

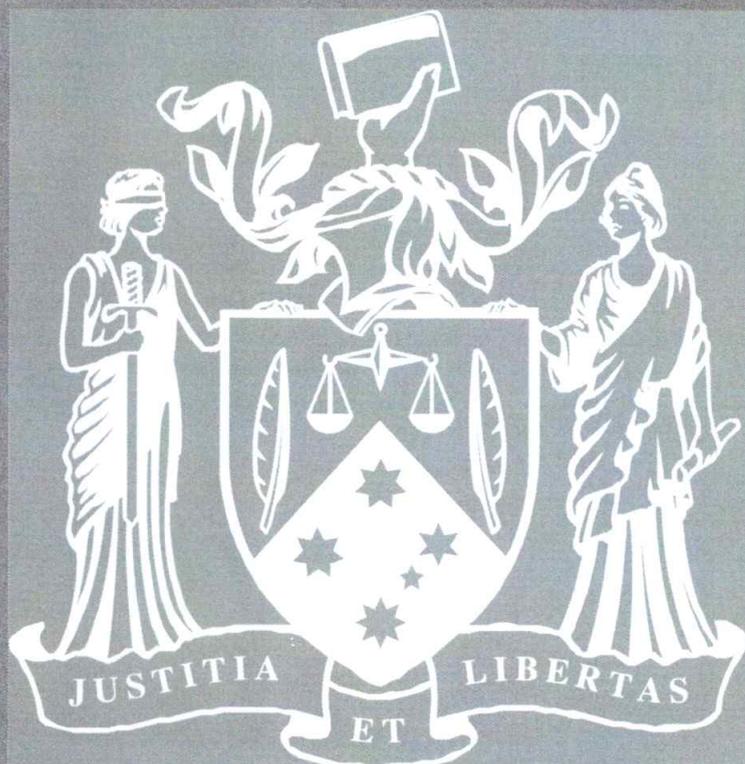
Contract of sale of land

Property: 4 Azapena Lane, Wollert 3750

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of Conveyancers (Victorian Division)



Contract of sale of land

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IMPORTANT NOTICE TO PURCHASERS – COOLING-OFF

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

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

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

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

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

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

NOTICE TO PURCHASERS OF PROPERTY OFF-THE-PLAN

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

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

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

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

Approval

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

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Disclaimer

This document is a precedent intended for users with the knowledge, skill and qualifications required to use the precedent to create a document suitable for the transaction.

Like all precedent documents it does not attempt and cannot attempt to include all relevant issues or include all aspects of law or changes to the law. Users should check for any updates including changes in the law and ensure that their particular facts and circumstances are appropriately incorporated into the document to achieve the intended use.

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WARNING TO ESTATE AGENTS

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

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

Contract of sale of land

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

The terms of this contract are contained in the –

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

in that order of priority.

SIGNING OF THIS CONTRACT

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

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

The authority of a person signing –

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

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

SIGNED BY THE PURCHASER:

..... on / 2024

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

.....

State nature of authority, if applicable:

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

SIGNED BY THE VENDOR:

..... on / 2024

Print name(s) of person(s) signing: MOHAMED MIMI EL SHAAR

.....

State nature of authority, if applicable:

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

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Particulars of sale

Vendor's estate agent

Name: Harcourts Rata & Co
Address: 769 High Street, Epping, VIC 3076

Email: sold@rataandco.com.au

Tel: 03 9401-1117

Mob:

Fax:

Ref:

Vendor

Name: **MOHAMED MIMI EL SHAAR**

Address:

ABN/ACN:

Email:

Vendor's legal practitioner or conveyancer

Name: Panther Conveyancing
Address: PO Box 242, Mernda Vic 3754
Email: info@pantherconveyancing.com.au

Tel: 03 9745 9644

Mob: 0410-660343

Fax:

Ref: DG:Sale - 407

Purchaser's estate agent

Name:

Address:

Email:

Tel:

Mob:

Fax:

Ref:

Purchaser

Name:

Address:

ABN/ACN:

Email:

Purchaser's legal practitioner or conveyancer

Name:

Address:

Email:

Tel:

Fax:

DX:

Ref:

Land (general conditions 7 and 13)

The land is described in the table below –

Certificate of Title reference	being lot	on plan
Volume 12540 Folio 683	1214	PS 902451M
Volume Folio		

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

The land includes all improvements and fixtures.

Property address

The address of the land is **4 Azapena Lane, Wollert 3750**

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

N/A - Vacant Land

Payment

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

Deposit bond

General condition 15 applies only if the box is checked

Bank guarantee

General condition 16 applies only if the box is checked

GST (general condition 19)

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

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

Settlement (general conditions 17 & 26.2)

is due on

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

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

Lease (general condition 5.1)

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

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

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

Terms contract (general condition 30)

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

Loan (general condition 20)

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

Lender:

(or another lender chosen by the purchaser)

Loan amount: no more than

Approval date:

Building report

General condition 21 applies only if the box is checked

Pest report

General condition 22 applies only if the box is checked

INFORMATION ONLY

Special conditions

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

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

- GC 23 – special condition**
For the purposes of general condition 23, the expression “periodic outgoings” does not include any amounts to which section 10G of the Sale of Land Act 1962 applies.
- GC 28 – special condition**
General condition 28 does not apply to any amounts to which section 10G or 10H of the Sale of Land Act 1962 applies.

Special Condition No: 1 - Land Tax

- Land Tax is not an adjustable item (under GC 23) in this transaction

GUARANTEE and INDEMNITY

I/We, of

and of

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

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

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

this day of 20.....

SIGNED SEALED AND DELIVERED by the said)
)
 Print Name.....)
 in the presence of:) Director (Sign)
)
 Witness.....)

SIGNED SEALED AND DELIVERED by the said)
)
 Print Name.....)
 in the presence of:) Director (Sign)
)
 Witness.....)

General conditions

Contract signing

1. ELECTRONIC SIGNATURE

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

2. LIABILITY OF SIGNATORY

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

3. GUARANTEE

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

4. NOMINEE

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

Title

5. ENCUMBRANCES

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

6. VENDOR WARRANTIES

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

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

7. IDENTITY OF THE LAND

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

8. SERVICES

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

9. CONSENTS

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

10. TRANSFER & DUTY

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

11. RELEASE OF SECURITY INTEREST

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

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

12. BUILDER WARRANTY INSURANCE

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

13. GENERAL LAW LAND

- 13.1 The vendor must complete a conversion of title in accordance with section 14 of the *Transfer of Land Act 1958* before settlement if the land is the subject of a provisional folio under section 23 of that Act.
- 13.2 The remaining provisions of this general condition 13 only apply if any part of the land is not under the operation of the *Transfer of Land Act 1958*.

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

Money

14. DEPOSIT

- 14.1 The purchaser must pay the deposit:
- (a) to the vendor's licensed estate agent; or
 - (b) if there is no estate agent, to the vendor's legal practitioner or conveyancer; or
 - (c) if the vendor directs, into a special purpose account in an authorised deposit-taking institution in Victoria specified by the vendor in the joint names of the purchaser and the vendor.
- 14.2 If the land sold is a lot on an unregistered plan of subdivision, the deposit:
- (a) must not exceed 10% of the price; and
 - (b) must be paid to the vendor's estate agent, legal practitioner or conveyancer and held by the estate agent, legal practitioner or conveyancer on trust for the purchaser until the registration of the plan of subdivision.
- 14.3 The deposit must be released to the vendor if:
- (a) the vendor provides particulars, to the satisfaction of the purchaser, that either:
 - (i) there are no debts secured against the property; or
 - (ii) if there are any debts, the total amount of those debts together with any amounts to be withheld in accordance with general conditions 24 and 25 does not exceed 80% of the sale price; and
 - (b) at least 28 days have elapsed since the particulars were given to the purchaser under paragraph (a); and
 - (c) all conditions of section 27 of the *Sale of Land Act 1962* have been satisfied.
- 14.4 The stakeholder must pay the deposit and any interest to the party entitled when the deposit is released, the contract is settled, or the contract is ended.
- 14.5 The stakeholder may pay the deposit and any interest into court if it is reasonable to do so.
- 14.6 Where the purchaser is deemed by section 27(7) of the *Sale of Land Act 1962* to have given the deposit release authorisation referred to in section 27(1), the purchaser is also deemed to have accepted title in the absence of any prior express objection to title.
- 14.7 Payment of the deposit may be made or tendered:
- (a) in cash up to \$1,000 or 0.2% of the price, whichever is greater; or
 - (b) by cheque drawn on an authorised deposit-taking institution; or
 - (c) by electronic funds transfer to a recipient having the appropriate facilities for receipt.
- However, unless otherwise agreed:

- (d) payment may not be made by credit card, debit card or any other financial transfer system that allows for any chargeback or funds reversal other than for fraud or mistaken payment, and
 - (e) any financial transfer or similar fees or deductions from the funds transferred, other than any fees charged by the recipient's authorised deposit-taking institution, must be paid by the remitter.
- 14.8 Payment by electronic funds transfer is made when cleared funds are received in the recipient's bank account.
- 14.9 Before the funds are electronically transferred the intended recipient must be notified in writing and given sufficient particulars to readily identify the relevant transaction.
- 14.10 As soon as the funds have been electronically transferred the intended recipient must be provided with the relevant transaction number or reference details.
- 14.11 For the purpose of this general condition 'authorised deposit-taking institution' means a body corporate for which an authority under section 9(3) of the *Banking Act 1959* (Cth) is in force.

15. DEPOSIT BOND

- 15.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 15.2 In this general condition "deposit bond" means an irrevocable undertaking to pay on demand an amount equal to the deposit or any unpaid part of the deposit. The issuer and the form of the deposit bond must be satisfactory to the vendor. The deposit bond must have an expiry date at least 45 days after the due date for settlement.
- 15.3 The purchaser may deliver a deposit bond to the vendor's estate agent, legal practitioner or conveyancer within 7 days after the day of sale.
- 15.4 The purchaser may at least 45 days before a current deposit bond expires deliver a replacement deposit bond on the same terms and conditions.
- 15.5 Where a deposit bond is delivered, the purchaser must pay the deposit to the vendor's legal practitioner or conveyancer on the first to occur of:
- (a) settlement;
 - (b) the date that is 45 days before the deposit bond or any replacement deposit bond expires;
 - (c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
 - (d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.
- 15.6 The vendor may claim on the deposit bond without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the issuer satisfies the obligations of the purchaser under general condition 15.5 to the extent of the payment.
- 15.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract, except as provided in general condition 15.6.
- 15.8 This general condition is subject to general condition 14.2 [deposit].

16. BANK GUARANTEE

- 16.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 16.2 In this general condition:
- (a) "bank guarantee" means an unconditional and irrevocable guarantee or undertaking by a bank in a form satisfactory to the vendor to pay on demand any amount under this contract agreed in writing, and
 - (b) "bank" means an authorised deposit-taking institution under the *Banking Act 1959* (Cth).
- 16.3 The purchaser may deliver a bank guarantee to the vendor's legal practitioner or conveyancer.
- 16.4 The purchaser must pay the amount secured by the bank guarantee to the vendor's legal practitioner or conveyancer on the first to occur of:
- (a) settlement;
 - (b) the date that is 45 days before the bank guarantee expires;
 - (c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
 - (d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.
- 16.5 The vendor must return the bank guarantee document to the purchaser when the purchaser pays the amount secured by the bank guarantee in accordance with general condition 16.4.
- 16.6 The vendor may claim on the bank guarantee without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the bank satisfies the obligations of the purchaser under general condition 16.4 to the extent of the payment.

16.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract except as provided in general condition 16.6.

16.8 This general condition is subject to general condition 14.2 [deposit].

17. SETTLEMENT

17.1 At settlement:

- (a) the purchaser must pay the balance; and
- (b) the vendor must:
 - (i) do all things necessary to enable the purchaser to become the registered proprietor of the land; and
 - (ii) give either vacant possession or receipt of rents and profits in accordance with the particulars of sale.

17.2 Settlement must be conducted between the hours of 10.00 am and 4.00 pm unless the parties agree otherwise.

17.3 The purchaser must pay all money other than the deposit in accordance with a written direction of the vendor or the vendor's legal practitioner or conveyancer.

18. ELECTRONIC SETTLEMENT

18.1 Settlement and lodgement of the instruments necessary to record the purchaser as registered proprietor of the land will be conducted electronically in accordance with the Electronic Conveyancing National Law. This general condition 18 has priority over any other provision of this contract to the extent of any inconsistency.

18.2 A party must immediately give written notice if that party reasonably believes that settlement and lodgement can no longer be conducted electronically. General condition 18 ceases to apply from when such a notice is given.

18.3 Each party must:

- (a) be, or engage a representative who is, a subscriber for the purposes of the Electronic Conveyancing National Law,
- (b) ensure that all other persons for whom that party is responsible and who are associated with this transaction are, or engage, a subscriber for the purposes of the Electronic Conveyancing National Law, and
- (c) conduct the transaction in accordance with the Electronic Conveyancing National Law.

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

18.5 This general condition 18.5 applies if there is more than one electronic lodgement network operator in respect of the transaction. In this general condition 18.5 "the transaction" means this sale and purchase and any associated transaction involving any of the same subscribers.

To the extent that any interoperability rules governing the relationship between electronic lodgement network operators do not provide otherwise:

- (a) the electronic lodgement network operator to conduct all the financial and lodgement aspects of the transaction after the workspace locks must be one which is willing and able to conduct such aspects of the transaction in accordance with the instructions of all the subscribers in the workspaces of all the electronic lodgement network operators after the workspace locks;
- (b) if two or more electronic lodgement network operators meet that description, one may be selected by purchaser's incoming mortgagee having the highest priority but if there is no mortgagee of the purchaser, the vendor must make the selection.

18.6 Settlement occurs when the workspace records that:

- (a) there has been an exchange of funds or value between the exchange settlement account or accounts in the Reserve Bank of Australia of the relevant financial institutions or their financial settlement agents in accordance with the instructions of the parties; or
- (b) if there is no exchange of funds or value, the documents necessary to enable the purchaser to become registered proprietor of the land have been accepted for electronic lodgement.

18.7 The parties must do everything reasonably necessary to effect settlement:

- (a) electronically on the next business day, or
- (b) at the option of either party, otherwise than electronically as soon as possible –

if, after the locking of the workspace at the nominated settlement time, settlement in accordance with general condition 18.6 has not occurred by 4.00 pm, or 6.00 pm if the nominated time for settlement is after 4.00 pm.

18.8 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any missing or mistaken payment and to recover the missing or mistaken payment.

18.9 The vendor must before settlement:

- (a) deliver any keys, security devices and codes ("keys") to the estate agent named in the contract,
- (b) direct the estate agent to give the keys to the purchaser or the purchaser's nominee on notification of settlement by the vendor, the vendor's subscriber or the electronic lodgement network operator;

- (c) deliver all other physical documents and items (other than the goods sold by the contract) to which the purchaser is entitled at settlement, and any keys if not delivered to the estate agent, to the vendor's subscriber or, if there is no vendor's subscriber, confirm in writing to the purchaser that the vendor holds those documents, items and keys at the vendor's address set out in the contract, and

give, or direct its subscriber to give, all those documents and items and any such keys to the purchaser or the purchaser's nominee on notification by the electronic lodgement network operator of settlement.

19. GST

- 19.1 The purchaser does not have to pay the vendor any amount in respect of GST in addition to the price if the particulars of sale specify that the price includes GST (if any).
- 19.2 The purchaser must pay to the vendor any GST payable by the vendor in respect of a taxable supply made under this contract in addition to the price if:
 - (a) the particulars of sale specify that GST (if any) must be paid in addition to the price; or
 - (b) GST is payable solely as a result of any action taken or intended to be taken by the purchaser after the day of sale, including a change of use; or
 - (c) the particulars of sale specify that the supply made under this contract is of land on which a 'farming business' is carried on and the supply (or part of it) does not satisfy the requirements of section 38-480 of the GST Act; or
 - (d) the particulars of sale specify that the supply made under this contract is of a going concern and the supply (or a part of it) does not satisfy the requirements of section 38-325 of the GST Act.
- 19.3 The purchaser is not obliged to pay any GST under this contract until a tax invoice has been given to the purchaser, unless the margin scheme applies.
- 19.4 If the particulars of sale specify that the supply made under this contract is of land on which a 'farming business' is carried on:
 - (a) the vendor warrants that the property is land on which a farming business has been carried on for the period of 5 years preceding the date of supply; and
 - (b) the purchaser warrants that the purchaser intends that a farming business will be carried on after settlement on the property.
- 19.5 If the particulars of sale specify that the supply made under this contract is a 'going concern':
 - (a) the parties agree that this contract is for the supply of a going concern; and
 - (b) the purchaser warrants that the purchaser is, or prior to settlement will be, registered for GST; and
 - (c) the vendor warrants that the vendor will carry on the going concern until the date of supply.
- 19.6 If the particulars of sale specify that the supply made under this contract is a 'margin scheme' supply, the parties agree that the margin scheme applies to this contract.
- 19.7 In this general condition:
 - (a) 'GST Act' means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*; and
 - (b) 'GST' includes penalties and interest.

