LIVEABILITY CONSIDERATIONS**

Applicants are encouraged to submit designs that are environmentally responsible.

The orientation of your lot will determine the best siting of the house on the lot. A building's orientation plays a large part in achieving the optimum solar access for your home during winter. Lots on the north side of a street will have sunny backyards – good for private outdoor living. Lots on the south side of a street will have sunny front yards – good for show

piece gardens. Lots facing east-west will have sunny side yards – these houses should be sited to leave the largest possible outdoor living space along the northern boundary.

Dwellings can become more liveable by taking into account the orientation of rooms and windows, shading of windows and walls, ceiling heights, sustainable building materials, cross flow ventilation, covered open spaces, insulation and water efficient fixtures. Eave design can act as excellent shading devices during warmer months. Implementing these features can also result into substantial financial savings for the home owner.

Double storey homes must respect the privacy of neighbouring dwellings, including potential overshadowing issues that may arise as a result of siting choices. It is the responsibility of applicants with double storey proposals to ensure their design has demonstrated these factors and to receive approval from the relevant authority and/or Building Surveyor prior to construction.

#### **SOLAR HEATING PANELS**

Solar heating panels must be located on roof planes preferably not visible from the Public Realm. The panels should follow the roof pitch. Where visible from public, solar panels will be assessed on their merits with regard to scale, form and colour.

#### **RAINWATER TANKS**

Rainwater storage is encouraged. The rainwater tank and all accessories must not be located in front of the dwelling or be visible from the street and public spaces. The rainwater tank and all accessories must be coloured to match the dwelling. To help calculate the size of water storage that you may require please contact the Department of Sustainability and Environment for appropriate storage requirements in relation to the collection area provided.

#### **RECYCLED WATER**

Recycled water will be implemented for non-drinking purposes such as toilet flushing and garden usage. All residents are required to connect their dwellings to this service to reduce the consumption of potable water. Every dwelling must incorporate dual plumbing for the use of recycled water in toilet flushing and garden watering. For more information, please visit Yarra Valley Water webpage, or visit the link below to find out about recycled water in the home at [www.yvw.com.au/help-advice/recycled-water](http://www.yvw.com.au/help-advice/recycled-water)

#### **ENERGY RATINGS**

It is the applicants' responsibility when building a home to comply with Victoria's energy rating requirements. Dwelling designs should be assessed by a licensed energy rating company, and they in turn will make recommendations regarding insulation and other resource saving measures. Dwellings must achieve the minimum standard as currently legislated.

#### **DEVELOPER'S RESPONSIBILITY**

Whilst Jinding Australia will endeavor to ensure compliance with these Design Guidelines wherever possible, Jinding Australia will not be responsible or liable to any person for any loss, damage or injury arising whether directly or indirectly from any noncompliance with these Design Guidelines.

## **4. DESIGN APPROVAL CHECKLIST**

**THE DESIGN APPROVAL PORTAL ([WWW.NGDD.COM.AU](http://WWW.NGDD.COM.AU)) WILL PROMPT YOU TO ENTER ALL THE INFORMATION REQUIRED TO MAKE AN APPLICATION FOR DESIGN APPROVAL AT THE PATCH.**

The information required to lodge an application includes:

- Lot number and street name.
- Owner's name, address and contact details.
- Builder/Designer's name, address and contact details.
- Applicant's name, address and contact details, if the applicant is not any of the above parties.
- The design information listed in Section 1.3, Submission Requirements, including:
  - site plan
  - floor plan(s)
  - elevations
  - landscape plan
  - printed colour board with materials/colour/finishes samples

Please note that incomplete or partial applications will be returned without assessment.



**NGD DESIGN**

Phone: 03 9849 6222

[www.ngdd.com.au](http://www.ngdd.com.au)

Email: [approval@ngdd.com.au](mailto:approval@ngdd.com.au)



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DATED

2024

**RITTU THOMAS RAJAN AND LILU JACOB**

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**CONTRACT OF SALE OF REAL ESTATE**

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**Property: 15 Lavender Street, Wollert 3750**

**MELBOURNE REAL ESTATE CONVEYANCING PTY LTD**

Licensed Conveyancer

954 High Street Reservoir Vic 3073

Tel: 9464 6732

Ref: JK:24/2614JK