20. LOAN

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

21. BUILDING REPORT

- 21.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 21.2 The purchaser may end this contract within 14 days from the day of sale if the purchaser:
 - (a) obtains a written report from a registered building practitioner or architect which discloses a current defect in a structure on the land and designates it as a major building defect;
 - (b) gives the vendor a copy of the report and a written notice ending this contract; and
 - (c) is not then in default.
- 21.3 All money paid must be immediately refunded to the purchaser if the contract ends in accordance with this general condition.

- 21.4 A notice under this general condition may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.
- 21.5 The registered building practitioner may inspect the property at any reasonable time for the purpose of preparing the report.

22. PEST REPORT

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

23. ADJUSTMENTS

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

24. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING

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

- (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 24.8 Any clearance certificate or document evidencing variation of the amount in accordance with section 14-235(2) of Schedule 1 to the *Taxation Administration Act 1953* (Cth) must be given to the purchaser at least 5 business days before the due date for settlement.
- 24.9 The vendor must provide the purchaser with such information as the purchaser requires to comply with the purchaser's obligation to pay the amount in accordance with section 14-200 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The information must be provided within 5 business days of request by the purchaser. The vendor warrants that the information the vendor provides is true and correct.
- 24.10 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of late payment of the amount.

25. GST WITHHOLDING

- 25.1 Words and expressions defined or used in Subdivision 14-E of Schedule 1 to the *Taxation Administration Act 1953* (Cth) or in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning in this general condition unless the context requires otherwise. Words and expressions first used in this general condition and shown in italics and marked with an asterisk are defined or described in at least one of those Acts.
- 25.2 The purchaser must notify the vendor in writing of the name of the recipient of the *supply for the purposes of section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) at least 21 days before the due date for settlement unless the recipient is the purchaser named in the contract.
- 25.3 The vendor must at least 14 days before the due date for settlement provide the purchaser and any person nominated by the purchaser under general condition 4 with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth), and must provide all information required by the purchaser or any person so nominated to confirm the accuracy of the notice.
- 25.4 The remaining provisions of this general condition 25 apply if the purchaser is or may be required to pay the Commissioner an *amount in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) because the property is *new residential premises or *potential residential land in either case falling within the parameters of that section, and also if the sale attracts the operation of section 14-255 of the legislation. Nothing in this general condition 25 is to be taken as relieving the vendor from compliance with section 14-255.
- 25.5 The amount is to be deducted from the vendor's entitlement to the contract *consideration and is then taken to be paid to the vendor, whether or not the vendor provides the purchaser with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.
- 25.6 The purchaser must:
 - (a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and
 - (b) ensure that the representative does so.
- 25.7 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests relating to the payment of the amount to the Commissioner and instructions that the representative must:
 - (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition on settlement of the sale of the property;
 - (b) promptly provide the vendor with evidence of payment, including any notification or other document provided by the purchaser to the Commissioner relating to payment; and
 - (c) otherwise comply, or ensure compliance, with this general condition;despite:
 - (d) any contrary instructions, other than from both the purchaser and the vendor; and
 - (e) any other provision in this contract to the contrary.
- 25.8 The representative is taken to have complied with the requirements of general condition 25.7 if:
 - (a) settlement is conducted through an electronic lodgement network; and
 - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 25.9 The purchaser may at settlement give the vendor a bank cheque for the amount in accordance with section 16-30 (3) of Schedule 1 to the *Taxation Administration Act 1953* (Cth), but only if:
 - (a) so agreed by the vendor in writing; and
 - (b) the settlement is not conducted through an electronic lodgement network.However, if the purchaser gives the bank cheque in accordance with this general condition 25.9, the vendor must:
 - (c) immediately after settlement provide the bank cheque to the Commissioner to pay the amount in relation to the supply; and

- (d) give the purchaser a receipt for the bank cheque which identifies the transaction and includes particulars of the bank cheque, at the same time the purchaser gives the vendor the bank cheque.
- 25.10 A party must provide the other party with such information as the other party requires to:
- (a) decide if an amount is required to be paid or the quantum of it, or
- (b) comply with the purchaser's obligation to pay the amount,
- in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The information must be provided within 5 business days of a written request. The party providing the information warrants that it is true and correct.
- 25.11 The vendor warrants that:
- (a) at settlement, the property is not new residential premises or potential residential land in either case falling within the parameters of section 14-250 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) if the vendor gives the purchaser a written notice under section 14-255 to the effect that the purchaser will not be required to make a payment under section 14-250 in respect of the supply, or fails to give a written notice as required by and within the time specified in section 14-255; and
- (b) the amount described in a written notice given by the vendor to the purchaser under section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) is the correct amount required to be paid under section 14-250 of the legislation.
- 25.12 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount, except to the extent that:
- (a) the penalties or interest arise from any failure on the part of the vendor, including breach of a warranty in general condition 25.11; or
- (b) the purchaser has a reasonable belief that the property is neither new residential premises nor potential residential land requiring the purchaser to pay an amount to the Commissioner in accordance with section 14-250 (1) of Schedule 1 to the *Taxation Administration Act 1953* (Cth).
- The vendor is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount if either exception applies.

Transactional

26. TIME & CO OPERATION

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

27. SERVICE

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

28. NOTICES

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

29. INSPECTION

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

30. TERMS CONTRACT

30.1 If this is a 'terms contract' as defined in the *Sale of Land Act 1962*:

- (a) any mortgage affecting the land sold must be discharged as to that land before the purchaser becomes entitled to possession or to the receipt of rents and profits unless the vendor satisfies section 29M of the *Sale of Land Act 1962*; and
- (b) the deposit and all other money payable under the contract (other than any money payable in excess of the amount required to so discharge the mortgage) must be paid to a legal practitioner or conveyancer or a licensed estate agent to be applied in or towards discharging the mortgage.

30.2 While any money remains owing each of the following applies:

- (a) the purchaser must maintain full damage and destruction insurance of the property and public risk insurance noting all parties having an insurable interest with an insurer approved in writing by the vendor;
- (b) the purchaser must deliver copies of the signed insurance application forms, the policies and the insurance receipts to the vendor not less than 10 days before taking possession of the property or becoming entitled to receipt of the rents and profits;
- (c) the purchaser must deliver copies of any amendments to the policies and the insurance receipts on each amendment or renewal as evidence of the status of the policies from time to time;
- (d) the vendor may pay any renewal premiums or take out the insurance if the purchaser fails to meet these obligations;
- (e) insurance costs paid by the vendor under paragraph (d) must be refunded by the purchaser on demand without affecting the vendor's other rights under this contract;
- (f) the purchaser must maintain and operate the property in good repair (fair wear and tear excepted) and keep the property safe, lawful, structurally sound, weatherproof and free from contaminations and dangerous substances;
- (g) the property must not be altered in any way without the written consent of the vendor which must not be unreasonably refused or delayed;
- (h) the purchaser must observe all obligations that affect owners or occupiers of land;
- (i) the vendor and/or other person authorised by the vendor may enter the property at any reasonable time to inspect it on giving 7 days written notice, but not more than twice in a year.

31. LOSS OR DAMAGE BEFORE SETTLEMENT

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

32. BREACH

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

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

Default

33. INTEREST

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

34. DEFAULT NOTICE

34.1 A party is not entitled to exercise any rights arising from the other party's default, other than the right to receive interest and the right to sue for money owing, until the other party is given and fails to comply with a written default notice.

34.2 The default notice must:

- (a) specify the particulars of the default; and
- (b) state that it is the offended party's intention to exercise the rights arising from the default unless, within 14 days of the notice being given -
 - (i) the default is remedied; and
 - (ii) the reasonable costs incurred as a result of the default and any interest payable are paid.

35. DEFAULT NOT REMEDIED

35.1 All unpaid money under the contract becomes immediately payable to the vendor if the default has been made by the purchaser and is not remedied and the costs and interest are not paid.

35.2 The contract immediately ends if:

- (a) the default notice also states that unless the default is remedied and the reasonable costs and interest are paid, the contract will be ended in accordance with this general condition; and
- (b) the default is not remedied and the reasonable costs and interest are not paid by the end of the period of the default notice.

35.3 If the contract ends by a default notice given by the purchaser:

- (a) the purchaser must be repaid any money paid under the contract and be paid any interest and reasonable costs payable under the contract; and
- (b) all those amounts are a charge on the land until payment; and
- (c) the purchaser may also recover any loss otherwise recoverable.

35.4 If the contract ends by a default notice given by the vendor:

- (a) the deposit up to 10% of the price is forfeited to the vendor as the vendor's absolute property, whether the deposit has been paid or not; and
- (b) the vendor is entitled to possession of the property; and
- (c) in addition to any other remedy, the vendor may within one year of the contract ending either:
 - (i) retain the property and sue for damages for breach of contract; or
 - (ii) resell the property in any manner and recover any deficiency in the price on the resale and any resulting expenses by way of liquidated damages; and
- (d) the vendor may retain any part of the price paid until the vendor's damages have been determined and may apply that money towards those damages; and
- (e) any determination of the vendor's damages must take into account the amount forfeited to the vendor.

35.5 The ending of the contract does not affect the rights of the offended party as a consequence of the default.

DATED this 13th day of November 2024

VENDORS:

MOHAMED MIMI EL SHAAR

VENDOR'S STATEMENT

Property: 4 Azapena Lane, Wollert 3750

Panther Conveyancing
PO Box 242
Mernda Vic 3754

Tel: 03 9745-9644
Mob: 0410-660343

Email: info@pantherconveyancing.com.au

Vendor Statement

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

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

The vendor may sign by electronic signature.

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

Land	4 Azapena Lane, Wollert 3750
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Vendor's name	Mohamed Mimi El Shaar	Date 12/11/2024
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Vendor's signature	Signed by:  6A6D54885D624C4...
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Purchaser's name		Date / /
-------------------------	--	--------------------

Purchaser's signature	
------------------------------	--

Purchaser's name		Date / /
-------------------------	--	--------------------

Purchaser's signature	
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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) Are contained in the attached certificate/s.

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	
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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.

1.5 Commercial and Industrial Property Tax Reform Act 2024 (Vic) (CIPT Act)

(a) The Australian Valuation Property Classification Code (within the meaning of the CIPT Act) most recently allocated to the land is set out in the attached Municipal rates notice or property clearance certificate or is as follows	AVPCC No. N/A
(b) Is the land tax reform scheme land within the meaning of the CIPT Act?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
(c) If the land is tax reform scheme land within the meaning of the CIPT Act, the entry date within the meaning of the CIPT Act is set out in the attached Municipal rates notice of property clearance certificate or is as follows	Date: OR <input type="checkbox"/> Not applicable

2 INSURANCE

2.1 Damage and Destruction

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

Not Applicable.

2.2 Owner Builder

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

Not Applicable.

3 LAND USE

3.1 Easements, Covenants or Other Similar Restrictions

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

Is in the attached copies of title documents.

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

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

3.2. Road Access

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

3.3. Designated Bushfire Prone Area

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

3.4. Planning Scheme

Attached is a certificate with the required specified information.

4 NOTICES

4.1. Notice, Order, Declaration, Report or Recommendation

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

Not Applicable.

4.2. Agricultural Chemicals

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

Not Applicable.

4.3. Compulsory Acquisition

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

Not Applicable.

5 BUILDING PERMITS

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

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 1000m²; (but does not include a building under a strata title system or if an occupancy permit was issued less than 2 years before the relevant date):

Not Applicable.

12 DUE DILIGENCE CHECKLIST

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

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

13 ATTACHMENTS

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

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

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

- Register Search Statement - Volume: 12540 Folio: 683
- Plan of Subdivision: PS 902451M
- Agreements: AV546944Q & AX013354U
- Land Victoria Property Report
- Planning Property Report
- City of Whittlesea Land Information Certificate
- Yarra Valley Water Information Statement
- Vic Roads Certificate
- EPA Victoria Report
- Property Clearance Certificates
- Due Diligence Checklist



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

Page 1 of 1

VOLUME 12540 FOLIO 683

Security no : 124119657945U
Produced 07/11/2024 03:55 PM**LAND DESCRIPTION**

Lot 1214 on Plan of Subdivision 902451M.
PARENT TITLE Volume 12514 Folio 928
Created by instrument PS902451M 10/04/2024

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
MOHAMED MIMI EL SHAAR of 8 HARE STREET EPPING VIC 3076
AX912231Y 17/04/2024

ENCUMBRANCES, CAVEATS AND NOTICES

COVENANT PS902451M 10/04/2024

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
AV546944Q 20/04/2022

AGREEMENT Section 173 Planning and Environment Act 1987
AX013354U 05/07/2023

DIAGRAM LOCATION

SEE PS902451M FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

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

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

Street Address: 4 AZAPENA LANE WOLLERT VIC 3750

DOCUMENT END



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Document Identification	PS902451M
Number of Pages (excluding this cover sheet)	5
Document Assembled	07/11/2024 15:55

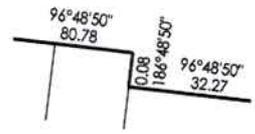
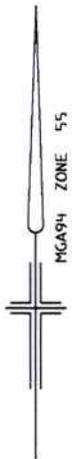
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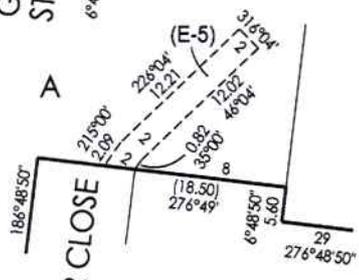
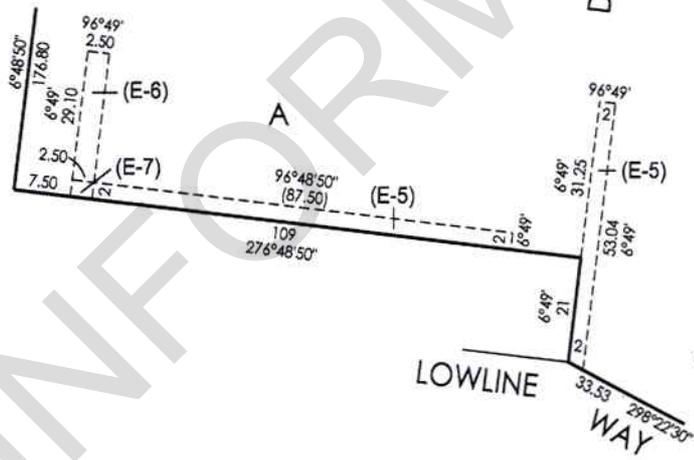
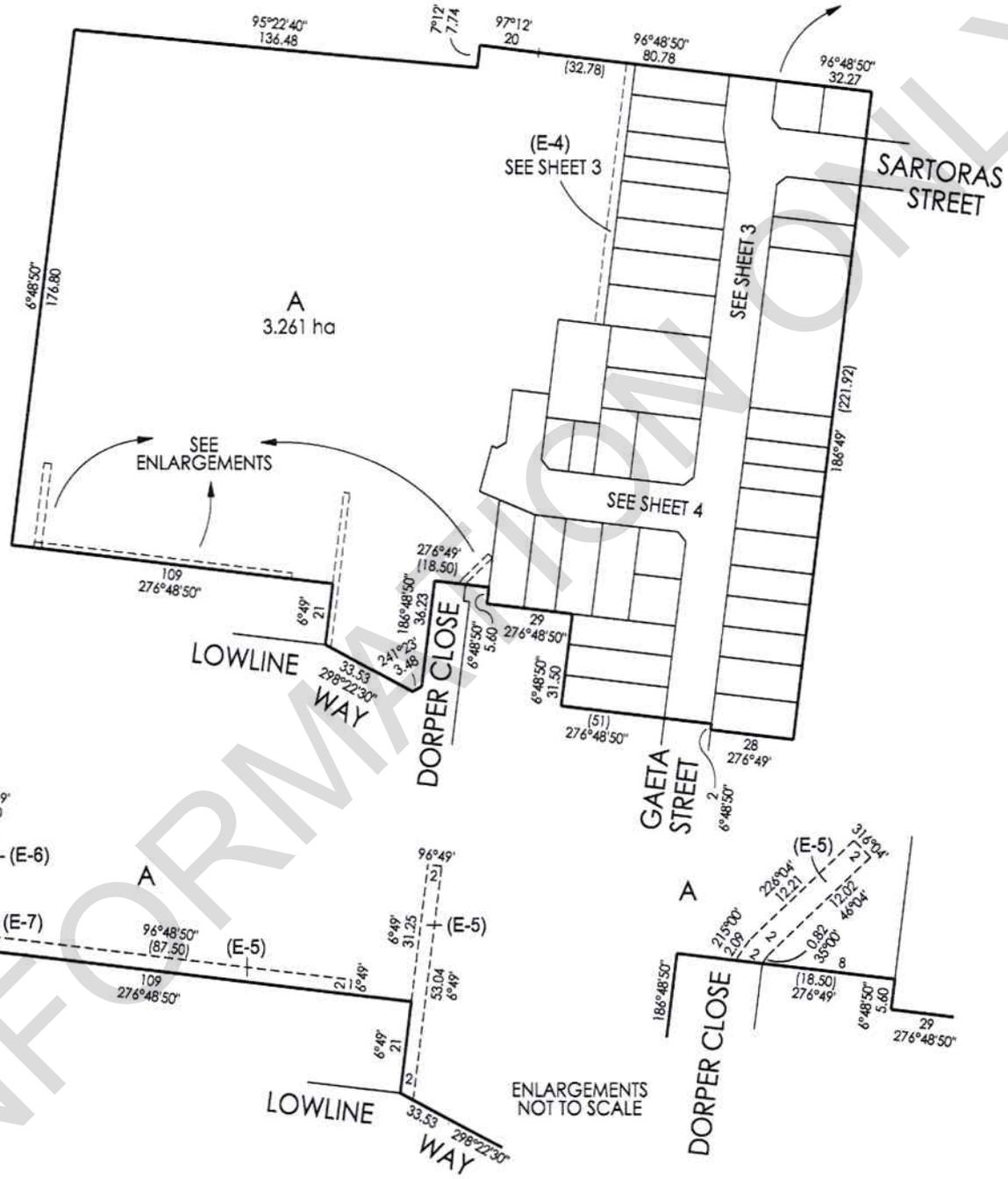
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PLAN OF SUBDIVISION		LRS USE ONLY EDITION 1	PLAN NUMBER PS 902451M	
LOCATION OF LAND PARISH: WOLLERT TOWNSHIP: ---- SECTION: 18 CROWN ALLOTMENT: ---- CROWN PORTION: 2 (PART) TITLE REFERENCES: VOL. 12514 FOL. 928 LAST PLAN REFERENCE: LOT A ON PS902485T POSTAL ADDRESS: (at time of subdivision) 80 CRAIGIEBURN ROAD WOLLERT 3750 MGA 94 CO-ORDINATES: (of approx. centre of plan) E: 325 550 ZONE: 55 N: 5 836 170 DATUM: GDA94		Council Name: Whittlesea City Council Council Reference Number: PLN-38497 Planning Permit Reference: 720072 SPEAR Reference Number: S190791E Certification 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: 11/10/2022 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: Renee Kueffer for Whittlesea City Council on 04/03/2024 Statement of Compliance issued: 04/04/2024		
VESTING OF ROADS OR RESERVES		NOTATIONS		
IDENTIFIER	COUNCIL/BODY/PERSON	TANGENT POINTS ARE SHOWN THUS: LOTS 1 TO 1200 (BOTH INCLUSIVE) AND EASEMENT (E-1) HAVE BEEN OMITTED FROM THIS PLAN TOTAL ROAD AREA: 5455m²		
ROAD R1 RESERVE No. 1 RESERVE No. 2	WHITTLESEA CITY COUNCIL WHITTLESEA CITY COUNCIL WHITTLESEA CITY COUNCIL			
NOTATIONS		FURTHER PURPOSE OF PLAN: TO REMOVE THE EASEMENT SHOWN AS (E-1) ON PS902485T WHICH LIES WITHIN THE LAND IN THIS PLAN SHOWN AS LOT 1224 GROUND(S) FOR REMOVAL: BY AGREEMENT, SECTION 6(1)(K)(iii) SUBDIVISION ACT 1988 WARNING: The restrictive covenant(s)/restriction(s) in this plan may have been varied or removed. For current information, please refer to the relevant folio(s) of the Register, noting section 88(3) of the Transfer of Land Act 1958		
DEPTH LIMITATION DOES NOT APPLY SURVEY: THIS PLAN IS BASED ON SURVEY THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARKS No(s). WOLLERT PM 43 LAND IN PROCLAIMED SURVEY AREA No. 74 STAGING THIS IS NOT A STAGED SUBDIVISION PLANNING PERMIT No.				
ESTATE: MASON QUARTER 12		AREA: 2.021 ha	No. OF LOTS: 37	MELWAY: 389:A:11
EASEMENT INFORMATION				
LEGEND: A - APPURTENANT E - ENCUMBERING EASEMENT R - ENCUMBERING EASEMENT (ROAD)				
EASEMENT REFERENCE	PURPOSE	WIDTH (METRES)	ORIGIN	LAND BENEFITED OR IN FAVOUR OF
(E-2)	DRAINAGE	SEE PLAN	THIS PLAN	WHITTLESEA CITY COUNCIL
(E-3)	SEWERAGE	SEE PLAN	THIS PLAN	YARRA VALLEY WATER
(E-4)	DRAINAGE	SEE PLAN	THIS PLAN	WHITTLESEA CITY COUNCIL
(E-4)	SEWERAGE	SEE PLAN	THIS PLAN	YARRA VALLEY WATER
(E-5)	DRAINAGE	SEE PLAN	PS902485T	WHITTLESEA CITY COUNCIL
(E-6)	SEWERAGE	SEE PLAN	PS902485T	YARRA VALLEY WATER
(E-7)	DRAINAGE	SEE PLAN	PS902485T	WHITTLESEA CITY COUNCIL
(E-7)	SEWERAGE	SEE PLAN	PS902485T	YARRA VALLEY WATER
Breese Pitt Dixon Pty Ltd 1/19 Cato Street Hawthorn East Vic 3123 Ph: 8823 2300 Fax: 8823 2310 www.bpd.com.au info@bpd.com.au		REF: 10290/12 VERSION: 10 Digitally signed by: David John Versteegen, Licensed Surveyor, Surveyor's Plan Version (10), 26/02/2024, SPEAR Ref: S190791E	ORIGINAL SHEET SIZE A3 PLAN REGISTERED TIME: 12:12 PM DATE: 10/04/2024	SHEET 1 OF 5 SHEETS K. LIEW Assistant Registrar of Titles
CHECKED TT	DATE: 05/02/24			

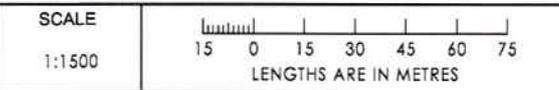
PLAN OF SUBDIVISION **PLAN NUMBER**
PS 902451M



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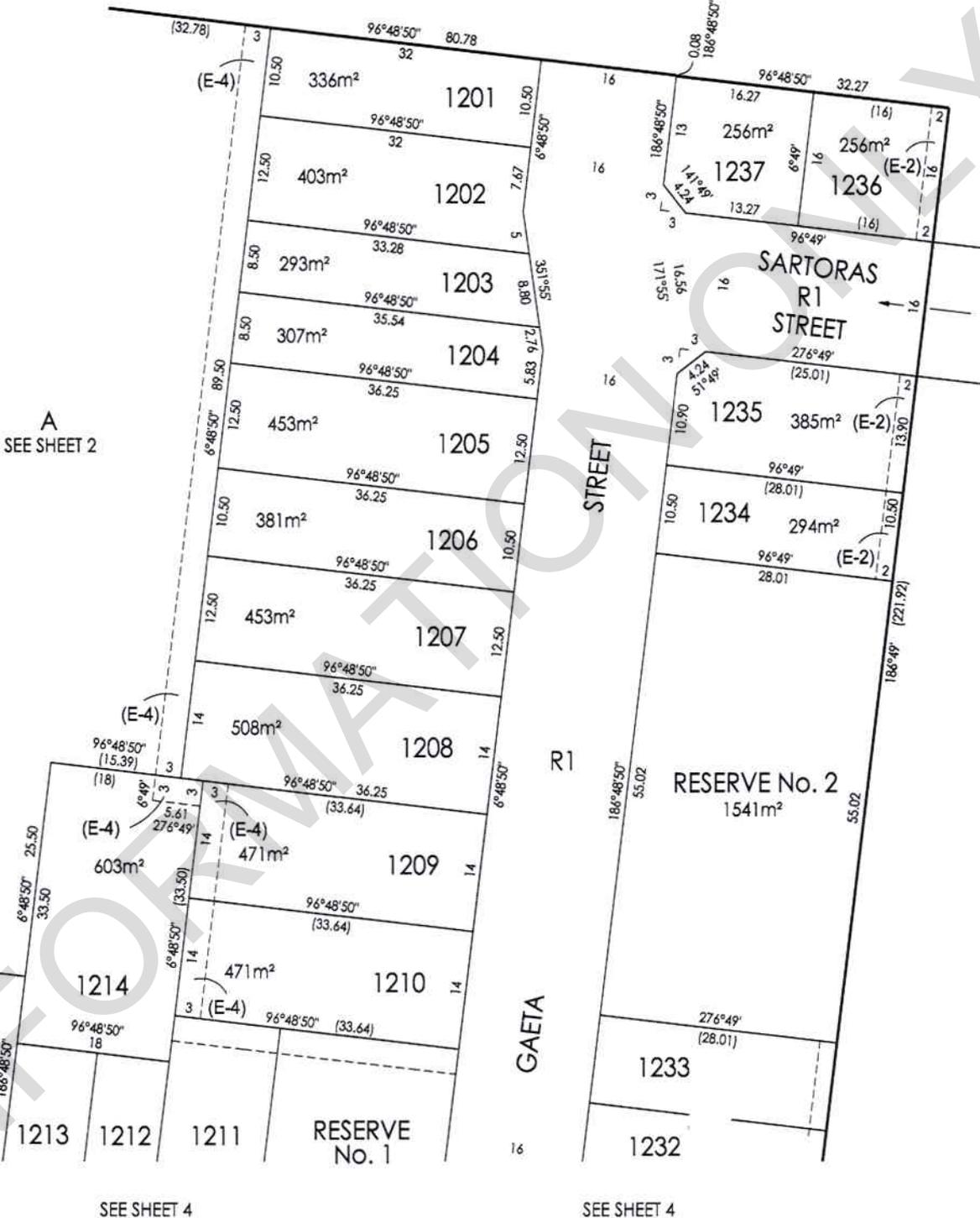
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PLAN OF SUBDIVISION

PLAN NUMBER
PS 902451M



SEE SHEET 4

AZAPENA
 R1 LANE

SEE SHEET 4

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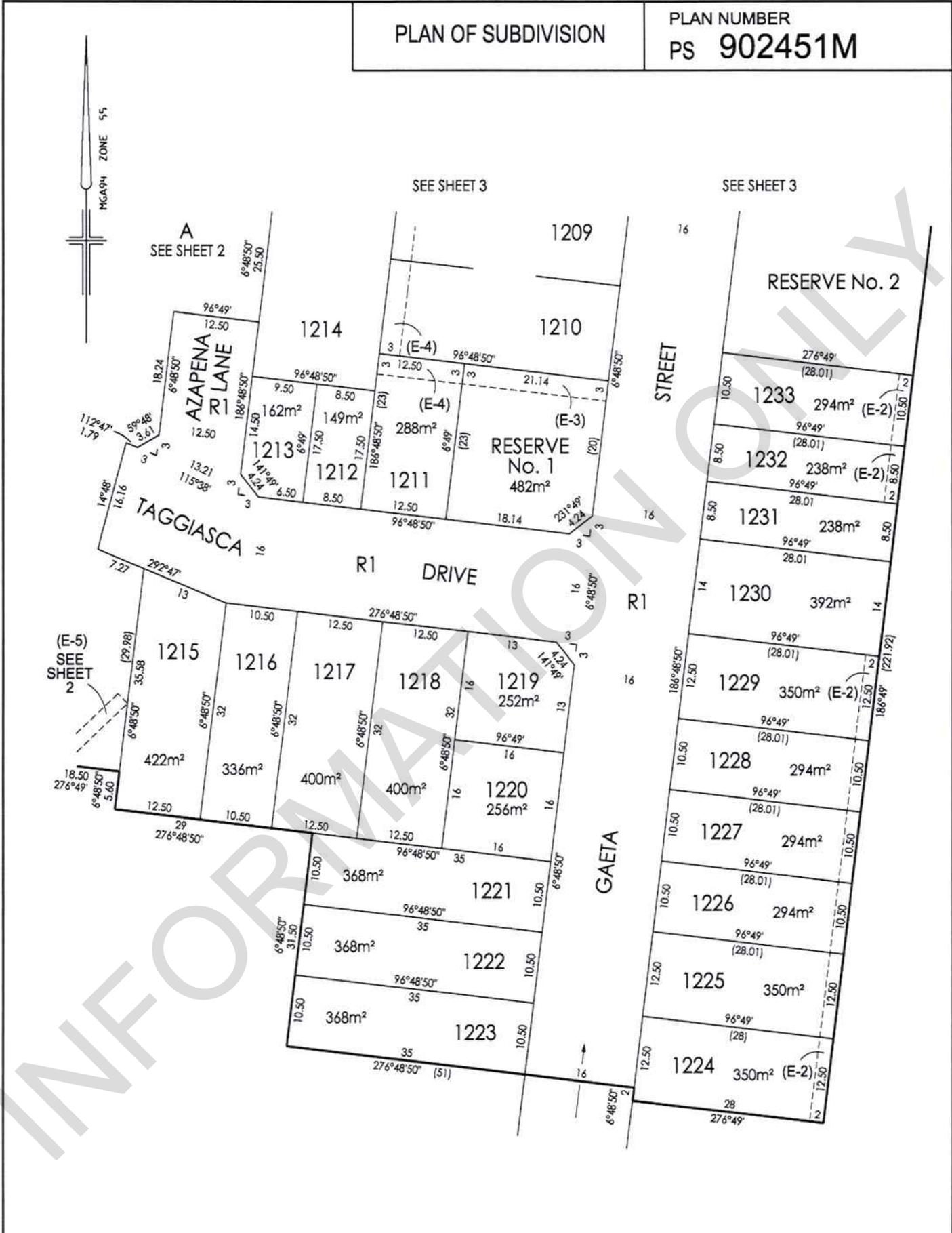
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**SUBDIVISION ACT 1988
CREATION OF RESTRICTION**

PLAN OF SUBDIVISION

**PLAN NUMBER
PS 902451M**

Upon registration of the plan, the following restrictions are to be created.

RESTRICTION 1

Land to benefit: Lots 1201 to 1237 (both inclusive)
Land to be burdened: Lots 1201 to 1237 (both inclusive)

A. The registered proprietor or proprietors for the time being of any lot forming part of the land to be burdened must not, without permission of the Responsible Authority, construct or permit to be constructed:

1. Any building other than one single residential dwelling, garage, outhouse or landscaping unless approved by Eucalypt Property Pty Ltd as being in accordance with the 'Mason Quarter Design Guidelines'
 - a. any dwelling that is used for the purpose of a display home or for the purposes of marketing display homes unless prior written consent of the Transferor has been obtained;
 - b. in the case of lots 300m² or greater, any dwelling that is not setback at least 4.0m from the Main Street Frontage. The Main Street Frontage is considered the frontage that allows the most direct access to the front door of the dwelling. The following may encroach by 1.50m into the specified Main Street Frontage setback:
 - i. eaves, gutters, facias, porches, verandas, pergolas, balconies, and porticoes;
 - ii. masonry chimneys
 - c. in the case of lots 300m² or greater, any garage less than 5m from the Main Street Frontage
 - d. in the case of corner lots 300m² or greater any side wall facing a street above the ground level of a dwelling unless
 - i. It is set back no less than 900mm from the ground level façade; or
 - ii. Greater than 30% of the area of the wall is glazed and the remainder of the wall is constructed of contrasting material finishes to that of the ground floor wall
 - e. any dwelling that faces the secondary façade must have similar elements to the main frontage and be setback in accordance to standard lot setbacks and Small Lot Housing Code setbacks.
 - f. any garage unless:
 - i. constructed from the same materials as the dwelling; and
 - ii. incorporated under the main roof of the dwelling and enclosed with a sectional garage door, unless the lot has a secondary frontage to a public road and the access and egress to and from the garage located on the secondary frontage is solely to and from that secondary public road; and
 - iii. setback a minimum of 470mm from the front façade of the dwellings;
 - g. any outbuildings (other than a garage):
 - i. which is visible from the abutting or adjacent street;
 - ii. is no greater than 20m²;
 - iii. whose design and appearance matches the existing dwelling;
 - h. any dwelling, garage or outbuilding
 - i. having external (excluding drainage downpipes) reticulated or wired services which may be visible from an abutting or adjacent view.
 - ii. with a meter box on the front façade;
 - i. any dwelling that has direct frontage to a second road and/or a reserve must contain articulation to the secondary façade and be setback in accordance to standard lot setbacks or Small Lot Housing Code setbacks where under 300m².
 - j. any dwelling that has direct frontage to a second road
 - k. in the case of lots with a width of 10m or less where measured at the front façade of the dwelling, any garage other than a single garage opening where access is proposed from the Main Street Frontage.
 - l. any dwelling on a lot with side boundaries to public open space reserves created within the subject land unless a minimum of two (2) storeys in height, and with habitable room windows or balconies at the second storey fronting the public open space reserves.
 - m. Any dwelling or commercial building unless the building incorporates dual plumbing for the use of recycled water in toilet flushing and garden watering should it be available.
 - n. Any dwelling to be constructed on the lot 1214 unless:
 - i. Be side oriented so that the dwelling fronts entirely onto the western boundary
 - ii. Include habitable rooms and dwelling entry which are orientated to the west. The primary living room may be orientated to the north and/or east
 - iii. Any front fence must be no more than 1 metre in height and minimum of 50% permeable.
 - iv. Not be constructed with any fence to the dwellings private open space which on not setback behind the front dwelling wall a minimum of 2 metres
2. Erect or cause permit to be erected or remain erected any fence:
 - a. On either side boundary or rear boundary of any Lot any fence other than a colorbond monument fence;
 - b. On either side boundary or rear boundary of any Lot any fence of a height exceeding 1.95 metres;
 - c. On any front boundary of any Lot, unless the lot is currently designated as display housing by the Transferor; or
 - d. On the side boundary of a Lot which abuts a street, that is not setback at least 10m from the front boundary.

For any lots abutting a reserve, fencing will be coordinated and installed by Eucalypt Property Pty Ltd.

3. Erect or cause permit to be erected or constructed on the Lot any:
 - a. Two way radio, any satellite dish or any other media or electronic communication aerial or device which may be visible from any street adjacent to the Lot; and
 - b. Externally mounted air-conditioning, evaporative cooling unit or device or any other plant and equipment including any solar hot water systems (not solar panels) unless:
 - c. It is similar in colour as the roof, is not visible from the adjacent or abutting street and does not have its highest point higher than the peak ridge of the roof of the dwelling.
4. The re-subdivision and/or re-sale of a vacant lot along with signage is not permitted without the prior consent from the Transferor.
5. Place or allow to be placed on the Lot any vehicle having a carrying capacity of one tonne or more or any boat, caravan, or trailer unless screened from view of any street adjacent to or abutting such Lot.
6. Erect or construct or permit to be erected or constructed on any Lot any refuse or bin storage area that is visible from any street.
7. Allow the state of repair of any landscaped area within the front setback of the Lot or within the road reserve adjacent to the Lot to fall below standard as at
8. In the case of lots less than 300m² any dwelling unless in accordance with Small Lot Housing Code or unless a specific planning permit for the said dwelling has been obtained from Whittlesea City Council.
For the purpose of this restriction lots 1203, 1211, 1212, 1213, 1219, 1220, 1226, 1227, 1228, 1231, 1232, 1233, 1234, 1236 and 1237 are Type A.

These restrictions will cease to affect any of the burdened lots ten years after the date of registration of this plan.

RESTRICTION 2

Land to benefit: Lots 1201 to 1237 (both inclusive)
Land to be burdened: Lots 1201 and 1206

- A. The registered proprietor or proprietors for the time being of any lot forming part of the land to be burdened must not, without the permission of the Responsible Authority:
1. Build or permit to be built any building(s) that does not provide 1.0 metre clear horizontal access along the full length of a minimum one side boundary of the lot.



Breese Pitt Dixon Pty Ltd
1/19 Cato Street
Hawthorn East Vic 3123
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Department of Environment, Land, Water & Planning

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Status	Registered	Dealing Number	AX013354U
Date and Time Lodged	05/07/2023 08:39:04 AM		

Lodger Details

Lodger Code	17223H
Name	MADDOCKS
Address	
Lodger Box	
Phone	
Email	
Reference	TGM: 9088379

APPLICATION TO RECORD AN INSTRUMENT

Jurisdiction	VICTORIA
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Estate and/or Interest

FEE SIMPLE

Land Title Reference

12384/191
12456/972
12478/169

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

Electronic Instrument Statement

Postcode 3752

Additional Details

Refer Image Instrument

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

Execution

1. The Certifier has taken reasonable steps to verify the identity of the applicant or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant 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	05 JULY 2023

File Notes:

NIL

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

Statement End.



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Maddocks

Lawyers
Collins Square, Tower Two
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Melbourne VIC 3008
Australia

Telephone 61 3 9258 3555
Facsimile 61 3 9258 3666

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

DX 259 Melbourne

Date / /
29/6/2023

Agreement under section 173 of the Planning and Environment Act 1987

Subject Land: 80A, 80B & 100 Craigieburn Road Wollert

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

City of Whittlesea

and

Eucalypt Property Pty Ltd ACN 125 174 236

INFORMATION ONLY

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



Maddocks

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Agreement under section 173 of the Planning and Environment Act 1987

Dated / / 29/6/2023

Parties

Name	City of Whittlesea
Address	25 Ferres Boulevard, South Morang, Victoria
Short name	Council
Name	Eucalypt Property Pty Ltd ACN 125 174 236
Address	Cedar Woods Properties Ltd 50 Colin Street, West Perth, Western Australia
Short name	Owner

Background

- A. Council is the responsible authority for the Planning Scheme.
- B. Council is also the Collecting Agency and the Development Agency under the Development Contributions Plan.
- C. Council enters into this Agreement in its capacity as the responsible authority and in its capacity as both the Collecting Agency and the Development Agency.
- D. The Owner is or is entitled to be the registered proprietor of the Subject Land.
- E. The Development Contributions Plan applies to the Subject Land. It specifies the contributions required to fund infrastructure necessary as a result of development of the area for urban purposes.
- F. The Owner has asked Council for permission to carry out certain Infrastructure Projects.
- G. The Owner has asked Council for permission to transfer to or vest in Council the Land Projects.
- H. Council has agreed that the Owner will:
 - H.1 carry out the Infrastructure Projects; and
 - H.2 transfer the Land Projects to Council,in return for a credit against its development contribution liability under the Development Contributions Plan.

- I. 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.
- J. As at the date of this Agreement, part of the Subject Land is subject to a caveat. The caveator consents to the recording of this Agreement on the relevant certificate of title to the Subject Land.

The Parties agree:

1. Definitions

In this Agreement unless the context admits otherwise:

Act means the *Planning and Environment Act 1987 (Vic)*.

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 7 of this Agreement.

Averaged Equalisation Payment Rate means the total Equalisation Payment due divided by the total NDA (Hectare) as specified in Schedule 5.

Bank Guarantee means a bank guarantee or other form of security in the amount of 5% of the Agreed Infrastructure Project Value or such other amount as is agreed between the parties.

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 stating that an Infrastructure Project has been completed to the satisfaction of Council in its capacity as Development Agency.

Collecting Agency means the collecting agency under the Development Contributions Plan.

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, as may be amended from time to time if agreed by the Development Agency.

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.

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 or the Approved Plans.

Designs means the detailed design and engineering plans and specifications of an Infrastructure Project prepared in accordance with this Agreement clause 7.

Development Agency means the development agency under the Development Contributions Plan.

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

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

Equalisation Payment means the amount specified in Schedule 5 (if any) as the amount required to be paid by the Owner to Council as the Averaged Equalisation Payment. 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 Open Space Contribution that the Owner is required to make as shown in Schedule 5.

Equalisation Reimbursement means the amount specified in Schedule 6 (if any) as the amount required to be paid to the Owner by Council as an Equalisation Reimbursement paid as the Averaged Equalisation Reimbursement Amount. 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 Open Space Contribution that the Owner is required to make as shown in Schedule 5.

GAIC means the Growth Areas Infrastructure Contribution under the Act.

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

Independent Certifier means such architect, quantity surveyor, project manager, or other expert relevant to each Infrastructure Project as appointed by the Owner and approved by Council.

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 1st of July each year.

Infrastructure Project means a project or projects 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 6 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.

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

Space Contribution as specified in clause 53.01 of the Planning Scheme for the Subject Land.

Open Space Land means unencumbered land for public open space which is identified in Schedule 5.

Open Space Land Value means the amount specified in Schedule 5 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 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 means the Wollert Precinct Structure Plan as incorporated in the Planning Scheme as amended from time to time.

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 6.4.

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 Plan¹ 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.

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 7 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.

¹ Delete this definition if not used.

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 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;
- 2.5 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;
- 2.6 the Background forms part of this Agreement;
- 2.7 a reference to Council means a reference to Council in its capacity as Collecting Agency and Development Agency unless otherwise specified;
- 2.8 any agreement, representation, warranty or indemnity by 2 or more persons and the Owner's obligations take effect and bind them as separate and several covenants which are annexed to and run at law and equity with the Subject Land; and
- 2.9 any reference to a clause, page, condition, attachment or term is a reference to a clause, page, condition, attachment or term of this Agreement.

3. 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 record the provision of Open Space Land and where relevant any agreed Land Equalisation; and
- 3.4 achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

4. Agreement required

The Parties agree that this Agreement will continue to be required unless Council confirms in writing that it is no longer required or unless it is ended in accordance with clause 27.

5. Payment of Development Infrastructure Levy

The Parties agree that:

- 5.1 subject to this Agreement, the Owner is required to pay the Development Infrastructure Levy in cash on a stage by stage basis unless the Subject Land has a Credit available to it in accordance with this Agreement;
- 5.2 notwithstanding any other provision of this Agreement, if Council becomes liable to pay money to the Owner by operation of this Agreement such liability must be paid by Council to the Owner unless the Owner instructs Council otherwise;
- 5.3 any component of the Development Infrastructure Levy which is not offset by an entitlement to 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; and
- 5.4 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 Levies paid in respect of the Subject Land reflects the Net Developable Area and upon that reconciliation being undertaken –
 - 5.4.1 Council must within 28 days pay to the Owner any amount that is identified as owing to the Owner; and
 - 5.4.2 the Owner must within 28 days pay to Council any amount that is identified as owing to Council.

6. Infrastructure Projects as Works in kind

6.1 Provision of Infrastructure Projects

The Owner must deliver or procure delivery of each Infrastructure Project:

- 6.1.1 in accordance with the Approved Plans;
- 6.1.2 so that a Certificate of Practical Completion is issued prior to the relevant Provision Trigger, unless a later date is approved by Council in writing under clause 6.2.1;
- 6.1.3 in accordance with the Public Infrastructure Plan; and
- 6.1.4 in accordance with any Construction Program provided to Council by the Owner.

6.2 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 have a Certificate of Practical Completion for an Infrastructure Project issued by the relevant Provision Trigger for that Infrastructure Project or such other later time as Council has agreed in writing, Council may:

- 6.2.1 in its capacity as the Collecting Agency, in writing, extend the timeframe; or
- 6.2.2 in its capacity as Council, refuse to issue any Statements of Compliance in respect of the development of the Subject Land until a Certificate of Practical Completion has been issued for the Infrastructure Project.

6.3 Extension of time

- 6.3.1 If the Owner becomes aware of anything which will, or is likely to cause, delay to the achievement of a Certificate of Practical Completion of the relevant Infrastructure Project, the Owner must give Council written notice of the cause and the estimated delay.
- 6.3.2 Provided the Owner complies with clause 6.3.1 Council may, acting reasonably, grant an extension of time for delivery of the relevant Infrastructure Project and modify the Provision Trigger accordingly, if the delay is caused by
 - (a) loss or damage by fire, flood, explosion, earthquake, lightning, storm, tempest, riot or civil commotion;
 - (b) any act, default or omission of Council;
 - (c) any variation requested by Council;
 - (d) any delay in any Authority in giving any approval or consent, or giving a direction to suspend the relevant Infrastructure Project;
 - (e) an event of force majeure;
 - (f) any prohibition or embargo imposed by any legislation or regulation that is not in place as at the date of this Agreement;
 - (g) any disputes between employers and employees, strikes, lockouts, stoppages or any like action that affects any builder or contractors, any of the trades employed in carrying out the relevant Infrastructure Project or any

supplier of the material or services required for the relevant Infrastructure Project, provided the Owner has not caused or contributed to these events;
or

- (h) any civil commotion or industrial action beyond the control of the Owner which prevents the relevant Infrastructure Project from proceeding or continuing.

6.4 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:

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

6.5 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.

6.6 Agreed Infrastructure Project Value

The Parties agree that the Agreed Infrastructure Project Value is a fixed amount subject only to Indexation in the manner and up to the time, specified in this Agreement.

7. Design of Infrastructure Projects

The Owner agrees that:

- 7.1.1 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;
- 7.1.2 Council's approval of the Designs will be reflected in a set of plans and specifications endorsed by Council as the Approved Plans in accordance with clause 7.2;
- 7.1.3 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 alteration and the like; and
- 7.1.4 if required by Council, prior to awarding any contract for the Infrastructure Projects, the Owner must submit to Council for Council's reference:
 - (a) a copy of the terms and conditions of the proposed contract; and

- (b) a copy of the proposed Construction Program.

7.2 Approval of Designs

7.2.1 The Owner must:

- (a) upon finalisation of the concept design for each Infrastructure Project; and
- (b) upon finalisation of the detailed design for each Infrastructure Project,

prepare and submit to Council for approval the plans and specifications for the construction of each Infrastructure Project.

7.2.2 The Owner must take all reasonable steps to ensure that the plans and specifications for the construction of any Infrastructure Project are prepared with due care and skill so that, if the works are constructed in accordance with the plans and specifications, any Infrastructure Project will be fit for its intended purpose.

7.2.3 Within 20 Business Days of submission under clause 7.2.1 Council will give notice to the Owner as to whether the plans and specifications are approved by Council or provide any comments to the Owner, and if approved those plans will be the Approved Plans.

7.2.4 If Council provides any comments on the plans and specifications under clause 7.2.3, those comments must take into account and be consistent with the DCP and the Owner must take account of those comments to the extent it is reasonable to do so and re-submit the plans and specifications to Council for approval.

7.2.5 The process set out in clauses 7.2.3 to 7.2.4 will apply until such time as the plans and specifications are approved by Council or are deemed approved pursuant to clause 7.2.6 and the reference to '20 Business Days' in clauses 7.2.3 is to be read as '10 Business Days'.

7.2.6 If Council does not give approval or provide any comments within the time prescribed in clause 7.2.3, the plans and specifications will be deemed approved.

7.2.7 Where a dispute arises between Council and the Owner as to the compliance, suitability or desirability of any part of a proposed Design, plan or specification, either party may give written notice to the other requiring a meeting of senior executives for the purpose of resolving the dispute. The meeting of senior executives must be:

- (a) convened within 5 Business Days after delivery of the written notice, or such other period as the parties may agree in writing;
- (b) attended by senior officers of each party with authority to resolve the dispute on behalf of the relevant party;
- (c) attended by the parties in good faith and with a view to resolving the dispute.

7.3 Variation of Approved Plans

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

8. Construction of Infrastructure Projects

The Owner agrees that in providing each Infrastructure Project:

- 8.1.1 the Owner is responsible for all design and construction risks in relation to the Infrastructure Projects;
- 8.1.1 Council has no responsibility for any costs incurred by the Owner beyond the Agreed Infrastructure Project Value Standard of work

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

- 8.1.2 accord with the Approved Plans;
- 8.1.3 be fit and structurally sound, fit for purpose and suitable for its intended use;
- 8.1.4 not encroach upon any land other than the land shown in the Approved Plans; and
- 8.1.5 comply with any relevant current Australian Standard unless otherwise agreed in writing by Council in its capacity as development agency.

8.2 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.

8.3 Access to other land

8.3.1 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;

8.3.2 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.

8.3.3 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.

9. Certificate of Practical Completion

9.1 Certificate of Practical Completion

Council will 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.

9.2 Procedure for Certificate of Practical Completion

The Parties agree that:

- 9.2.1 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;
- 9.2.2 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;
- 9.2.3 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; and
 - (b) a copy of any certificate, consent or approval required by any authority for the carrying out, use or occupation of the Infrastructure Project;
- 9.2.4 if Council is not satisfied that the Infrastructure Project has been completed in accordance with the requirements of this Agreement (acting reasonably), Council may refuse to issue a Certificate of Practical Completion provided Council:
- (a) identifies in what manner the Infrastructure Project is not satisfactorily completed; and
 - (b) what must be done to satisfactorily complete the Infrastructure Project;
- 9.2.5 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.
- 9.2.6 If Council notifies the Owner that it refuses to issue a Certificate of Practical Completion, the Owner must:
- (a) undertake any further works it considers are required to complete the relevant Infrastructure Project; and
 - (b) notify Council when it has completed such works,
- following which, Council must then:
- (c) attend an inspection of the works, jointly with the Owner, within 7 days of receiving notice from the Owner under clause 9.2.6(b); and
 - (d) within 7 days of that joint inspection either issue a Certificate of Practical Completion, or a notification that it refuse to issue a Certificate of Practical Completion provided that clause 9.2.4(a) and 9.2.4(b) will apply.

- 9.2.7 If Council notifies the Owner under clause 9.2.6(d) that it refuses to issue a Certificate of Practical Completion, the process set out in clause 9.2.6 will apply (provided it will only apply on two occasions).
- 9.2.8 Unless the parties agree otherwise, if, after adopting the process set out in clauses 9.2.6 and 9.2.7, Council issues a notification that it refuse to issue a Certificate of Practical Completion, an Independent Certifier will be appointed to provide advice on whether the relevant Infrastructure Project has been completed, and the following will apply:
- (a) either party may instruct the Independent Certifier to prepare a report detailing the works it considers are required to enable a Certificate of Practical Completion to be issued (**PC Report**);
 - (b) the Independent Certifier must:
 - (i) prepare that PC Report as soon as practicable and be instructed on terms that require 14 day completion;
 - (ii) first issue the PC Report in draft for comment of the parties within 7 days of issue; and
 - (iii) then issue the final PC Report.
- 9.2.9 The Owner must then undertake the works specified in the PC Report that the Independent Certifier considers are required so that a Certificate of Practical Completion can be issued.
- 9.2.10 When the Owner considers that it has completed such works, it must notify Council and the Independent Certifier, and the Independent Certifier must inspect the works within 7 days after receipt of such notice.
- 9.2.11 Within 7 days of such inspection, the Independent Certifier must either issue a notice confirming that a Certificate of Practical Completion can be issued, or issue a notice confirming that is not satisfied that the works have been completed with details of the further works that are required so that a Certificate of Practical Completion can be issued.
- 9.2.12 The Owner must then repeat the process under clauses 9.2.9 and 9.2.10 until a Certificate of Practical Completion can be issued.
- 9.2.13 If works are completed and confirmed to be completed by the Independent Certifier, then Council must issue a Certificate of Practical Completion within 7 Business Days of that confirmation.
- 9.2.14 The Parties agree that the costs of any Independent Certifier will be borne by the Owner.

10. Risk

10.1 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.

10.2 Insurance

The Owner will, or must procure that its contractors, have 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 upon request.

10.3 Maintenance Period of Infrastructure Projects

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

10.3.2 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.

10.3.3 If the Owner fails to rectify defects in accordance with clause 10.3.2, or the Infrastructure Project has not otherwise been completed in accordance with approved Designs, 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. Council will be responsible for all ongoing repairs and maintenance of the Infrastructure Project following the rectification of defects and the expiration of the Maintenance Period.

10.4 Bank Guarantee

The Owner agrees that:

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

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

10.4.3 the Bank Guarantee will be returned to the Owner within 10 Business Days after the Maintenance Period, less any amount applied to rectification of any Defects in the Infrastructure Project.

11. Land Project

11.1 Provision of Land Project

The Owner must provide each Land Project to Council :

11.1.1 by vesting of the Land Project in Council;

11.1.2 prior to the relevant Provision Trigger, unless a later date is approved by Council in writing under clause 11.2;

11.1.3 with all services to be available as specified in the relevant column of Schedule 4;

- 11.1.4 free of all encumbrances, including any structure, debris, waste, refuse and contamination, except as agreed by Council;
- 11.1.5 free of any fees and charges associated with the delivery of the site; and
- 11.1.6 otherwise in a condition that is to the satisfaction of Council in its capacity as Development Agency.

11.2 Time for vesting of Land Project

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

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

11.3 Agreed Land Value

- 11.3.1 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 but subject to Indexation; 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.
- 11.3.2 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.

11.4 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 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.

12. Public Open Space

12.1 Provision of Open Space Land

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

- 12.1.1 by vesting the Open Space Land in Council;
- 12.1.2 with all utility services available to the Open Space Land;

12.1.3 on or before the relevant Provision Trigger if any is specified in Schedule 5, unless a later date is approved by Council; or

12.1.4 as part of and upon the registration of any Plan of Subdivision for the Subject Land containing the Open Space Land,

whichever occurs earlier.

12.2 Value of Open Space Land

The Open Space Land Value is an amount which is fixed and non-variable but is subject to Indexation.

12.3 Open Space Equalisation

12.3.1 The Owner agrees that its Open Space Liability under the Planning Scheme is the percentage amount set out in Schedule 5 being the amount specified in the schedule to clause 53.01 of the Planning Scheme.

12.3.2 The Parties agree that where the public open space liability of the Owner involves Open Space Equalisation, Open Space Equalisation is to be undertaken in the manner specified in Schedule 5.

12.3.3 The Parties agree that where an Equalisation Payment is to be paid, it must be paid by the payment to the Council of the Averaged Equalisation Payment Rate set out in Schedule 5 and at the time set out in Schedule 5.

12.3.4 The Owner agrees that where an Equalisation Reimbursement is to be paid, it must be paid by the payment to the Owner of the Averaged Equalisation Payment Rate set out in Schedule 5 and at the time set out in Schedule 5.

12.3.5 Prior to the issue of a Statement of Compliance for the final stage of the subdivision or development of the Subject Land, Council may undertake a reconciliation of the Owner's obligations and entitlements under this Agreement to ensure that any final equalisation payment reflects the Net Developable Area identified in Schedule 3 and reconciles any differences within the final equalisation payment and upon that reconciliation being undertaken –

- (a) Council must within 28 days pay to the Owner any amount that is identified as owing to the Owner; and
- (b) the Owner must within 28 days pay to Council any amount that is identified as owing to Council.

12.4 Council acknowledgement

The parties acknowledge and agree that upon the Owner satisfying its obligations under clause 12, 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.

13. Credit

13.1 Process for Credit

The Parties agree that:

- 13.1.1 the Owner will be entitled to a Credit for the Agreed Infrastructure Project Value from the commencement of this Agreement;
- 13.1.2 the Owner will be entitled to a Credit for the Agreed Land Value from the commencement of this Agreement;
- 13.1.3 where a Credit has become available, the Owner will not be required to pay the Development Infrastructure Levy in cash until the Credit has been exhausted;
- 13.1.4 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;
- 13.1.5 prior to the issue of a Statement of Compliance by Council 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;
- 13.1.6 when the amount of the Development Infrastructure Levy payable in relation to a Stage exceeds the amount of the Credit remaining:
 - (a) then in relation to that Stage, the Owner must pay in cash, an amount equal to the amount of the Development Infrastructure Levy payable in relation to that Stage that exceeds the amount of Credit remaining, prior to the issue of a Statement of Compliance; and
 - (b) in relation to subsequent Stages, the Owner must pay the Development Infrastructure Levy in cash prior to the issue of a Statement of Compliance for each Stage or as otherwise agreed by Council;
- 13.1.7 when the amount of the Credit that the Owner is entitled to exceeds the Development Infrastructure Levy payable in relation to a Stage:
 - (a) the Credit remaining shall be applied to the Development Infrastructure Levy in the next Stage; and
 - (b) where at the final Stage the Owner has a Credit remaining, and clause 13.2 is not applicable, Council will pay the remaining amount of the Credit in cash as reasonably promptly as the cash reserves of the relevant Development Infrastructure Contribution account enable that payment to be made.

13.2 Exhaustion of Credit

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

- 13.2.1 the Owner must pay in cash an amount equal to the amount of the Development Infrastructure Levy payable in relation to that Stage that exceeds the amount of the Credit remaining prior to the issue of a Statement of Compliance; and
- 13.2.2 in relation to subsequent Stages, the Owner must pay the Development Infrastructure Levy in cash prior to the issue of a Statement of Compliance for each Stage or as otherwise agreed by Council.

14. Localised Infrastructure

The Parties acknowledge that:

- 14.1.1 this Agreement is intended to relate only to the infrastructure that is funded by the Development Contributions Plan and not Localised Infrastructure; and
- 14.1.2 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.

15. Further obligations of the Parties

15.1 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.

15.2 Notice and registration

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

15.3 Further actions

The Owner:

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

15.4 Council's costs to be paid

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

- 15.4.1 drafting, finalising, signing and recording and enforcing this Agreement;
- 15.4.2 drafting, finalising and recording any amendment to this Agreement; and
- 15.4.3 drafting, finalising and recording any document to give effect to the ending of this Agreement.

15.5 Interest for overdue money

The Owner agrees that:

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

16. 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.

17. Owner's warranties

- 17.1 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.
- 17.2 The Owner warrants that, to the best of the Owner's knowledge and belief:
 - 17.2.1 each Land Project is free of contamination of any kind which would make the Land Project unsuitable for its intended purpose as set out in the Precinct Structure Plan; and
 - 17.2.2 is in an environmental condition such as to be suitable to be used and developed for the purpose for which it is intended to be used as set out in the Precinct Structure Plan.

18. 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:

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

19. General matters

19.1 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:

- 19.1.1 personally on the other Party;
- 19.1.2 by leaving it at the other Party's Current Address;
- 19.1.3 by posting it by prepaid post addressed to the other Party at the other Party's Current Address; or
- 19.1.4 by email to the other Party's Current Email.

19.2 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.

19.3 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.

19.4 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.

19.5 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.

19.6 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.

19.7 Counterparts

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

19.8 Mortgagee

The Mortgagee by its consent to this Agreement acknowledges and agrees that if it ever becomes Mortgagee-in-possession of the Subject Land it will be bound by the provisions of this Agreement.

19.9 Caveator

The Caveator by its consent to this Agreement consents to the recording of this Agreement on the certificate of title to the Subject Land.

20. GAIC

- 20.1 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 incurred by Council subsequently incurred by Council as a result of its development after the termination of this Agreement.
- 20.2 The Parties agree that clause 20.1 survives the termination of this Agreement
- 20.3 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 20.1 from its Inherent GAIC Liability.

21. Foreign resident capital gains withholding

21.1 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.

21.2 Foreign resident status of Owner

The Owner is taken to be foreign residents 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.

21.3 Excluded transaction

21.3.1 Clause 21.5 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 and 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.

21.3.2 Without limiting clause 21.3.1, 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.

21.4 Variation notice

If the Owner provides Council with a Variation Notice prior to the transfer or vesting of the Land Project and Open Space Land, then Council will adjust the withholding amount (as specified in clause 21.5 below) in accordance with the Variation Notice.

21.5 Withholding

21.5.1 This clause 21.5 applies if the Owner is taken to be foreign residents under clause 21.2 and the Owner has not satisfied Council that the transfer or vesting of the a Land Project and Open Space Land is an Excluded Transaction under clause 21.3.

21.5.2 Subject to clauses 21.5.3 and 21.5.4, 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 have provided Council with a Variation Notice in accordance with clause 21.4,

(the **withholding amount**).

21.5.3 Subject to clause 21.5.4, 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 21.4 -

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.

21.5.4 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 21.4,

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

21.6 Council to remit withholding amount

21.6.1 Council agrees to:

- (a) pay the withholding amount or amounts determined under clause 21.5 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 and Open Space Land, in registrable form; or
 - (ii) the registration of a plan of subdivision which vests the Land Project or Open Space Land in Council's ownership;
- (b) provide the Owner 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.

21.7 Consideration adjusted after withholding

For the avoidance of doubt and notwithstanding anything else in this Agreement, the Consideration payable to the Owner and the Developer is reduced to the extent that a withholding amount is deducted from the Consideration under clause 21.5.

21.8 Owner to co-operate

21.8.1 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 21.5;

- (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.

21.8.2 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.

21.9 Owner's and Developer's warranty

The Owner warrants that the information provided to Council under this clause 21 is true and correct.

21.10 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 21.

22. Commencement of Agreement

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

23. Amendment of Agreement

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

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

24. GST

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

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

24.3 If GST is payable in respect of any supply made by a supplier under this Agreement, subject to clause 24.4 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.

24.4 The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST payable under clause 24.3.

25. 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.

26. Amendment of Agreement

- 26.1 This Agreement may be amended in accordance with the Act.
- 26.2 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.
- 26.3 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.

27. Ending of Agreement

- 27.1 This obligations of the Owner pursuant to this Agreement end:
- 27.1.1 in relation to the balance of the Subject Land apart from Residential Lots, when the Owner has complied with all of the Owner's obligations under this Agreement; or
- 27.1.2 otherwise by agreement between the Parties in accordance with section 177 of the Act.
- 27.2 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.
- 27.3 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.
- 27.4 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.
- 27.5 Council will not unreasonably withhold its consent to a written request made pursuant to clause 27.4 if it is satisfied that the obligations in this Agreement are secured to its satisfaction.
- 27.6 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.

28. Electronic execution

28.1 Consent to electronic execution

A party may sign this Agreement, and any variations to it, by electronic means where permitted by law. Each other party consents to that party signing by electronic means. Counterpart if electronic execution used

The parties agree that if any party signs this Agreement under clause 28.1, then:

- 28.1.1 an electronic form of this Agreement with that party's electronic signature(s) appearing will constitute an executed counterpart; and
- 28.1.2 a print-out of this Agreement with that party's electronic signature(s) appearing will also constitute an executed counterpart.

Schedule 1

Wollert Development Contributions Plan as incorporated in the Planning Scheme.

INFORMATION ONLY

Schedule 2

Whittlesea Planning Permits 719412 issued on 16 July 2021 & 720072 issued on 23 February 2022

INFORMATION ONLY

Schedule 3

Infrastructure Projects

DCP Project No.	Description of the Infrastructure Project	% of project costs	Provision Trigger	Agreed Infrastructure Project Value (\$2022/23)
RD-08c	Construction of Connector Road – between East Government Primary School and Local Conservation Reserve	93%	Prior to the issue of a Statement of Compliance for Stage 14	\$1,941,581.72
IN-02c	Craigieburn Road/ Andrew Roadway signalised intersection – Construction of 172m of 3.0m shared path and verge extent in accordance with DCP	<1%	Prior to the issue of a Statement of Compliance for Stage 11B.	\$37,794.18

Schedule 4

Land Projects

DCP Project No.	Description of the Land Project	Proportion of the of full DCP project costs	Services to be available	Provision Trigger	Agreed Land Value (\$2022/23)
CI-02	Purchase of land for Community Facility (East Wollert Level 1 Children's centre)	100%	Electricity Potable water Recycled (non-potable) water Drainage Sewerage Communications No Gas	Prior to the issue of a Statement of Compliance for Stage 14	\$766,008.00

INFORMATION ONLY

Schedule 5

Open Space Equalisation

PSP/DCP Property Number	Subject Land Net Developable Area (ha)	Open Space Land (ha)	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 (Owner to Council) ² (\$2022/23)
21	17.3972	0.00	\$1,500,000	\$1,166,481.52	0.7777	\$1,166,481.52 Equalisation Payment by Owner to Council
22	12.4450	0.00	\$1,525,000	\$848,341.27	0.5563	\$848,341.27 Equalisation Payment by Owner to Council
Total Equalisation Payment Due						\$2,014,822.79
Timing of when the Equalisation Payment must be made						Prior to issue of Statement of Compliance of Each Stage
Averaged Equalisation Payment Rate per Net Developable Hectare - \$2022/23(year) ³ (Total Equalisation Payment Due / Total NDHa of 29.8421 Ha) payable by Owner to Council.						\$67,516.03

² Delete whichever is not applicable.

³ Delete if no Averaged Equalisation Payment is proposed and the payment is paid as a lump sum.

Schedule 6

Maintenance Period

Infrastructure Type	Maintenance Period
Road Projects	3 months, subject to clause 10.3

INFORMATION ONLY

Schedule 7

Subject Land

Address	Land	Owner	Address of Owner	DCP Property Number	Mortgage
80A Craigieburn Road, Wollert	Certificate of Title Volume 12456 Folio 972, being Lot A on Plan of Subdivision 908262H	Eucalypt Property Pty Ltd	50 Colin Street West perth WA 6005	22	ANZ Fiduciary Services Pty Ltd
80B Craigieburn Road, Wollert	Certificate of Title Volume 12384 Folio 191, being Lot B on Plan of Subdivision PS902434M	Eucalypt Property Pty Ltd	50 Colin Street West perth WA 6005	22	ANZ Fiduciary Services Pty Ltd
100 Craigieburn Road, Wollert	Certificate of Title Volume 12478 Folio 169, being Lot A on Plan of Subdivision 844124Y	Eucalypt Property Pty Ltd	50 Colin Street West perth WA 6005	21	ANZ Fiduciary 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
90513D8D749AF33C

Delegate

DocuSigned by:
George Saisanas
3F7AD5E3CC894F3

Delegate

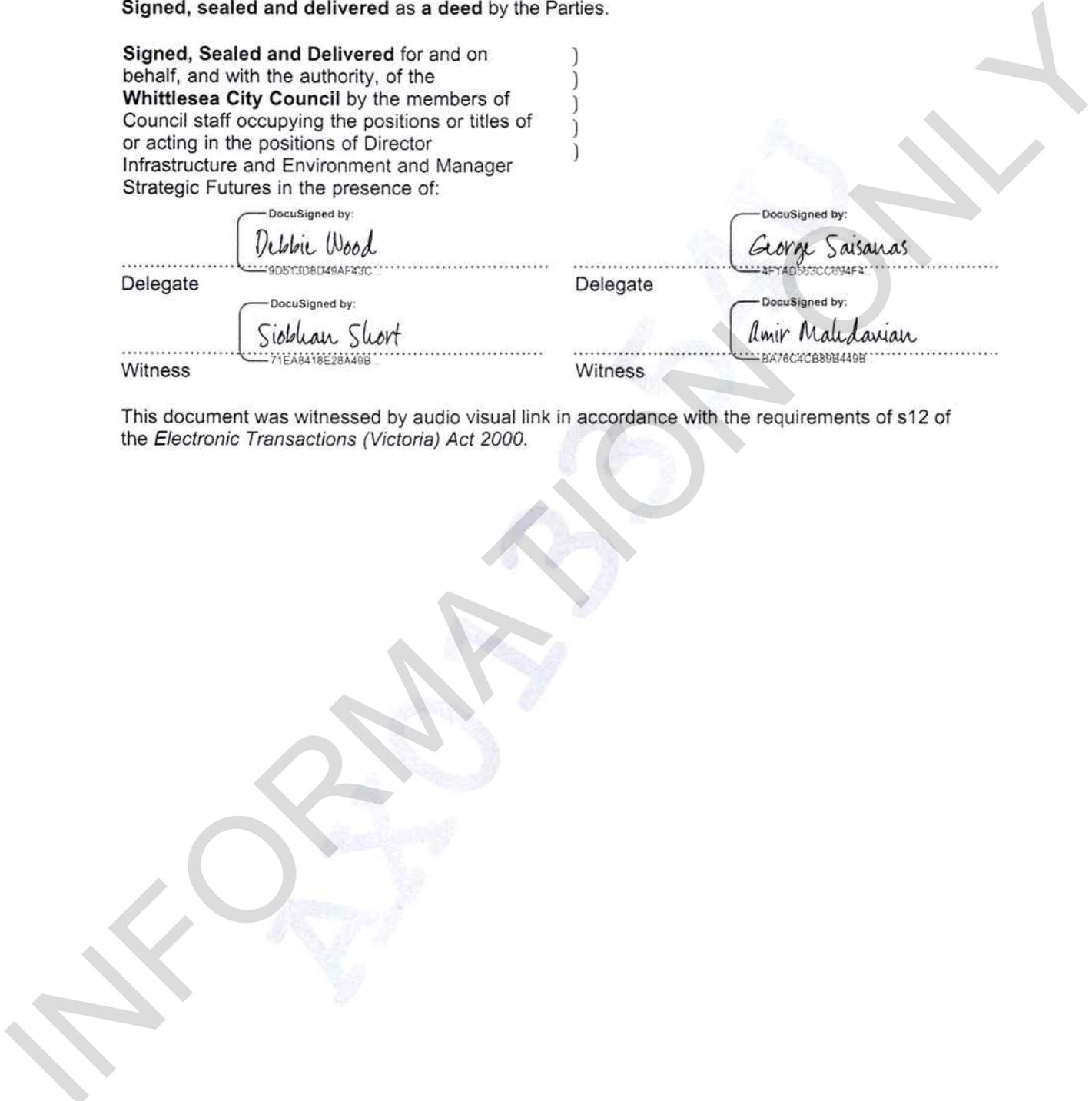
DocuSigned by:
Siobhan Short
71EA6418E28A46B

Witness

DocuSigned by:
Amir Mahdavian
B478C4C889E449E

Witness

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



Executed as a deed by Eucalypt Property Pty Ltd)
ACN 125174236 by its attorney under power of)
attorney dated 23 February 2022 (who have no notice)
of revocation of that power of attorney as at the date of)
signing) in the presence of:

DocuSigned by:

Patrick Archer

8042749EB2ADC18D

Signature of Attorney

Patrick Archer

Print full name

DocuSigned by:

James Mitchell

9527339A7BD6412

Signature of witness

James Mitchell

Print full name of witness

DocuSigned by:

Ryan Beer

EBB75509A634489

Signature of Attorney

Ryan Beer

Print full name

DocuSigned by:

James Mitchell

9842500A7BC5412

Signature of witness

James Mitchell

Print full name of witness

INFORMATION ONLY

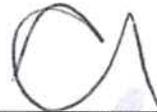
Mortgagee's consent

ANZ Fiduciary Services PTY LTD as Mortgagee under instrument of mortgage nos. AU995528G, AW383807X and AW560394L 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.

Signed for an on behalf of **ANZ Fiduciary Services Pty Ltd ABN 91 100 709 493** by its attorney under power of attorney dated 12 July 2016 in the presence of:

) By executing this document the attorney states that he/she has received no notice of revocation of the power of attorney

)
)
)
)
)
)



) ATTORNEY ALISON CARLIN

) Print Name:

) Position Held: ASSOCIATE DIRECTOR, AGENCY SERVICES



WITNESS

Print Name: Alicia Jayne Back

Occupation: Associate Director

Address:

242 PITT STREET
SYDNEY NSW 2000

W. Secretary
v. executor

INFORMATION ONLY



Department of Environment, Land, Water & Planning

Electronic Instrument Statement

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

Produced 07/11/2024 03:55:04 PM

Status	Registered	Dealing Number	AV546944Q
Date and Time Lodged	20/04/2022 03:02:52 PM		

Lodger Details

Lodger Code	17223H
Name	MADDOCKS
Address	
Lodger Box	
Phone	
Email	
Reference	TGM: 8878917

APPLICATION TO RECORD AN INSTRUMENT

Jurisdiction	VICTORIA
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Privacy Collection Statement

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

Estate and/or Interest

FEE SIMPLE

Land Title Reference

8807/339

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
Postcode	3752

Additional Details



Department of Environment, Land, Water & Planning

Electronic Instrument Statement

Refer Image Instrument

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

Execution

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

Executed on behalf of	WHITTLESEA CITY COUNCIL
Signer Name	REBEKAH PARIKH
Signer Organisation	PARTNERS OF MADDOCKS
Signer Role	AUSTRALIAN LEGAL PRACTITIONER
Execution Date	20 APRIL 2022

File Notes:

NIL

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

Statement End.



Imaged Document Cover Sheet

The document following this cover sheet is an imaged document supplied by LANDATA®, Secure Electronic Registries Victoria.

Document Type	Instrument
Document Identification	AV546944Q
Number of Pages (excluding this cover sheet)	16
Document Assembled	07/11/2024 15:55

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Date 19th 12022

Agreement under section 173 of the Planning and Environment Act 1987

Subject Land: 80 Craigieburn Road, Wollert

Purpose of Agreement: Requirements for use and development of land and deferral of Development Infrastructure Levy and Public Open Space Contributions

**City of Whittlesea
and**

Salvatore Lisanti

|||||
Maddocks

Agreement under section 173 of the Planning and Environment Act 1987

Dated / /

Parties

Name	City of Whittlesea
Address	25 Ferres Boulevard, South Morang
Short name	Council
Name	Salvatore Lisanti
Address	11 Longview Ct Thomastown 3074
Short name	Owner

Background

- A. Council is the responsible authority for the Planning Scheme.
- B. Council is also the Collecting Agency and the Development Agency under the Development Contributions Plan.
- C. Council enters into this Agreement in its capacity as the responsible authority and in its capacity as both the Collecting Agency and the Development Agency.
- D. The Owner is or is entitled to be the registered proprietor of the Subject Land.
- E. Under the Planning Scheme the use and development of the land must be generally in accordance with the Wollert Precinct Structure Plan.
- F. 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.
- G. The Planning Permit enables the subdivision of the Subject Land
- H. The Owner has also asked Council in its capacity as Collecting Agency to agree to the deferral of the payment of the Development Infrastructure Levy to a later specified time.
- I. The Owner has also asked Council in its capacity as responsible authority to agree to the deferral of the payment of the Public Open Space Contribution to a later specified time.
- J. Council has agreed that the Owner

- J.1 May subdivide the land in a specified manner;
- J.2 May defer the payment of the Development Infrastructure Levy until a specified time; and
- J.3 May defer the payment of the Public Open Space Contribution until a specified time.
- K. 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.
- L. As at the date of this Agreement, part of the Subject Land is subject to a caveat. The caveator consents to the recording of this Agreement on the relevant certificate of title to the Subject Land.

The Parties agree:

1. Definitions

In this Agreement unless the context admits otherwise:

- Act** means the *Planning and Environment Act 1987*.
- Balance Lot** means all of the land contained in Plan of Subdivision PS902343M.¹
- Business Days** means a day which is not a public holiday, a Saturday or Sunday in the State of Victoria.
- Collecting Agency** has the same meaning as in the Act.
- 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.
- Developable Land** means the area of land identified as developable land in the land use budget of the Development Contributions Plan.
- Development Infrastructure Levy** means the development infrastructure levy that is required to be paid upon development or subdivision of the Subject Land calculated in accordance with the Development Contributions Plan.

¹ As at the date of this Agreement Plan of Subdivision PS902343M is a proposed plan of subdivision.

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

GAIC means the Growth Areas Infrastructure Contribution under the Act.

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

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

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

Party or Parties means the parties to this Agreement.

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 1, 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 means the Wollert Precinct Structure Plan being an incorporated document in the Planning Scheme.

Public Open Space Contribution means the public open space contribution payable to Council in accordance with clause 53.01 of the Planning Scheme.

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

Schedule means a schedule to this Agreement unless otherwise specified.

School Site Land means the land identified as Lot A on Plan of Subdivision PS831737L².

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 1 and any reference to the Subject Land in this Agreement includes any lot created by the subdivision of the Subject Land or any part of it.

2. Interpretation

In this Agreement unless the context admits otherwise:

² As at the date of this Agreement Plan of Subdivision PS831737L is a proposed plan of subdivision. Lot A on that plan of subdivision is a site created solely for the purpose of a school.

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

3. 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 subdividing the land; and
 - 3.2 to set out the terms upon which the payment of the Development Infrastructure Levy is deferred to a specified time; and
 - 3.3 to set out the terms upon which the payment of the Public Open Space Contribution is deferred to a specified time; and
 - 3.4 achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

4. Agreement required

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

5. Requirements for the Subject Land

- 5.1 The Owner covenants and agrees that:
 - 5.1.1 the School Site Land may not be used or developed for any purpose other than any lawful land use existing on the date of this Agreement or as a state primary or state secondary school or for the purpose of a non-government primary or non-government secondary school;
 - 5.1.2 any permitted use or development of the Balance Lot must be generally in accordance with the requirements of schedule 5 of clause 37.07 of the Planning Scheme;
 - 5.1.3 the use and development of the Balance Lot must be carried out only in accordance with the Planning Permit except with the consent of Council under this Agreement;
 - 5.1.4 the Public Open Space Contribution which is payable in respect of the subdivision which results in the creation of the Balance Lot must be paid to Council prior to the issue of a Statement of Compliance in respect of each Stage of development of the Balance Lot unless Council agrees to any further deferral of the payment of the Public Open Space Contribution;
 - 5.1.5 the Development Infrastructure Levy which is payable in respect of the subdivision which results in the creation of the Balance Lot must be paid to Council prior to the issue of a Statement of Compliance in respect of each stage of development of any part of the Balance Lot under the Planning Permit unless Council agrees to any further deferral of the payment of the Development Infrastructure Levy or the payment of the required amount in stages prior to the issue of a Statement of Compliance in respect of each stage;
 - 5.1.6 if the Balance Lot is not further subdivided before the 7th anniversary of the date of this Agreement then the

- (a) Public Open Space Contribution; and
 - (b) Development Infrastructure Levy - referred to in clauses 5.1.4 and 5.1.5 become immediately payable.
- 5.2 For the avoidance of doubt, the parties agree and acknowledge that the:
- 5.2.1 Public Open Space Contribution; and
 - 5.2.2 Development Infrastructure Levy,
- referred to in clauses 5.1.4 and 5.1.5 are to be paid on a stage by stage basis for each subdivision of the Balance Lot subsequently developed in accordance with the Planning Permit.

- 5.3 The Owner must:
- 5.3.1 construct the connector road identified in the Precinct Structure Plan as CS03a within the Balance Lot and make arrangements to vest the road reserve required for that connector road in Council as part of the issue of statement of compliance of the final stage of the subdivision approved under the Planning Permit or sooner as may be required by the Owner and by agreement of Council.
 - 5.3.2 the connector road referred to in clause 5.3.1 must be constructed in accordance with engineers plans approved by Council under condition 24 of the Planning Permit

6. Acknowledgment of Council

- 6.1 Council acknowledges and agrees that:
- the Public Open Space Contribution which is payable in respect of the subdivision which results in the creation of the Balance Lot may be paid to Council prior to the issue of a Statement of Compliance in respect of each Stage of the development of the Balance Lot unless Council agrees to any further deferral of the payment of the Public Open Space Contribution; and
 - the Development Infrastructure Levy which is payable in respect of the subdivision which results in the creation of the Balance Lot may be paid to Council prior to the issue of a Statement of Compliance in respect of each Stage of development of the Balance Lot unless Council agrees to any further deferral of the payment of the Development Infrastructure Levy or the payment of the required amount in stages prior to the issue of a Statement of Compliance in respect of each stage, and
- 6.2 the acknowledgment in clause 5.2 apply to clauses 6.1 and 6.2.

7. Further obligations of the Parties

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

7.2 Further actions

The Owner:

7.2.1 must do all things necessary to give effect to this Agreement;

7.2.2 consents to Council applying to the Registrar of Titles to record this Agreement on the Certificate of Title of the Subject Land in accordance with section 181 of the Act; and

7.2.3 agrees to do all things necessary to enable Council to do so, including:

- (a) sign any further agreement, acknowledgment or document; and
- (b) obtain all necessary consents to enable the recording to be made.

7.3 Council's costs to be paid

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

7.3.1 drafting, finalising, signing and recording and enforcing this Agreement;

7.3.2 drafting, finalising and recording any amendment to this Agreement; and

7.3.3 drafting, finalising and recording any document to give effect to the ending of this Agreement.

7.4 Interest for overdue money

The Owner agrees that:

7.4.1 the Owner must pay to Council interest at the same rate used under section 227A of the *Local Government Act 1989* on any amount due under this Agreement that is not paid by the due date.

7.4.2 if interest is owing, Council will apply any payment made to interest and any balance of the payment to the principal amount.

8. 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.

9. Owner's warranties

9.1 The Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, and a contract of sale of land to Eucalypt Property Pty Ltd that the Owner has bought to the attention of Council prior to the execution of this Agreement, no other person has any interest, either legal or equitable, in the Subject Land which may be affected by this Agreement.

10. 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:

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

11. General matters

11.1 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:

- 11.1.1 personally on the other Party;
- 11.1.2 by leaving it at the other Party's Current Address;
- 11.1.3 by posting it by prepaid post addressed to the other Party at the other Party's Current Address; or
- 11.1.4 by email to the other Party's Current Email.

11.2 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.

11.3 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.

11.4 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.

11.5 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.

11.6 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.

12. 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.

13. Amendment of Agreement

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

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

14. GST

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

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

14.3 If GST is payable in respect of any supply made by a supplier under this Agreement, subject to clause 14.4 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.

14.4 The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST payable under clause 14.3.

15. Commencement of Agreement

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

16. Amendment of Agreement

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

16.2 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.

16.3 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.

17. Ending of Agreement

17.1 This Agreement ends:

17.1.1 in respect of the School Site when the School Site is vested in the agency responsible for providing the school;

17.1.2 in respect of the balance of the Subject Land when the Owner has complied with all of the Owner's obligations under this Agreement; or

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

17.2 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.

17.3 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.

17.4 Council will not unreasonably withhold its consent to a written request made pursuant to clause 17.3 if it is satisfied that the obligations in this Agreement are secured to its satisfaction.

17.5 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.

18. Electronic execution

18.1 **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.

Schedule 1

Subject Land

Address	Subject Land	Owner	Address of Owner	Mortgage Y/N
80 Craigsburn Road, Wollert	Certificate of Title Volume 08807 Folio 339	Salvatore Lisanti	11 Longview Ct Thomastown 3074	Yes

Planning Permit

Address	Number
80 Craigsburn Road, Wollert	720072 issued on 23 February 2022

INFORMATION



Signing Page

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

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

Delegate

[Signature]



Signed sealed and delivered by Salvatore Lisanti in
the presence of:

[Signature]

Signature of witness

EDWARD ATR

Print full name of witness

[Signature]
Signature

Mortgagee's consent

Eucalypt Property Pty Ltd ACN 125174236 as Mortgagee under instrument of mortgage no. AU350266K 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 Authorised Representative

Print full name

Signature of Authorised Representative

Print full name

INFORMATION ONLY
ALV5469A4

Caveator's consent

Eucalypt Property Pty Ltd ACN 125174236 as caveator under registered caveat no. AT899239J, registered on certificate of title volume 08807 folio 339, consents to the registration of this Agreement on the that certificate of title.

Signature of Authorised Representative



Print full name

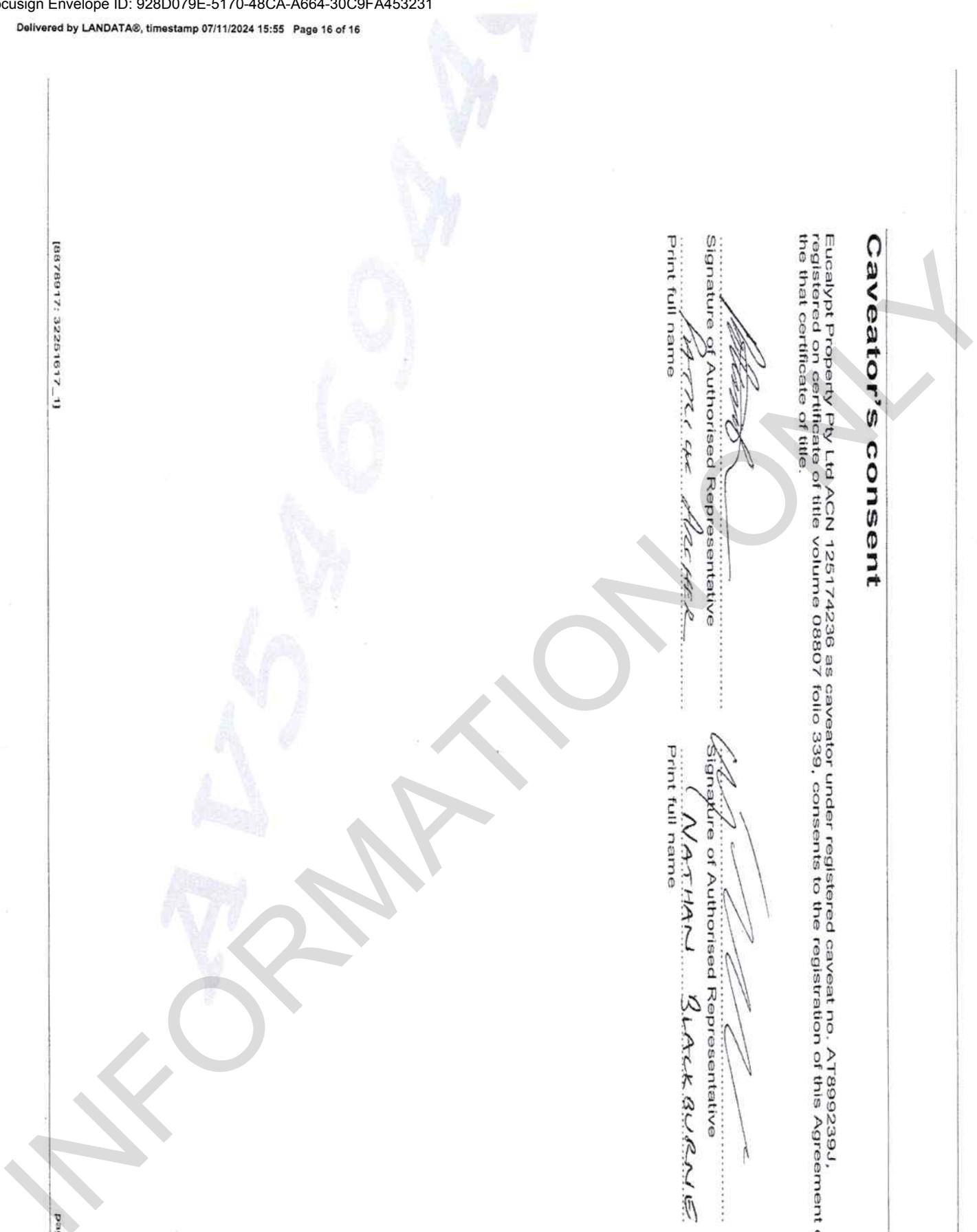
Mark de Haas

Signature of Authorised Representative



Print full name

Nathan Blackburn



PROPERTY REPORT

From www.land.vic.gov.au at 13 November 2024 02:16 PM

PROPERTY DETAILS

Address: **4 AZAPENA LANE WOLLERT 3750**

Lot and Plan Number: **Lot 1214 PS902451**

Standard Parcel Identifier (SPI): **1214\PS902451**

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

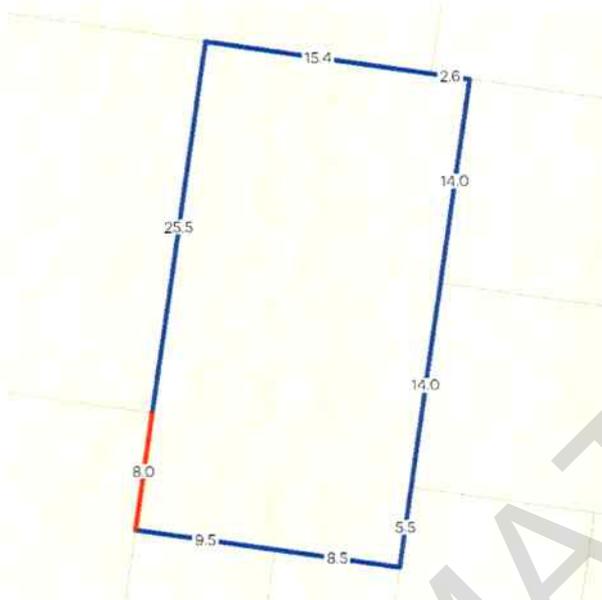
Council Property Number: **1241074**

Directory Reference: **Melway 389 A11**

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: 603 sq. m

Perimeter: 103 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



INFORMATION

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PLANNING PROPERTY REPORT



Environment,
Land, Water
and Planning

From www.planning.vic.gov.au at 13 November 2024 02:15 PM

PROPERTY DETAILS

Address: **4 AZAPENA LANE WOLLERT 3750**
 Lot and Plan Number: **Lot 1214 PS902451**
 Standard Parcel Identifier (SPI): **1214\PS902451**
 Local Government Area (Council): **WHITTLESEA**
 Council Property Number: **1241074**
 Planning Scheme: **Whittlesea**
 Directory Reference: **Melway 389 A11**

www.whittlesea.vic.gov.au

[Planning Scheme - Whittlesea](#)

UTILITIES

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

STATE ELECTORATES

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

OTHER

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

[View location in VicPlan](#)

Note

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

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

Planning Zones

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

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



UGZ - Urban Growth

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

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PLANNING PROPERTY REPORT



Environment,
Land, Water
and Planning

Planning Overlay

DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY (DCPO)
DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY - SCHEDULE 16 (DCPO16)



DCPO - Development Contributions Plan Overlay

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

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.vpa.vic.gov.au)



Land added to the UGB since 2005

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PLANNING PROPERTY REPORT



Environment,
Land, Water
and Planning

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://nvm.delwp.vic.gov.au/BCS>



Further Planning Information

Planning scheme data last updated on 6 November 2024.

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

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

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

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

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

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PLANNING PROPERTY REPORT: 4 AZAPENA LANE WOLLERT 3750

Page 3 of 4

PLANNING PROPERTY REPORT

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/>



Date of issue 11/11/2024	Assessment No. 1241074	Certificate No. 166468	Your reference 74844357-015-4
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Landata
GPO Box 527
MELBOURNE VIC 3001

Land information certificate for the rating year ending 30 June 2025

Property location: 4 Azapena Lane WOLLERT 3750
Description: LOT: 1214 PS: 902451M
AVPCC: 100 Vacant Residential Dwelling Site/Surveyed Lot

Level of values date	Valuation operative date	Capital Improved Value	Site Value	Net Annual Value
1 January 2024	1 July 2024	\$525,000	\$525,000	\$26,250

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 2024 and are payable by quarterly instalments due 30 Sep. (1st), 30 Nov. (2nd), 28 Feb. (3rd) and 31 May (4th) or in a lump sum by 15 Feb.

Rates & charges

General rate levied on 01/07/2024	\$1,229.44
Fire services charge (Res) levied on 01/07/2024	\$132.00
Fire services levy (Res) levied on 01/07/2024	\$45.68
Arrears to 30/06/2024	\$0.00
Interest to 11/11/2024	\$0.00
Other adjustments	\$0.00
Less Concessions	\$0.00
Sustainable land management rebate	\$0.00
Payments	\$0.00

Balance of rates & charges due: \$1,407.12

Property debts

Other debtor amounts

Special rates & charges

nil

Total rates, charges and other monies due **\$1,407.12**

Verbal updates may be obtained within 3 months of the date of issue by calling (03) 9217 2170.

Council Offices
25 Ferres Boulevard, South Morang VIC 3752
Mail to: Locked Bag 1, Bundoora MDC VIC 3083
Phone: 9217 2170
National Relay Service: 133 677 (ask for 9217 2170)
Email: info@whittlesea.vic.gov.au

Free telephone interpreter service
 131 450

ABN 72 431 091 058

whittlesea.vic.gov.au

2. Outstanding or potential liability / sub-divisional requirement:

There is no potential liability for rates under the Cultural and Recreational Lands Act 1963.

There is no outstanding amount required to be paid for recreational purposes or any transfer of land required to Council for recreational purposes under section 18 of the Subdivision Act 1988.

3. Notices and orders:

The following notices and orders on the land have continuing application under the *Local Government Act 2020*, *Local Government Act 1989* or under a local law of the Council:

No Orders applicable.

4. Specified flood level:

There is no specified flood level within the meaning of Regulation 802(2) of the Building Regulations 2006.

5. Special notes:

The purchaser must pay all rates and charges outstanding, immediately upon settlement. Payments shown on this certificate are subject to clearance by the bank.

Interest penalty on late payments

Overdue amounts will be charged penalty interest as fixed under the *Penalty Interest Rates Act 1983*. It will be applied after the due date of an instalment. For lump sum payers intending to pay by 15 February, interest penalty will be applied after the due date of the lump sum, but calculated on each of the instalment amounts that are overdue from the day after their due dates. In all cases interest penalty will continue to accrue until all amounts are paid in full.

6. Other information:



Authorising Officer

This property may be subject to a supplementary valuation.

A fire hazard removal notice could be issued against this property. Please check with the Council on the date of settlement.

This certificate provides information regarding valuation, rates, charges, other moneys owing and any orders and notices made under the *Local Government Act 2020*, the *Local Government Act 1989*, the *Local Government Act 1958* or under a local law of the Council.

This certificate is not required to include information regarding planning, building, health, land fill, land slip, flooding information or service easements. Information regarding these matters may be available from Council or the relevant authority. A fee may be charged for such information.

Payment can be made using these options.



www.whittlesea.vic.gov.au
Ref **1241074**



Phone 1300 301 185
Ref **1241074**



Billers Code **5157**
Ref **1241074**



YARRA VALLEY WATER
 ABN 93 066 902 501

Lucknow Street
 Mitcham Victoria 3132

Private Bag 1
 Mitcham Victoria 3132

DX 13204

F (03) 9872 1353

E enquiry@yvw.com.au
 yvw.com.au

13th November 2024

Panther Conveyancing C/- InfoTrack (LEAP) C/- LAND
 LANDATA

Dear Panther Conveyancing C/- InfoTrack (LEAP) C/- LAND,

RE: Application for Water Information Statement

Property Address:	4 AZAPENA LANE WOLLERT 3750
Applicant	Panther Conveyancing C/- InfoTrack (LEAP) C/- LAND LANDATA
Information Statement	30899427
Conveyancing Account Number	7959580000
Your Reference	357481

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 propertyflow@yvw.com.au. For further information you can also refer to the Yarra Valley Water website at www.yvw.com.au.

Yours sincerely,

Lisa Anelli
 GENERAL MANAGER
 RETAIL SERVICES



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Mitcham Victoria 3132

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yvw.com.au

Yarra Valley Water Property Information Statement

Property Address	4 AZAPENA LANE 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.

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.



YARRA VALLEY WATER
ABN 93 066 902 501

Lucknow Street
Mitcham Victoria 3132

Private Bag 1
Mitcham Victoria 3132

DX 13204

F (03) 9872 1353

E enquiry@yvw.com.au
yvw.com.au

Melbourne Water Property Information Statement

Property Address	4 AZAPENA LANE WOLLERT 3750
------------------	-----------------------------

STATEMENT UNDER SECTION 158 WATER ACT 1989

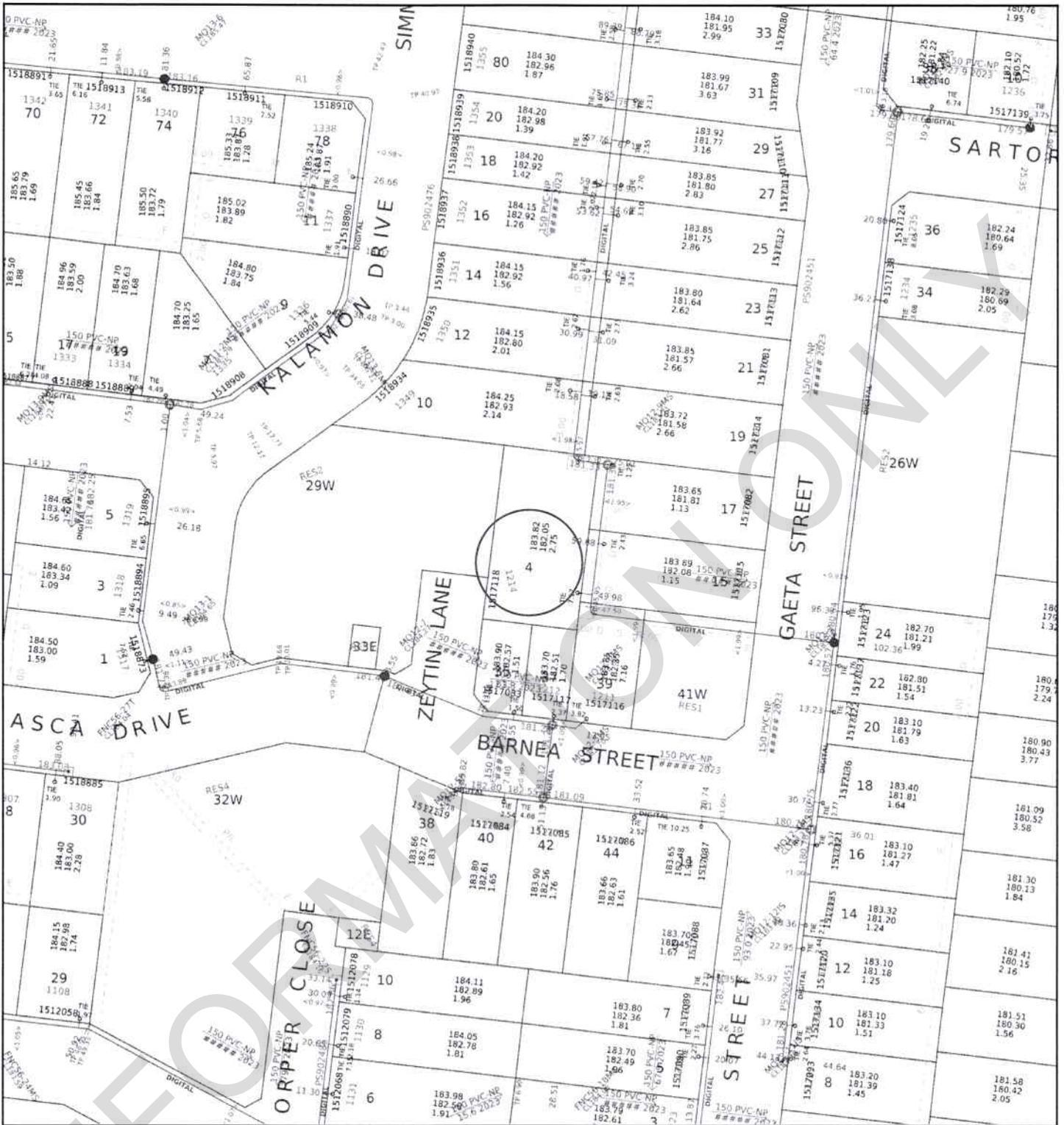
THE FOLLOWING INFORMATION RELATES TO SECTION 158(4)

Information available at Melbourne Water indicates that this property is not subject to flooding from Melbourne Water's drainage system, based on a flood level that has a probability of occurrence of 1% in any one year.

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: 30899427	Address	4 AZAPENA LANE WOLLERT 3750	
	Date	13/11/2024	
	Scale	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;			



YARRA VALLEY WATER
ABN 93 066 902 501

Lucknow Street
Mitcham Victoria 3132

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yvw.com.au

Panther Conveyancing C/- InfoTrack (LEAP) C/- LAND
LANDATA
certificates@landata.vic.gov.au

RATES CERTIFICATE

Account No: 3566751790
Rate Certificate No: 30899427

Date of Issue: 13/11/2024
Your Ref: 357481

With reference to your request for details regarding:

Property Address	Lot & Plan	Property Number	Property Type
4 AZAPENA LANE, WOLLERT VIC 3750	1214\PS902451	5305673	Residential

Agreement Type	Period	Charges	Outstanding
Other Charges:			
Interest	No interest applicable at this time		
No further charges applicable to this property			
Balance Brought Forward			\$0.00
Total for This Property			\$0.00

GENERAL MANAGER
RETAIL SERVICES

Note:

- From 1 July 2023, the Parks Fee has been 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.
- 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.
- 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.
- 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.
- 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.
- 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 01/07/2024, Residential Water Usage is billed using the following step pricing system: 256.31 cents per kilolitre for the first 44 kilolitres; 327.60 cents per kilolitre for 44-88 kilolitres and 485.34 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 01/07/2024, Residential Water and Sewer Usage is billed using the following step pricing system: 343.42 cents per kilolitre for the first 44 kilolitres; 450.59 cents per kilolitre for 44-88 kilolitres and 523.50 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 01/07/2024, Residential Recycled Water Usage is billed 192.59 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.

INFORMATION ONLY



YARRA VALLEY WATER
ABN 93 066 902 501

Lucknow Street
Mitcham Victoria 3132

Private Bag 1
Mitcham Victoria 3132

DX 13204

F (03) 9872 1353

E enquiry@yvw.com.au
yvw.com.au

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: 5305673

Address: 4 AZAPENA LANE, WOLLERT VIC 3750

Water Information Statement Number: 30899427

HOW TO PAY



Billers Code: 314567
Ref: 35667517905

Amount
Paid

Date
Paid

Receipt
Number



**** Delivered by the LANDATA® System, Department of Environment, Land, Water & Planning ****

ROADS PROPERTY CERTIFICATE

The search results are as follows:

Panther Conveyancing C/- InfoTrack (LEAP)
135 King St
SYDNEY 2000
AUSTRALIA

Client Reference: 357481

NO PROPOSALS. As at the 13th November 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®.

4 AZAPENA LANE, 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: 13th November 2024

Telephone enquiries regarding content of certificate: 13 11 71

[Vicroads Certificate] # 74908859 - 74908859124218 '357481'

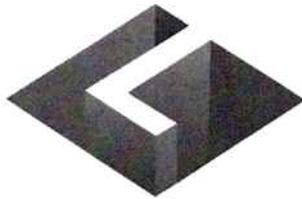
LOTSEARCH REFERENCE
LS066391 PS

REPORT DATE
13 Nov 2024 12:48:09

CLIENT ID
149422640

ADDRESS
4 AZAPENA LANE, WOLLERT VIC
3750

COUNCIL
Whittlesea City



LOTSEARCH
Spatial Intelligence | Mapping Risk

LOT/PLAN
Lot 1214, PS902451

EPA Priority Sites Register Plus+

Disclaimer:

The purpose of this report is to provide a summary of some of the publicly available environmental risk information, based on the site boundary shown on the maps within this report. The report does not constitute an exhaustive set of all repositories or sources of information available.

You understand that Lotsearch has defined the site boundary by reference to information supplied in the order.

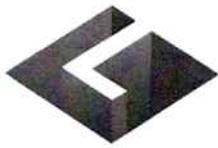
You accept that Lotsearch may amend some of the information supplied in the order to identify the relevant site for the report.

The report is not a substitute for an on-site inspection or review of other available reports and records.

The report is not intended to be, and should not be taken to be, a rating or assessment of the desirability or market value of the property or its features.

You should obtain independent advice before you make any decision based on the information within the report.

A link to the detailed terms applicable to the use of this report is available at the end of this report.



LOTSEARCH

Spatial Intelligence | Mapping Risk

LOTSEARCH REFERENCE
LS066391 PS

REPORT DATE
13 Nov 2024 12:48:09

EPA Priority Sites Register Plus+

ADDRESS
4 AZAPENA LANE, WOLLERT VIC
3750



- This report provides information sourced from freely available, public registers held by state environmental regulators and certain federal government agencies.
- Land contamination can contain substances that harm human health and the environment and these may migrate across property boundaries. Search results are provided for your property and the surrounding search area.
- Search results are categorised below, with search results and a site map provided on the following pages.

HOW THIS REPORT HELPS

- Be informed of potential contamination issues - this search simplifies access to multiple government information sources
- Contamination risk is an important consideration in land-use planning, development matters and property valuations and transactions
- Delays and clean-up costs from land contamination can be high - be prepared with early information that supports your due diligence
- Be aware of potential problems from neighbouring properties - contamination ignores property boundaries



1. Contaminated Land Registers

No Records Identified

State environmental regulators have registers of known or notified contaminated land. These sites are typically those that pose the greatest environmental risk, and will often be actively managed, regulated or remediated.

WHAT NEXT?

This information in this report is only part of the picture. Other records are held by government agencies, councils and Lotsearch.



2. Regulated Activities

No Records Identified

State regulators issue environmental licences, permits or authorisations, to owners or operators that undertake activities which have a potential risk to human health or the environment. Conditions on these licences can relate to pollution prevention, control, and monitoring.

- Visit our website or contact our support team to access more Lotsearch products & additional government searches



3. Contamination Investigations

No Records Identified

Government departments may undertake or enforce investigations into specific or suspected contamination issues. For example, investigation or management programs may be undertaken at airports or defence sites suspected of PFAS contamination. Further information on PFAS can be accessed [here](#).

- Contact an environmental consultant for additional advisory services. Consultants are listed by industry bodies [ALGA](#), [ACLCA](#) & [EIANZ](#).



4. Other Contamination Issues

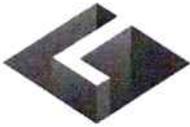
No Records Identified

Government registers can identify other contamination issues. These registers can include but are not limited to pollution, penalty or clean up notices, and records that indicate restrictions on the use of groundwater.

✉ support@lotsearch.com.au

☎ +61 (02) 8287 0680

🌐 lotsearch.com.au



Site Map

4 AZAPENA LANE, WOLLERT VIC 3750

LOTSEARCH REFERENCE

LS066391 PS

REPORT DATE

13 Nov 2024

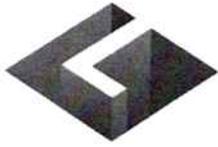


LEGEND

-  Site Boundary
-  Search Area
-  Search Results

Data Source Aerial Imagery:
© Esri, DigitalGlobe, GeoEye, Earthstar Geographics,
CNES/Airbus DS, USDA, USGS, AeroGRID, IGN,
and the GIS UserCommunity





LOTSEARCH
Spatial Intelligence | Mapping Risk

LOTSEARCH REFERENCE
LS066391 PS

REPORT DATE
13 Nov 2024 12:48:09

Search Results

ADDRESS
4 AZAPENA LANE, WOLLERT VIC
3750

The following table contains records that were identified specifically for your property, or areas or features covering your property:

Map ID	Record Type	Category (Page 2)	Name	Location	Activity	Further Info	Status	Reference
No records for your property were identified								

The following table contains records that were identified in the surrounding search area:

Map ID	Record Type	Category (Page 2)	Name	Location	Activity	Further Info	Status	Reference
No records were identified								

The following table contains records that could not be located to a specific property, feature or area. These records have been mapped to a road corridor or suburb within this report's search area, but may relate to a more specific property including the property in this report:

Map ID	Record Type	Category (Page 2)	Name	Location	Activity	Further Info	Status	Reference
No records were identified								



LOTSEARCH

Spatial Intelligence | Mapping Risk

LOTSEARCH REFERENCE
LS066391 PS

REPORT DATE
13 Nov 2024 12:48:09

ADDRESS
4 AZAPENA LANE, WOLLERT VIC
3750

Data Sources

The results in this report are based upon the following datasets only:

Dataset Name	Data Source	Lotsearch Update Date
Current EPA Priority Sites	Environment Protection Authority Victoria	12/11/2024
EPA Site Management Orders	Environment Protection Authority Victoria	24/09/2024
EPA Register of Permissions	Environment Protection Authority Victoria	23/10/2024
Legacy EPA Licensed Activities	Environment Protection Authority Victoria	19/07/2022
Legacy EPA Works Approvals	Environment Protection Authority Victoria	13/12/2022
Legacy EPA Prescribed Industrial Waste	Environment Protection Authority Victoria	12/08/2020
EPA Preliminary Risk Screening Assessments	Environment Protection Authority Victoria	24/09/2024
EPA Environmental Audit Reports	Environment Protection Authority Victoria	24/09/2024
Planning Scheme Overlay - Environmental Audits	VIC Department of Energy, Environment and Climate Action	15/10/2024
EPA PFAS Site Investigations	Environment Protection Authority Victoria	11/10/2024
Defence 3 Year Regional Contamination Investigation Program	Australian Department of Defence	05/08/2024
Airservices Australia National PFAS Management Program	Airservices Australia	28/10/2024
Defence PFAS Investigation & Management Program - Investigation Sites	Australian Department of Defence	28/10/2024
Defence PFAS Investigation & Management Program - Management Sites	Australian Department of Defence	28/10/2024
Former EPA Priority Sites & other Remedial Notices	Environment Protection Authority Victoria	23/10/2023
EPA Groundwater Zones with Restricted Uses	Environment Protection Authority Victoria	30/10/2024
EPA Victorian Landfill Register	Environment Protection Authority Victoria	06/08/2024

Useful Contacts

Lotsearch Pty Ltd
www.lotsearch.com.au
support@lotsearch.com.au
 (02) 8287 0680

Environment Protection Authority Victoria
www.epa.vic.gov.au
contact@epa.vic.gov.au
 1300 372 842

Whittlesea City
<http://www.whittlesea.vic.gov.au>
info@whittlesea.vic.gov.au
 (03) 9217 2170

[Click for USE OF REPORT - APPLICABLE TERMS](#)

Property Clearance Certificate

Land Tax



INFOTRACK / PANTHER CONVEYANCING

Your Reference: EL SHAAR M
Certificate No: 80648806
Issue Date: 07 NOV 2024
Enquiries: ESYSPROD

Land Address: 4 AZAPENA LANE WOLLERT VIC 3750

Land Id	Lot	Plan	Volume	Folio	Tax Payable
50363515	1214	902451	12540	683	\$2,094.20

Vendor: MOHAMED EL SHAAR
Purchaser: FOR INFORMATION PURPOSES

Current Land Tax	Year	Taxable Value	Proportional Tax	Penalty/Interest	Total
EUCALYPT PROPERTY PTY LTD	2024	\$148,410	\$3,868.46	\$0.00	\$2,094.20

Comments: Land Tax of \$3,868.46 has been assessed for 2024, an amount of \$1,774.26 has been paid. Land Tax will be payable but is not yet due - please see notes on reverse.

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

Comments:

Arrears of Land Tax	Year	Proportional Tax	Penalty/Interest	Total

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


Paul Broderick
 Commissioner of State Revenue

CAPITAL IMPROVED VALUE:	\$148,410
SITE VALUE:	\$148,410
CURRENT LAND TAX CHARGE:	\$2,094.20



Notes to Certificate - Land Tax

Certificate No: 80648806

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 = \$975.00

Taxable Value = \$148,410

Calculated as \$975 plus (\$148,410 - \$100,000) multiplied by 0.000 cents.

Land Tax - Payment Options

BPAY



Billers Code: 5249
Ref: 80648806

Telephone & Internet Banking - BPAY®

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

www.bpay.com.au

CARD



Ref: 80648806

Visa or Mastercard

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

sro.vic.gov.au/paylandtax

Property Clearance Certificate

Commercial and Industrial Property Tax



INFOTRACK / PANTHER CONVEYANCING

Your Reference: El Shaar M

Certificate No: 80648806

Issue Date: 07 NOV 2024

Enquires: ESYSPROD

Land Address: 4 AZAPENA LANE WOLLERT VIC 3750

Land Id	Lot	Plan	Volume	Folio	Tax Payable
50363515	1214	902451	12540	683	\$0.00

AVPCC	Date of entry into reform	Entry interest	Date land becomes CIPT taxable land	Comment
N/A	N/A	N/A	N/A	The AVPCC allocated to the land is not a qualifying use.

This certificate is subject to the notes found on the reverse of this page. The applicant should read these notes carefully.

Paul Broderick
Commissioner of State Revenue

CAPITAL IMPROVED VALUE:	\$148,410
SITE VALUE:	\$148,410
CURRENT CIPT CHARGE:	\$0.00



Notes to Certificate - Commercial and Industrial Property Tax

Certificate No: 80648806

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 commercial and industrial property tax (including interest and penalty tax) that is due and unpaid on the land described in the Certificate at the date of issue.

Australian Valuation Property Classification Code (AVPCC)

3. The Certificate may show one or more AVPCC in respect of land described in the Certificate. The AVPCC shown on the Certificate is the AVPCC allocated to the land in the most recent of the following valuation(s) of the land under the *Valuation of Land Act 1960*:
 - a general valuation of the land;
 - a supplementary valuation of the land returned after the general valuation.
4. The AVPCC(s) shown in respect of land described on the Certificate can be relevant to determine if the land has a qualifying use, within the meaning given by section 4 of the *Commercial and Industrial Property Tax Reform Act 2024* (CIPT Act). Section 4 of the CIPT Act Land provides that land will have a qualifying use if:
 - the land has been allocated one, or more than one, AVPCC in the latest valuation, all of which are in the range 200-499 and/or 600-699 in the Valuation Best Practice Specifications Guidelines (the requisite range);
 - the land has been allocated more than one AVPCC in the latest valuation, one or more of which are inside the requisite range and one or more of which are outside the requisite range, and the land is used solely or primarily for a use described in an AVPCC in the requisite range; or
 - the land is used solely or primarily as eligible student accommodation, within the meaning of section 3 of the CIPT Act.

Commercial and industrial property tax information

5. If the Commissioner has identified that land described in the Certificate is tax reform scheme land within the meaning given by section 3 of the CIPT Act, the Certificate may show in respect of the land:
 - the date on which the land became tax reform scheme land;
 - whether the entry interest (within the meaning given by section 3 of the Duties Act 2000) in relation to the tax reform scheme land was a 100% interest (a whole interest) or an interest of less than 100% (a partial interest); and
 - the date on which the land will become subject to the commercial and industrial property tax.
6. A Certificate that does not show any of the above information in respect of land described in the Certificate does not mean that the land is not tax reform scheme land. It means that the Commissioner has not identified that the land is tax reform scheme land at the date of issue of the Certificate. The Commissioner may identify that the land is tax reform scheme land after the date of issue of the Certificate.

Change of use of tax reform scheme land

7. Pursuant to section 34 of the CIPT Act, an owner of tax reform scheme land must notify the Commissioner of certain changes of use of tax reform scheme land (or part of the land) including if the actual use of the land changes to a use not described in any AVPCC in the range 200-499 and/or 600-699. The notification

must be given to the Commissioner within 30 days of the change of use.

Commercial and industrial property tax is a first charge on land

8. Commercial and industrial property tax (including any interest and penalty tax) is a first charge on the land to which the commercial and industrial property tax is payable. 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 commercial and industrial property tax.

Information for the purchaser

9. Pursuant to section 27 of the CIPT Act, if a bona fide purchaser for value of the land described in the Certificate applies for and obtains a Certificate in respect of the land, the maximum amount recoverable from the purchaser is the amount set out in the Certificate. A purchaser cannot rely on a Certificate obtained by the vendor.

Information for the vendor

10. Despite the issue of a Certificate, the Commissioner may recover a commercial and industrial property tax liability from a vendor, including any amount identified on this Certificate.

Passing on commercial and industrial property tax to a purchaser

11. A vendor is prohibited from apportioning or passing on commercial and industrial property tax to a purchaser under a contract of sale of land entered into on or after 1 July 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

12. Land enters the tax reform scheme if there is an entry transaction, entry consolidation or entry subdivision in respect of the land (within the meaning given to those terms in the CIPT Act). Land generally enters the reform on the date on which an entry transaction occurs in respect of the land (or the first date on which land from which the subject land was derived (by consolidation or subdivision) entered the reform).
13. The Duties Act includes exemptions from duty, in certain circumstances, for an eligible transaction (such as a transfer) of tax reform scheme land that has a qualifying use on the date of the transaction. The exemptions apply differently based on whether the entry interest in relation to the land was a whole interest or a partial interest. For more information, please refer to www.sro.vic.gov.au/CIPT.
14. A Certificate showing no liability for the land does not mean that the land is exempt from commercial and industrial property tax. It means that there is nothing to pay at the date of the Certificate.
15. 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.

Property Clearance Certificate

Windfall Gains Tax



INFOTRACK / PANTHER CONVEYANCING

Your Reference: EL SHAAR M
Certificate No: 80648806
Issue Date: 07 NOV 2024

Land Address: 4 AZAPENA LANE WOLLERT VIC 3750

Lot	Plan	Volume	Folio
1214	902451	12540	683

Vendor: MOHAMED EL SHAAR

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: 80648806

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

<p>BPAY</p>  <p>Billers Code: 416073 Ref: 80648801</p> <p>Telephone & Internet Banking - BPAY®</p> <p>Contact your bank or financial institution to make this payment from your cheque, savings, debit or transaction account.</p> <p>www.bpay.com.au</p>	<p>CARD</p>  <p>Ref: 80648801</p> <p>Visa or Mastercard</p> <p>Pay via our website or phone 13 21 61. A card payment fee applies.</p> <p>sro.vic.gov.au/payment-options</p>	<p>Important payment information</p> <p>Windfall gains tax payments must be made using only these specific payment references.</p> <p>Using the incorrect references for the different tax components listed on this property clearance certificate will result in misallocated payments.</p>
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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 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